

# ***NORTH CAROLINA REGISTER***

**VOLUME 37 • ISSUE 01 • Pages 1 – 169**

**July 1, 2022**

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**NORTH CAROLINA REGISTER**  
Publication Schedule for January 2022 – December 2022

FILING DEADLINES			NOTICE OF TEXT		PERMANENT RULE			TEMPORARY RULES
Volume & issue number	Issue date	Last day for filing	Earliest date for public hearing	End of required comment Period	Deadline to submit to RRC for review at next meeting	RRC Meeting Date	Earliest Eff. Date of Permanent Rule	270 <sup>th</sup> day from publication in the Register
36:13	01/03/22	12/08/21	01/18/22	03/04/22	03/21/22	04/21/2022	05/01/22	09/30/22
36:14	01/18/22	12/22/21	02/02/22	03/21/22	04/20/22	05/19/2022	06/01/22	10/15/22
36:15	02/01/22	01/10/22	02/16/22	04/04/22	04/20/22	05/19/2022	06/01/22	10/29/22
36:16	02/15/22	01/25/22	03/02/22	04/18/22	04/20/22	05/19/2022	06/01/22	11/12/22
36:17	03/01/22	02/08/22	03/16/22	05/02/22	05/20/22	06/16/2022	07/01/22	11/26/22
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36:22	05/16/22	04/25/22	05/31/22	07/15/22	07/20/22	08/18/2022	09/01/22	02/10/23
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37:11	12/01/22	11/07/22	12/16/22	01/30/23	02/20/23	03/16/2023	04/01/23	08/28/23
37:12	12/15/22	11/22/22	12/30/22	02/13/23	02/20/23	03/16/2023	04/01/23	09/11/23

This document is prepared by the Office of Administrative Hearings as a public service and is not to be deemed binding or controlling.

## **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) text of proposed rules;
- (3) text of permanent rules approved by the Rules Review Commission;
- (4) emergency rules
- (5) Executive Orders of the Governor;
- (6) 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; and
- (7) 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 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**  
An agency shall accept comments on the text of a proposed rule for at least 60 days after the text is published or until the date of any public hearings held on the proposed 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.



# State of North Carolina

**ROY COOPER**  
GOVERNOR

May 24, 2022

**EXECUTIVE ORDER NO. 258**

**AMENDING THE COMPOSITION OF THE NORTH CAROLINA  
INTERAGENCY COUNCIL FOR COORDINATING HOMELESSNESS PROGRAMS**

**WHEREAS**, Exec. Order No. 222, 36 N.C. Reg. 149-151 (Aug. 2, 2022), Reestablishing the North Carolina Interagency Council for Coordinating Homelessness Programs (the "Interagency Council"), which was issued on June 30, 2021, reestablished the Interagency Council; and

**WHEREAS**, Executive Order No. 222 directed the Interagency Council to advise the undersigned, his cabinet, other state agencies, and partners on issues related to housing stabilization and services for persons that are homeless or at risk of homelessness, and strategies to reduce and eliminate homelessness; and

**WHEREAS**, changes to the structure of the Interagency Council need to be made to allow more individuals that have demonstrated a willingness to combat homelessness in North Carolina to be appointed to the Interagency Council.

**NOW, THEREFORE**, by the authority vested in me as Governor by the Constitution and the laws of the State of North Carolina, **IT IS ORDERED**:

**Section 1. Amending Executive Order No. 222**

**Executive Order No. 222 shall be amended as follows:**

A. Section 2.xviii. is amended to read:

Four members from non-profit agencies that provide services to people experiencing homelessness or at risk of homelessness that represent emergency shelters, rapid rehousing agencies, victim service providers, permanent supportive housing providers, and faith-based service providers.

B. Section 2 is amended to add a new section, 2.xxviii that reads:

Any other member or members demonstrating a commitment to reducing homelessness or assisting those at risk of homelessness in North Carolina, or who possess qualifications or background relevant to the work of the Interagency Council.

**Section 2. Effect and Duration**

Executive Order No. 222, as amended herein, shall remain in effect until the Executive Order terminates on December 31, 2024, unless otherwise extended, replaced, or rescinded.

**IN WITNESS WHEREOF**, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this 24<sup>th</sup> day of May in the year of our Lord two thousand and twenty-two.

  
\_\_\_\_\_  
Roy Cooper  
Governor

**ATTEST:**

  
\_\_\_\_\_  
Elaine F. Marshall  
Secretary of State





# State of North Carolina

**ROY COOPER**  
GOVERNOR

May 24, 2022

**EXECUTIVE ORDER NO. 259**

**REESTABLISHING THE FOOD SAFETY AND DEFENSE TASK FORCE**

**WHEREAS**, the Food Safety and Defense Task Force ("Task Force"), comprised of state and local government officers and staff, academic professionals, and agricultural industry stakeholders, was first established by executive order on September 12, 2003 to identify, evaluate, and address vulnerabilities in North Carolina's food-supply system and agricultural industry; and

**WHEREAS**, the Task Force has assisted North Carolina in its navigation of multiple wide-spread food safety emergencies and food-borne illness outbreaks in the last few decades; and

**WHEREAS**, for example, in 2007 the Task Force, in collaboration with other state agencies, helped remove more than 30,000 recalled canned food products from circulation and prevented the spread of botulism in the state; and

**WHEREAS**, the United States Food and Drug Administration ("FDA") extensively reviewed the Task Force's response efforts during the 2007 recall, which have since become a model for similar recall efforts nationwide; and

**WHEREAS**, the Task Force also provided vital assistance to the North Carolina Department of Health and Human Services ("DHHS") during the adoption of the 2009 and 2017 FDA Food Codes, which have significantly enhanced and improved the State's retail food safety inspection process; and

**WHEREAS**, the Task Force's emergency response plans have been incorporated into the North Carolina Emergency Operations Plan; and

**WHEREAS**, the Task Force continues to support necessary updates to food safety regulations based on available science and continues to provide training and support to personnel across the food-supply system; and

**WHEREAS**, the Task Force is funded through a \$10,000 a year grant from the FDA (the "Grant") that must be renewed every five (5) years, with the current project period ending June 30, 2023; and

**WHEREAS**, since its inception in 2003, the Task Force has subsequently been extended by executive orders issued under the Easley, Perdue, McCrory, and undersigned's administrations; and

**WHEREAS**, the most recent Executive Order directing the continuation of the Task Force's important work expired in August 2020, and now requires reestablishment.

**NOW, THEREFORE**, pursuant to the authority vested in me as Governor by the Constitution and the laws of the State of North Carolina, **IT IS ORDERED:**

**Section 1. Re-establishment**

The Food Safety and Defense Task Force is hereby reestablished.

**Section 2. Purpose**

The purpose of the Task Force is to coordinate interagency and public-private collaborative efforts to enhance protection of the State's food-supply system and agricultural industry.

**Section 3. Membership**

- a. The Governor shall appoint members to the Task Force as follows:
  1. The Secretary of the North Carolina Department of Environmental Quality ("DEQ"), or designee;
  2. The Secretary of DHHS, or designee;
  3. The Secretary of the North Carolina Department of Public Safety, or designee;
  4. Representatives from the University of North Carolina System; and
  5. Representatives from other government agencies, private industry, and other public members associated with the State's food-supply system or agricultural industry (representatives from this Section 3(a)(5) collectively referred to as "Appointed Members").
- b. Appointed Members shall serve at the Governor's pleasure.
- c. The Secretary of DHHS and the Secretary of DEQ, or their respective designees, shall serve as Co-Chairs of the Task Force.
- d. The North Carolina Commissioner of Agriculture or his designee is formally invited to serve as a member and an additional Co-Chair of the Task Force.

**Section 4. Meetings**

The Task Force shall meet at least six (6) times a year. A simple majority of the members shall constitute a quorum for the purpose of transacting business.

**Section 5. Committees**

The Task Force may establish such committees or other work groups as necessary to carry out its duties.

**Section 6. Duties**

The Task Force, by and through its committees, shall have the following duties:

- a. Conduct focused studies on the vulnerability of the State's food system and make recommendations that would, if implemented, accomplish or address the following:
  1. Improve the safety and defense of the food system by, among other things, reducing the potential threat and impact of terrorism on the food system; and
  2. Improve food safety and defense mitigation and response plans; and
  3. Implement and coordinate the training for key stakeholders in the State's food supply system that incorporates the findings from these studies.
- b. Recommend legislation and policy aimed at improving the ability of state departments and agencies to protect the State's food supply and agricultural industry base,

including legislation that would protect sensitive and proprietary information pertaining to the State's food-supply system, safety and defense vulnerability data, and defense plans that, if compromised, would increase the State's food-supply system's exposure to criminal or terrorist acts.

- c. Recommend necessary adjustments to improve the ability and capacity of state departments and agencies to protect the State's food-supply system and agricultural industry.
- d. Submit an annual report to the Governor no later than December 20<sup>th</sup> each year that includes recommendations or proposals for changes in laws, rules, policies, and programs that the Task Force determines are appropriate to enhance food safety and defense in the state.

#### **Section 7. No Private Right of Action**

This Executive Order is not intended to create, and does not create, an individual right, privilege or benefit, whether substantive or procedural, enforceable in law or in equity by any party against the State of North Carolina, its agencies, departments, political subdivisions, or other entities, or any other officers, employees, or agents thereof.

#### **Section 8. Miscellaneous**

- a. The Task Force's expenditures, if any, shall be funded exclusively by the Grant, and shall comply with state law and with the rules and policies of the Office of State Budget and Management.
- b. DHHS shall provide administrative and staff support services to the Task Force.

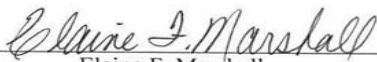
#### **Section 9. Effect and Duration**

This Executive Order shall be effective immediately. It shall remain in effect until June 30, 2025, pursuant to N.C. Gen. Stat. §147-16.2, or until rescinded, whichever occurs first.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this 24<sup>th</sup> day of May in the year of our Lord two thousand and twenty-two.

  
 Roy Cooper  
 Governor

ATTEST:

  
 Elaine F. Marshall  
 Secretary of State





# State of North Carolina

**ROY COOPER**  
GOVERNOR

May 31, 2022

## EXECUTIVE ORDER NO. 260

### EXTENSION OF THE GOVERNOR'S ADVISORY COMMITTEE ON PERFORMANCE MANAGEMENT

**WHEREAS**, Exec. Order No. 43, 32 N.C. Reg. 2639-2640 (June 15, 2018), which was issued on May 18, 2018, established the Governor's Advisory Committee on Performance Management; and

**WHEREAS**, Executive Order No. 43 is set to expire on May 31, 2022; and

**WHEREAS**, in order to continue the important work of the Advisory Committee on Performance Management the Executive Order must be extended.

**NOW, THEREFORE**, by the authority vested in me as Governor by the Constitution and the laws of the State of North Carolina, **IT IS ORDERED**:

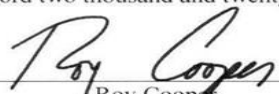
#### **Section 1. Extending Executive Order No. 43**

Pursuant to N.C. Gen. Stat. § 147-16.2, Executive Order No. 43, which established the Governor's Advisory Committee on Performance Management, is hereby extended to May 31, 2024.


#### **Section 2. Effect and Duration**

The extension of Executive Order No. 43 is effective immediately and shall remain in effect until May 31, 2024 or until rescinded.

**IN WITNESS WHEREOF**, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this 31<sup>st</sup> of May in the year of our Lord two thousand and twenty-two.

  
\_\_\_\_\_  
Roy Cooper  
Governor

**ATTEST:**

  
\_\_\_\_\_  
Elaine F. Marshall  
Secretary of State





# State of North Carolina

**ROY COOPER**  
GOVERNOR

May 31, 2022

## EXECUTIVE ORDER NO. 261

### EXTENDING TRANSPORTATION-RELATED PROVISIONS IN PREVIOUS EXECUTIVE ORDERS AND FACILITATING THE TRANSPORTATION OF BABY FORMULA IN THE STATE

**WHEREAS**, on March 10, 2020, the undersigned issued Exec. Order No. 116, 34 N.C. Reg. 1744-1749 (April 1, 2020), which declared a State of Emergency to coordinate the State's response and protective actions to address the Coronavirus Disease 2019 (COVID-19) public health emergency and to provide for the health, safety, and welfare of residents and visitors located in North Carolina ("Declaration of a State of Emergency"); and

**WHEREAS**, on March 11, 2020, the World Health Organization declared COVID-19 a global pandemic; and

**WHEREAS**, on March 13, 2020, the President of the United States declared the ongoing COVID-19 outbreak a pandemic of sufficient severity and magnitude to warrant an emergency declaration for all states, tribes, territories, and the District of Columbia pursuant to Section 501(b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. § 5121-5207 (the "Stafford Act"); and

**WHEREAS**, on March 13, 2020, the President of the United States pursuant to Sections 201 and 301 of the National Emergencies Act, 50 U.S.C. § 1601, *et seq.* and consistent with Section 1135 of the Social Security Act, as amended (42 U.S.C. § 1320b-5), declared that the COVID-19 pandemic in the United States constitutes a national emergency, retroactive to March 1, 2020; and

**WHEREAS**, on March 25, 2020, the President of the United States, pursuant to Section 401 of the Stafford Act, approved a Major Disaster Declaration, FEMA-4487-DR, for the State of North Carolina; and

**WHEREAS**, in responding to the COVID-19 pandemic, and for the purposes of protecting the health, safety and welfare of the people of North Carolina, the undersigned has issued Executive Order Nos. 116-122, 124-125, 129-131, 133-136, 138-144, 146-153, 155-157, 161-165, 169-173, 176-177, 180-181, 183-185, 188-193, 195, 197-198, 200, 204-207, 209-212, 215-217, 219-221, 224-225, 228-232, 234, 236, 238-240, 244-245, 252-253, 256-257; and

**WHEREAS**, on March 13, 2020, in response to the emerging COVID-19 pandemic, and to facilitate the transportation of essential emergency relief supplies, the Federal Motor Carrier Safety Administration ("FMCSA") issued Emergency Declaration No. 2020-02 ("FMCSA

Emergency Declaration”), which provided exemptions from certain Federal Motor Carrier Safety Regulations; and

**WHEREAS**, Executive Order No. 116 included suspensions of related state regulations; and

**WHEREAS**, the FMCSA has subsequently made several modifications to its emergency declaration to expand the categories of goods, equipment and persons covered by the declaration to respond to the changing needs of emergency relief; and

**WHEREAS**, the FMCSA has determined that the production and transport of fuels, including gasoline, diesel, jet fuel, and others, is significantly impacted by the COVID-19 emergency; and

**WHEREAS**, on May 27, 2022, the FMCSA extended its 2020 Emergency Declaration through August 31, 2022; and

**WHEREAS**, as of the date of this Executive Order, due to a national shortage of certain specialty baby formulas, families across the United States are experiencing difficulty procuring infant formula; and

**WHEREAS**, on May 18, 2022, the President of the United States invoked the Defense Production Act to increase baby formula production and require suppliers to direct ingredients to baby formula manufacturers as a priority; and

**WHEREAS**, on May 23, 2022, the FMCSA issued Emergency Declaration No. 2022-005, effective through June 30, 2022, to provide regulatory relief for commercial motor vehicle operations that are responding to product recall and unplanned closure of a key manufacturing facility of baby formula by waiving certain federal regulations governing the maximum hours of service for a commercial motor vehicle operator; and

**WHEREAS**, the May 23, 2022 Emergency Declaration provides necessary relief by addressing nationwide emergency conditions creating a need for immediate transportation of baby formula, its ingredients for production, and baby formula containers and packaging to manufacturers, distributors, and stores; and

**WHEREAS**, the unencumbered transportation of baby formula and its ingredients to manufacturers, distributors, and stores is an essential need of the public and any interruption in the delivery and stocking of these items threatens public health; and

**WHEREAS**, the undersigned has determined that provisions in Executive Order No. 116, as amended herein, need to remain in place to allow for the continued expedited movement of vehicles in the state to facilitate the delivery of baby formula, as well as essential supplies necessary for continued COVID-19 relief; and

**WHEREAS**, Executive Order No. 116 invoked the Emergency Management Act, and authorizes the undersigned to exercise the powers and duties set forth therein to direct and aid in the response to, recovery from, and mitigation against emergencies; and

**WHEREAS**, pursuant to N.C. Gen. Stat. § 166A-19.10(b)(2), the undersigned may make, amend, or rescind necessary orders, rules, and regulations within the limits of the authority conferred upon the Governor in the Emergency Management Act; and

**WHEREAS**, N.C. Gen. Stat. § 166A-19.10(b)(3) authorizes and empowers the undersigned to delegate any Gubernatorial vested authority under the Emergency Management Act and to provide for the subdelegation of any authority; and

**WHEREAS**, N.C. Gen. Stat. § 166A-19.70(b), allows the undersigned to declare by executive order that the health, safety, or economic well-being of persons or property in this state require that the maximum hours of service prescribed by the Department of Public Safety (“DPS”)

pursuant to N.C. Gen. Stat. § 20-381 and similar rules be waived for persons transporting essentials or assisting in the restoration of utility services; and

**WHEREAS**, for the reasons described above, the undersigned has made the determinations required pursuant to N.C. Gen. Stat. § 166A-19.70(b).

**NOW, THEREFORE**, by the authority vested in me as Governor by the Constitution and the laws of the State of North Carolina, **IT IS ORDERED**:

**Section 1. Extensions**

For the reasons and pursuant to the authority set forth above and set forth in the relevant Executive Orders referenced below, the undersigned orders as follows:

**A. Executive Order No. 116.**

1. Section 5 of Executive Order No. 116 (which was amended by Section 6 of Executive Order No. 119, Section 1 of Executive Order No. 146, Section 1 of Executive Order No. 150, Section 1 of Executive Order No. 157, and Section 1 of Executive Order No. 192, and extended by Executive Order Nos. 133, 140, 146, 150, 157, 164, 197, 217, 230 239, and 252, and reissued in Executive Order No. 192) is amended herein and extended pursuant to N.C. Gen. Stat. § 166A-19.70(b) through the end of the calendar day on July 15, 2022.

Section 5 of Executive Order No. 116 is amended to read as follows:

In order to ensure adequacy and location of supplies and resources to respond to COVID-19 or to fuel or baby formula shortages, DPS, in conjunction with the North Carolina Department of Transportation ("DOT"), shall waive the maximum hours of service for drivers prescribed by DPS pursuant to N.C. Gen. Stat. § 20-381 subject to the restrictions and limitations in this Executive Order, if the driver is transporting (1) livestock and livestock feed; (2) medical supplies and equipment related to the testing, diagnosis and treatment of COVID-19; (3) vaccines, constituent products, and medical supplies and equipment including ancillary supplies/kits for the administration of vaccines, related to the prevention of COVID-19; (4) supplies and equipment necessary for community safety, sanitation, and prevention of community transmission of COVID-19 such as masks, gloves, hand sanitizer, soap and disinfectants; (5) food, paper products and other groceries for emergency restocking of distribution centers or stores; (6) gasoline, diesel, jet fuel, ethyl alcohol, and heating fuel including propane, natural gas, and heating oil; (7) supplies to assist individuals impacted by the consequences of the COVID-19 pandemic (e.g., building materials for individuals displaced or otherwise impacted as a result of the emergency); or (8) baby formula, baby formula containers and packaging, and the ingredients for baby formula production, including but not limited to corn syrup, casein, hydrolyzed protein, and whey. Direct assistance does not include non-emergency transportation of qualifying commodities or routine commercial deliveries, including mixed loads with a nominal quantity of qualifying emergency relief added to obtain the benefits of this Executive Order.

**Section 2. Enforcement**

The North Carolina State Highway Patrol shall enforce the conditions set forth in this Executive Order in a manner that does not endanger North Carolina motorists.

**Section 3. Distribution**

I hereby order that this Executive Order be: (1) distributed to the news media and other organizations calculated to bring its contents to the attention of the general public; (2) promptly filed with the Secretary of the North Carolina Department of Public Safety, the Secretary of State, and the superior court clerks in the counties to which it applies, unless the circumstances of the

State of Emergency would prevent or impede such filing; and (3) distributed to others as necessary to ensure proper implementation of this Executive Order.

**Section 4. Effective Date**


This Executive Order is effective immediately. This Executive Order shall remain in effect through the end of the calendar day on July 15, 2022, unless repealed, replaced, or rescinded by another applicable Executive Order.

**IN WITNESS WHEREOF**, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this 31<sup>st</sup> day of May in the year of our Lord two thousand and twenty-two.



Roy Cooper  
Governor

**ATTEST:**

  
Elaine F. Marshall  
Secretary of State





# State of North Carolina

**ROY COOPER**  
GOVERNOR

June 6, 2022

**EXECUTIVE ORDER NO. 262**

**EMPLOYEE LEAVE TO RECOGNIZE  
A DAY OF CULTURAL, RELIGIOUS, OR PERSONAL SIGNIFICANCE**

Celebrating North Carolina's Diverse Workforce

**WHEREAS**, the undersigned is committed to making North Carolina state government a competitive employer, capable of recruiting, retaining, and supporting top talent to serve North Carolinians; and

**WHEREAS**, North Carolina state government employs a robust and diverse workforce, reflecting the multiple cultural and religious communities of our State; and

**WHEREAS**, North Carolina state government celebrates its culturally and religiously diverse workforce, viewing diversity as central to the achievement of a high-performance organization; and

Juneteenth in North Carolina

**WHEREAS**, June 19<sup>th</sup>, or Juneteenth, sometimes referred to as National Freedom Day, Emancipation Day, or Juneteenth Independence Day, became a day of celebration and the oldest known commemoration of the abolition of sanctioned slavery in the United States; and

**WHEREAS**, each year, organizations and individuals throughout North Carolina and our nation celebrate African American heritage, history, freedom, and culture with events and ceremonies that reflect the power of community, family, art, and tradition in the face of oppression, through the celebration of Juneteenth; and

**WHEREAS**, Juneteenth National Freedom Day is recognized by Session Law 2007-450 in the State of North Carolina, but like several other cultural and religious days of observance, it is not a paid holiday for state employees; and

**WHEREAS**, the State of North Carolina encourages residents to observe Juneteenth as an opportunity to reflect, rejoice, and plan for a brighter future as we continue to address racial injustices in our society; and

Executive Branch Employees and Paid Time Off

**WHEREAS**, state employees celebrate a myriad of cultural observances, such as Juneteenth, Día de los Muertos, Indigenous People's Day, Kwanzaa, and Lunar New Year; and

**WHEREAS**, state employees celebrate a myriad of religious observances, such as Ash Wednesday, Diwali, Greek Orthodox Easter, Holi, Ramadan, Rosh Hashanah, and Yom Kippur; and

**WHEREAS**, state employees should have the flexibility to recognize a day of personal significance, such as cultural or religious celebrations; and

**WHEREAS**, Eligible State Employees (as defined below) will—for the duration and under the terms of this Executive Order and any policy issued under this Executive Order—be eligible to receive up to an additional eight (8) hours of paid Personal Observance Leave (as defined below) for any single day of personal significance, such as days of cultural and religious importance; and

**WHEREAS**, for these reasons, it is reasonable for the Office of State Human Resources (“OSHR”) to allow Eligible State Employees up to an additional eight (8) hours of paid Personal Observance Leave to use in their discretion for any single day of personal significance, such as days of cultural or religious importance; and

**WHEREAS**, this Personal Observance Leave is available for all Eligible State Employees from all cultural and religious backgrounds, and without any questioning of whether an employee’s identification of a particular day for Personal Observance Leave is sincere and legitimate; and

Statutory Authority and Determinations

**WHEREAS**, pursuant to Article III of the Constitution of North Carolina and N.C. Gen. Stat. §§ 143A-4 and 143B-4, the Governor is the chief executive officer of the State and is responsible for formulating and administering the policies of the executive branch of state government; and

**WHEREAS**, pursuant to N.C. Gen. Stat. § 147-12, the Governor has the authority and duty to supervise the official conduct of all executive and ministerial officers; and

**WHEREAS**, pursuant to N.C. Gen. Stat. § 143B-10(j)(3), the head of each principal state department and the Director of OSHR may adopt policies, consistent with law and with rules established by the Governor and with rules of the State Human Resources Commission (“Commission”), which reflect internal management procedures within each department, including policies governing the conduct of employees of the department; and

**WHEREAS**, pursuant to N.C. Gen. Stat. § 126-4, the Commission shall establish state human resources rules and policies subject to approval of the Governor; and

**WHEREAS**, pursuant to N.C. Gen. Stat. § 126-4, the Commission has established that “[a]dministration of the leave program within the scope of established policy shall be the responsibility of the agency head,” 25 N.C. Admin. Code 01E .0101; and

**WHEREAS**, pursuant to N.C. Gen. Stat. § 126-4, the Commission has established the state rules on equal employment opportunity plans and programs, 25 N.C. Admin. Code 01L .0101 et seq., along with the state Equal Employment Opportunity Policy, and these rules and policies direct agencies to promote initiatives for diversity and inclusion at all occupational levels of the state government workforce.

**NOW, THEREFORE**, by the authority vested in me as Governor by the Constitution and the laws of the State of North Carolina, **IT IS ORDERED**:

**Section 1. Personal Observance Leave for State Employees.**

It shall be the policy of the Office of the Governor and Cabinet Agencies, as defined herein, to provide up to eight (8) hours of fully paid leave to all Eligible State Employees. As detailed below, this leave is for Eligible State Employees to utilize on any single day of personal significance, such as days of cultural or religious importance.

The undersigned directs and authorizes the Director of OSHR, on behalf of Cabinet Agency heads, to issue a Policy consistent with this Executive Order. The Policy may establish further details to implement this Executive Order. The Policy may be amended in the future by the Director, after consultation with the Office of the Governor. Any changes to the Policy may be made without amendment to this or any other Executive Order.

**Section 2. Details of Leave.**

- a. **Applicability.** The Policy and the leave specified therein shall apply automatically only to Cabinet Agencies. All other state agencies are encouraged to voluntarily adopt this Policy or similar policies to promote the recruitment and retention of a diverse and inclusive workforce. Other state agencies may adopt the Policy by sending a letter or email to the Chief Deputy Director of OSHR.
- b. **Definitions.** For purposes of this Executive Order, the following terms have the following meanings:
  - i. **Cabinet Agencies** — Those agencies that are part of the Governor's Office or are headed by members of the Governor's Cabinet.
  - ii. **Eligible State Employee** — A full-time, part-time (half-time or more), permanent, probationary, or time-limited employee of a Cabinet Agency or other participating agency. Temporary employees, part-time employees who work less than half-time, interns, and contractors shall not be eligible for Personal Observance Leave.
  - iii. **Participating Agency** — An agency that chooses to adopt the Policy under this Executive Order, by notification to OSHR.
  - iv. **Policy** — The policy that the undersigned directed to be issued in Section 1 of this Executive Order.
  - v. **Personal Observance Leave** — Leave provided under the terms of this Executive Order and the Policy.
- c. **Amount of Leave.** Eligible State Employees shall be awarded up to eight (8) hours of Personal Observance Leave. Full-time employees will receive eight (8) hours. Part-time employees, if eligible, will receive a prorated amount based on their number of hours compared to a full-time schedule.
- d. **Use of Leave.** Personal Observance Leave is a form of management-approved leave, provided under the following terms:
  - i. All hours of Personal Observance Leave must be used on a single day of scheduled work. Employees may use Personal Observance Leave for any day of personal significance. This includes, but is not limited to, days of cultural or religious importance.
  - ii. Personal Observance Leave may be taken by an employee only upon authorization by the employee's supervisor.
  - iii. Supervisors should not require a justification from the employee to utilize the Personal Observance Leave.
  - iv. The day used for Personal Observance Leave does not have to be a day from the employee's own religious or cultural background.
  - v. The Policy will establish the date when Personal Observance Leave can begin to be used.
- e. **Renewal of Leave.** The initial Personal Observance Leave discussed in this Executive Order will expire on December 31, 2022. Subject to any amendments to the Policy, on January 1 of each calendar year, Eligible State Employees will receive a new eight (8) hours of Personal

Observance Leave that will be available for use until December 31 of that calendar year. Part-time employees, if eligible, will receive a prorated amount based on their number of hours compared to a full-time schedule. Any unused leave at the end of the calendar year will expire and will not transfer to the following year.

- f. No Cash Value. Personal Observance Leave shall have no cash value. If the employee does not use all Personal Observance Leave before it expires, the employee will not receive any premium pay. Employees will not be paid for unused Personal Observance Leave upon separation from their employment.

**Section 3. No Private Right of Action.**

This Executive Order is not intended to create, and does not create, any individual right, privilege, or benefit, whether substantive or procedural, enforceable at law or in equity by any party against the State of North Carolina, its agencies, departments, political subdivisions, or other entities, or any officers, employees, or agents thereof, or any other person.

**Section 4. Savings Clause.**

If any provision of this Executive Order or its application to any person or circumstances is held invalid by any court of competent jurisdiction, this invalidity does not affect any other provision or application of this Executive Order, which can be given effect without the invalid provision or application. To achieve this purpose, the provisions of this Executive Order are declared to be severable.

**Section 5. Miscellaneous.**

- a. This Executive Order does not apply to counties, municipalities, political subdivisions, local government agencies, or private entities.
- b. State entities other than Cabinet Agencies are encouraged but not required to follow this Executive Order.
- c. This Executive Order is effective immediately. This Executive Order shall remain in effect until repealed, replaced, or rescinded by future Executive Order of the Governor.

**IN WITNESS WHEREOF**, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this 6<sup>th</sup> day of June in the year of our Lord two thousand and twenty-two.

  
\_\_\_\_\_  
Roy Cooper  
Governor

ATTEST:

  
\_\_\_\_\_  
Elaine F. Marshall  
Secretary of State



**Note from the Codifier:** The notices published in this Section of the NC Register include the text of proposed rules. The agency must accept comments on the proposed rule(s) for at least 60 days from the publication date, or until the public hearing, or a later date if specified in the notice by the agency. If the agency adopts a rule that differs substantially from a prior published notice, the agency must publish the text of the proposed different rule and accept comment on the proposed different rule for 60 days. Statutory reference: G.S. 150B-21.2.

**TITLE 11 – DEPARTMENT OF INSURANCE**

*Notice is hereby given in accordance with G.S. 150B-21.3A(c)(2)g. that the Fire and Rescue Commission intends to readopt without substantive changes the rule cited as 11 NCAC 05B .0301.*

*Pursuant to G.S. 150B-21.2(c)(1), the text of the rule(s) proposed for readoption without substantive changes are not required to be published. The text of the rules are available on the OAH website: <http://reports.oah.state.nc.us/ncac.asp>.*

**Link to agency website pursuant to G.S. 150B-19.1(c):** <https://www.ncdoi.gov/insurance-industry/rules-and-rules-review>

**Proposed Effective Date:** November 1, 2022

**Public Hearing:**

**Date:** July 18, 2022

**Time:** 2:00 p.m.

**Location:** NCDOT Albemarle Building, 325 North Salisbury Street, Raleigh, NC 27603, Hearing Room

**Reason for Proposed Action:** This rule is being readopted as part of the periodic review of rules pursuant to the periodic review and expiration of existing rules as set forth in G.S. 150B-21-3A(c)(2)g.

**Comments may be submitted to:** Loretta Peace-Bunch, 325 N. Salisbury Street, Raleigh, NC 27603; email [Loretta.Peace-Bunch@ncdoi.gov](mailto:Loretta.Peace-Bunch@ncdoi.gov)

**Comment period ends:** August 30, 2022

**Procedure for Subjecting a Proposed Rule to Legislative**

**Review:** If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission after the adoption of the Rule. If the Rules Review Commission receives written and signed objections after the adoption of the Rule in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 984-236-1850.

**Fiscal impact. Does any rule or combination of rules in this notice create an economic impact? Check all that apply.**

- ☐ State funds affected
- ☐ Local funds affected
- ☐ Substantial economic impact ( $\geq$  \$1,000,000)
- ☐ Approved by OSBM
- ☒ No fiscal note required

**CHAPTER 05 - OFFICE OF STATE FIRE MARSHAL**

**SUBCHAPTER 05B - N.C. STATE FIRE COMMISSION**

**SECTION .0300 - CERTIFICATION OF FIRE SERVICE PERSONNEL**

**11 NCAC 05B .0301 MINIMUM PROFESSIONAL QUALIFICATIONS (READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**TITLE 12 – DEPARTMENT OF JUSTICE**

*Notice is hereby given in accordance with G.S. 150B-21.2 that the Sheriffs' Education and Training Standards Commission intends to amend the rules cited as 12 NCAC 10B .0205, .0301-.0307, .0408, .0410, .0713 and .0803.*

**Link to agency website pursuant to G.S. 150B-19.1(c):** <https://ncdoj.gov/law-enforcement-training/sheriffs/all-commission-forms-publications/>

**Proposed Effective Date:** January 1, 2023

**Public Hearing:**

**Date:** July 26, 2022

**Time:** 09:00 a.m.

**Location:** 1700 Tryon Park Drive, Raleigh, NC

**Reason for Proposed Action:**

*Senate Bill 300 requires uniform minimum standards for justice officers. The following rules are affected: 12 NCAC 10B .0301, 12 NCAC 10B .0302, 12 NCAC 10B .0304, 12 NCAC 10B .0306, 12 NCAC 10B .0307, 12 NCAC 10B .0408, 12 NCAC 10B .0410; 12 NCAC 10B 0713.*

*Senate Bill 300 also requires Rap Back service for law enforcement: 12 NCAC 10B .0303*

*12 NCAC 10B .0713: Section (b) is affected by Senate Bill 300; Section (e) Although the information is collected, there is not a reading grade requirement for entry into the basic training courses.*

*12 NCAC 10B .0803: amendment based on removal of the requirement in .0713*

**Comments may be submitted to:** Sirena Jones, 1700 Tryon Park Drive, Raleigh, NC 27610

**Comment period ends:** August 30, 2022

**Procedure for Subjecting a Proposed Rule to Legislative Review:** If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission after the adoption of the Rule. If the Rules Review Commission receives written and signed objections after the adoption of the Rule in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 984-236-1850.

**Fiscal impact. Does any rule or combination of rules in this notice create an economic impact? Check all that apply.**

- ☐ State funds affected
- ☐ Local funds affected
- ☐ Substantial economic impact ( $\geq$  \$1,000,000)
- ☐ Approved by OSBM
- ☒ No fiscal note required

## CHAPTER 10 - SHERIFFS' EDUCATION AND TRAINING STANDARDS COMMISSION

### SUBCHAPTER 10B - N.C. SHERIFFS' EDUCATION AND TRAINING STANDARDS COMMISSION

#### SECTION .0200 - ENFORCEMENT RULES

#### 12 NCAC 10B .0205 PERIOD OF SUSPENSION: REVOCATION: OR DENIAL

When the Commission suspends, revokes, or denies the certification of a justice officer, the period of sanction shall be:

- (1) permanent where the cause of sanction is:
  - (a) commission or conviction of a felony;
  - (b) commission or conviction of a crime for which authorized punishment included imprisonment for more than two years; or
  - (c) the second revocation, suspension, or denial of an officer's certification for any of the causes requiring a five-year period of revocation, suspension, or denial as set out in Item (2) of this Rule.
- (2) not less than five years where the cause of sanction is:
  - (a) commission or conviction of offenses as specified in 12 NCAC 10B .0204(d)(1);

- (b) material misrepresentation of any information required for certification or accreditation from the Commission or the North Carolina Criminal Justice Education and Training Standards Commission;
- (c) knowingly and designedly by any means of false pretense, deception, fraud, misrepresentation or cheating whatsoever, obtained or attempted to obtain credit, training or certification from the Commission or the North Carolina Criminal Justice Education and Training Standards Commission;
- (d) knowingly and designedly by any means of false pretense, deception, fraud, misrepresentation or cheating whatsoever, aiding another in obtaining or attempting to obtain credit, training, or certification from the Commission or the North Carolina Criminal Justice Education and Training Standards Commission. This Sub-Item also applies to obtaining or attempting to obtain credit for in-service training as required by 12 NCAC 10B .1700, .1800, .2000, or .2100;
- (e) failure to make either of the notifications as required by ~~12 NCAC 10B .0301(a)(7)~~; 12 NCAC 10B .0301(13)
- (f) removal from office under the provisions of G.S. 128-16 or the provisions of G.S. 14-230; or
- (g) a positive result on a drug screen, or a refusal to submit to drug testing as required by the rules in this Chapter or the rules of the Criminal Justice Education and Training Standards Commission or has refused to submit to an in-service drug screen pursuant to the guidelines set forth in the Drug Screening Implementation Guide as required by the employing agency through which the officer is certified.

The Commission may either reduce or suspend the periods of sanction under this Item or substitute a period of probation in lieu of revocation, suspension or denial following an administrative hearing. This authority to reduce or suspend the period of sanction may be utilized by the Commission when extenuating circumstances brought out at the administrative hearing warrant such a reduction or suspension.

- (3) for an indefinite period, but continuing so long as the stated deficiency, infraction, or impairment continues to exist, where the cause of sanction is:
  - (a) failure to meet or satisfy relevant basic training requirements;

- (b) failure to meet or maintain the minimum standards of employment or certification;
- (c) failure to meet or satisfy the in-service training requirements as prescribed in 12 NCAC 10B .2000 or .2100 or 12 NCAC 09E .0100;
- (d) commission or conviction of offenses as specified in 12 NCAC 10B .0204(d)(2), (3), (4) and (5); or
- (e) denial, suspension, or revocation of certification pursuant to 12 NCAC 10B .0204(c)(5).

The Commission may either reduce or suspend the periods of sanction where revocation, denial or suspension of certification is based upon the Subparagraphs set out in 12 NCAC 10B .0204(d) or substitute a period of probation in lieu of revocation, suspension or denial following an administrative hearing. This authority to reduce or suspend the period of sanction may be utilized by the Commission when extenuating circumstances brought out at the administrative hearing warrant such a reduction or suspension.

*Authority G.S. 17E-4; 17E-7.*

### **SECTION .0300 – MINIMUM STANDARDS FOR EMPLOYMENT AND CERTIFICATION AS A JUSTICE OFFICER**

#### **12 NCAC 10B .0301 MINIMUM STANDARDS FOR JUSTICE OFFICERS**

(a) Every ~~Justice Officer~~ justice officer employed or certified in North Carolina shall:

- (1) be a citizen of the United States;
- (2) be ~~24~~ at least 20 years of age ~~for all deputies and detention officers and~~ and be at least 18 years of age for all ~~telecommunicators;~~ telecommunicators;
- (3) be a high school graduate, or the equivalent ~~(GED); as defined in 12 NCAC 10B .0302;~~
- (4) have been fingerprinted by the employing ~~agency; in the manner provided in 12 NCAC 10B .0303;~~
- (5) have had a medical examination as required by 12 NCAC 10B .0304;
- (6) have produced a negative result on a drug screen ~~administered according to the following specifications: as described in 12 NCAC 10B .0410;~~
  - (A) ~~the drug screen shall be a urine test consisting of an initial screening test using an immunoassay method and a confirmatory test on an initial positive result using a gas chromatography/mass spectrometry (GC/MS) or other initial and confirmatory tests as may be authorized or mandated by the Department of Health and Human~~

~~Services for Federal Workplace Drug Testing Programs [https://www.samhsa.gov/workplace]; a chain of custody shall be maintained on the specimen from collection to the eventual discarding of the specimen; the drugs whose use shall be tested for shall include cannabis, cocaine, phencyclidine (PCP), opiates, and amphetamines or their metabolites; the test threshold values established by the Department of Health and Human Services for Federal Workplace Drug Testing Programs are incorporated by reference, including subsequent amendments and editions. Copies of this information may be obtained from the National Institute on Drug Abuse, 5600 Fisher Lane, Rockville, Maryland 20857 [http://www.drugabuse.gov/] at no cost;~~

(B) ~~the test results shall be dated no more than 60 days before employment or appointment, whichever is earlier;~~

(C) ~~the laboratory conducting the test shall be certified for federal workplace drug testing programs, and shall adhere to applicable federal rules, regulations, and guidelines pertaining to the handling, testing, storage, and preservation of samples; and each drug test laboratory report shall be reviewed by a medical review officer (MRO), who shall be a licensed physician;~~

(D) ~~make the following notifications:~~

(E) ~~within five business days, notify the Standards Division and the appointing department head in writing of all criminal offenses with which the officer is charged. This shall include all criminal offenses except minor traffic offenses. A minor traffic offense means any offense under G.S. 20 or similar laws of other jurisdictions; except those Chapter 20 offenses defined as either a Class A or B Misdemeanor in 12 NCAC 10B .0103(10). The initial notification required must specify the nature of the offense, the date of offense, and the arresting agency. Within five business days, notify the Standards Division of all Domestic Violence Orders (G.S. 50B) and Civil No Contact Orders (G.S. 50C) that are issued by a judicial official against the justice officer and~~

- that provide an opportunity for both parties to be present;
- (B) ~~within 20 days of the date the case was disposed, notify the appointing department head of the adjudication of these criminal charges, Domestic Violence Orders (G.S. 50B), and Civil No Contact Orders (G.S. 50C). The department head, provided he or she has knowledge of the officer's charges, Domestic Violence Orders (G.S. 50B), and Civil No Contact Orders (G.S. 50C), shall also notify the Division within 30 days of the date the case or order was disposed of in court.~~
- (C) ~~within 30 days of the date the case was disposed, notify the Standards Division of the adjudication of these criminal charges, Domestic Violence Orders (G.S. 50B), and Civil No Contact Orders (G.S. 50C);~~
- (D) ~~the required notifications of adjudication shall specify the nature of the offense, the court in which the case was handled, and the date of disposition and shall include a certified copy of the final disposition from the Clerk of Court in the county of adjudication;~~
- (E) ~~receipt by the Standards Division of timely notification of the initial offenses charged and of adjudication of those offenses, from either the officer or the department head, shall be sufficient notice for compliance with this Subparagraph;~~
- (7) have been administered a psychological screening examination as described by G.S. 17E-7. This psychological screening examination shall be valid for a period of one year from the date on which it was administered;
- (8) be of good moral character as defined in: In re Willis, 288 N.C. 1, 215 S.E.2d 771 (1975); appeal dismissed 423 U.S. 976 (1975); State v. Harris, 216 N.C. 746, 6 S.E.2d 854 (1940); In re Legg, 325 N.C. 658, 386 S.E.2d 174 (1989); In re Applicants for License, 143 N.C. 1, 55 S.E. 635 (1906); In re Dillingham, 188 N.C. 162, 124 S.E. 130 (1924); State v. Benbow, 309 N.C. 538, 308 S.E.2d 647 (1983); and later court decisions that cite these cases as authority;
- (8) have been interviewed as described in 12 NCAC 10B .0306;
- (9) have a background investigation conducted by the employing agency, including a personal interview prior to employment as
- (10) required by Rules .0305 and .0306 of this Section, as required by 12 NCAC 10B .0305;
- (11) not have committed or been convicted of a crime or crimes specified in 12 NCAC 10B .0307;
- (12) for personnel who are authorized to carry a firearm in the execution of their duties, satisfactorily complete the employing agency's in-service firearms training program as prescribed in 12 NCAC 10B .2103 and .2104. Such firearms training compliance must have occurred prior to submission of the application for appointment to the Commission and must be completed using the agency approved service handgun(s) and any other weapons(s) that the applicant has been issued or authorized to use by the agency;
- (13) be of good moral character as defined in: In re Willis, 288 N.C. 1, 215 S.E.2d 771 (1975); appeal dismissed 423 U.S. 976 (1975); State v. Harris, 216 N.C. 746, 6 S.E.2d 854 (1940); In re Legg, 325 N.C. 658, 386 S.E.2d 174 (1989); in re Applicants for License, 143 N.C. 1, 55 S.E. 635 (1906); In re Dillingham, 188 N.C. 162, 124 S.E. 130 (1924); State v. Benbow, 309 N.C. 538, 308 S.E.2d 647 (1983); and later court decisions.
- (13) make the following notifications:
- (a) within five business days of the qualifying event, notify the Standards Division and the appointing agency head in writing of all criminal offenses for which the officer is charged or arrested. This shall include traffic offenses identified in the Class B Misdemeanor Manual and offenses of driving under the influence (DUI) or driving while impaired (DWI);
- (b) within five business days of the qualifying event notify the Standards Division and the appointing agency head in writing of all criminal offenses for which the officer pleads no contest, pleads guilty, or of which the officer is found guilty. This shall include traffic offenses identified in the Class B Misdemeanor Manual and offenses of driving under the influence (DUI) or driving while impaired (DWI);
- (c) within five business days of service, officers shall notify the Standards Division of all Domestic Violence Protective Order (G.S. 50B) and Civil No Contact Orders (G.S. 50C) that are issued by a judicial official against the officer;
- (d) within five business days of the date the case was disposed of in court, the agency head, provided he or she has

- knowledge of the officer's arrests or criminal charges and final dispositions, shall also notify the Standards Division of arrests or criminal charges and final disposition;
- (e) within five business days of the issuance of all Domestic Violence Protective Orders (G.S. 50B) and Civil No Contact Orders (G.S. 50C), the agency head, provided he or she has knowledge of the order, shall also notify the Standards Division of these orders.
- (f) The required notifications in this Rule shall be in writing and shall specify the nature of the offense or order, the court in which the case was handled, the date of the arrest, criminal charge, or service of the order, and the final disposition. The notification shall include a certified copy of the order or court documentation and final disposition from the Clerk of Court in the county of adjudication. The requirements of this Item shall be applicable at all times during which the officer is employed and certified by the Commission and shall also apply to all applicants for certification. Receipt by the Standards Division of a single notification, from the officer or the agency head, shall be sufficient notice for compliance with this Item.
- ~~(b)(14)~~ The requirements of this Rule shall apply to all applications for certification and shall also apply at all times during which the justice officer is certified by the Commission.

*Authority G.S. 17E-7.*

#### **12 NCAC 10B .0302 DOCUMENTATION OF EDUCATIONAL REQUIREMENT**

(a) Each applicant for Justice Officer certification shall furnish documentary evidence of high school, college or university graduation to the employing agency. Documentary evidence of high school graduation consists of diplomas or transcripts from public schools or private schools which meet standards adopted by either the North Carolina Department of Public Instruction, the Division of Non-Public Instruction, or a comparable out of state agency; agency; or such documentation as described in Paragraphs (b), (c), (d) and (e) of this Rule. Documentary evidence of college or university graduation consists of diplomas or transcripts from colleges or universities accredited as such by the Department of Education of the state in which the institution is located, an accredited body recognized by either the U.S. Department of Education or Council for Higher Education Accreditation, or the state university of the state in which the institution is located.

(b) High School Diplomas earned through home school programs must be accompanied by a true and accurate or certified transcript and must meet the requirements of Part 3 of Article 39 of Chapter 115C of the North Carolina General Statutes, or a comparable out-of-state statute.

(c) Diplomas earned from ~~High Schools~~ high schools or equivalent institutions outside of the United States must be translated into English and be accompanied by an authentic transcript. Transcripts shall be evaluated to ensure they are scholastically comparable to United States curriculum requirements.

(d) ~~High School~~ school diplomas earned through on-line or correspondence courses shall be evaluated on a case by case basis. Such diplomas must meet state and local requirements for the jurisdiction from which the diploma was issued.

(e) Documentary evidence of having earned a High School Equivalency (HSE) ~~Diploma~~ diploma shall be satisfied by a certified copy of a high school equivalency credential or an adult high school diploma, ~~recognized both of which must be recognized~~ by the U.S. Department of Education, ~~or the state Department of Education, in the issuing state or educational agency that is authorized in the state to issue a High School Equivalency (HSE) diploma.~~

(f) Documentary evidence of the attainment of satisfactory scores on any military high school equivalency examination is acceptable as evidence of high school graduation if verified by a true copy of the veteran's DD214.

*Authority G.S. 17E-4.*

#### **12 NCAC 10B .0303 FINGERPRINT CRIMINAL HISTORY RECORDS CHECK**

(a) Each applicant for certification shall be fingerprinted. ~~A criminal history records check against State and Federal files will be conducted by both the State Bureau of Investigation (SBI) and the Federal Bureau of Investigation (FBI) based on those prints. Upon receipt from the SBI, the Division shall forward a copy of the results of the criminal history records check, to the employing agency which shall be retained in the applicant's personnel file.~~

(b) The employing agency shall forward the applicant's fingerprint record to the North Carolina State Bureau of Investigation for criminal history record check utilizing fingerprints against state and federal files. Certifications issued prior to the receipt by the Division of the fingerprint and criminal history records check of state and federal files, as conducted by the SBI and FBI, are conditional. Such conditional certifications may summarily be suspended by the Commission upon receipt from the SBI or FBI of a fingerprint or criminal history records check that indicates that the officer has been convicted of an offense as specified in 12 NCAC 10B .0307.

(c) The employing agency will receive a report of the results of the criminal history record check against state and federal files. The employing agency shall retain the results of the criminal history records check utilizing fingerprints in compliance with the North Carolina Department of Natural and Cultural Resources Retention Schedule established pursuant to G.S. 121 and G.S. 132. The employing agency shall include the results of the fingerprint criminal history record check with the applications submitted to the Commission. In compliance with 12 NCAC 10B

~~.0404(a)(1), a justice officer shall not be eligible for general certification and shall remain on probationary certification until the requirements of this Rule have been met.~~

(d) An applicant for certification as a justice officer may not perform any action requiring certification by the Commission prior to the date on which the employing agency receives the report of the result of the criminal history record check unitizing fingerprints.

*Authority G.S. 17E-7.*

#### **12 NCAC 10B .0304 MEDICAL EXAMINATION**

(a) Each applicant for certification or ~~enrollee enrollment~~ in a Commission-certified basic training course shall complete, sign, and date the Commission's Medical History Statement Form (F-1) and shall be examined by a either a physician, surgeon, physician's assistant, nurse ~~practitioner, or other licensed independent~~ practitioner who is licensed to practice in North Carolina or who is authorized to practice medicine in accordance with the rules and regulations of the United States Armed Forces to help determine his or her fitness to carry out the physical requirements of the position of justice officer. ~~Effective January 1, 2018, Telecommunicators who have not previously held certification with this Commission, but who have been continuously employed by an entity other than a Sheriff's Office, and who have previously provided a valid Medical History Statement (F-1) and Medical Examination Report (F-2) for admission into a Commission accredited Telecommunicator Certification Course shall not be required to submit additional F-1 and F-2 forms for the purpose of obtaining certification.~~

(b) Prior to conducting the examination, the physician, surgeon, physician's assistant, or nurse practitioner, or other licensed independent practitioner shall:

- (1) read the "Medical Screening Guidelines Implementation Manual for Certification of Justice Officers" in the State of North Carolina as published by the North Carolina Department of Justice. Copies of this publication may be obtained at no cost ~~by contacting the North Carolina Department of Justice, Sheriffs' Standards Division, PO Box 629, Raleigh, North Carolina 27602; at <https://ncdoj.gov/law-enforcement-training/sheriffs/>;~~
- (2) read, sign, and date the Medical History Statement Form (F-1); and
- (3) read the ~~F-2A~~ Instructions to Agency and Examiner for Completion of Medical Examination Report Form (F-2A) attached to the Medical Examination Report Form (F-2).

(c) The examining physician, surgeon, physician's assistant, or nurse practitioner, or other licensed independent practitioner shall record the results of the examination on the Medical Examination Report Form (F-2) and shall sign and date the form.

(d) The Medical Examination Report Form (F-2) and the Medical History Statement Form (F-1) shall be valid for one year after the date the examination was conducted and shall be completed prior to:

- (1) the applicant's beginning the Detention Officer Certification Course, the Basic Law

- (2) Enforcement Training Course, or the Telecommunicator Certification Course; and ~~the applicant's applying to the Commission for Certification.~~ the agency submission of application for certification to the Commission.

*Authority G.S. 17E-7.*

#### **12 NCAC 10B .0305 BACKGROUND INVESTIGATION**

(a) ~~Prior to the background investigation conducted by the employing agency to determine the applicant's suitability for employment and certification, the applicant shall complete the Commission's Personal History Statement (F-3) to provide information regarding his or her former names, education, address(es), family, financial, employment, and military history, as well as any prior criminal or civil charges, actions, or behavior. The information provided on this form shall serve as a basis for the investigation. The Commission mandated Personal History Statement (F-3) submitted to the Division shall be completed no more than 120 days prior to the applicant's date of appointment. Prior to employment, an agency shall complete a background investigation on all applicants for certification. The investigation shall examine the applicant's character traits and habits relevant to performance as a justice officer and shall determine whether the applicant is of good moral character. This examination includes completion of the Commission's Personal History Statement Form (F-3) and Mandated Background Investigation Form (F-8), ensuring the proper certification and criminal history record check required by each. The Personal History Statement (F-3) and the Mandated Background Investigation (F-8) forms are is available on the Commission's website at <https://ncdoj.gov/law-enforcement-training/sheriffs/all-commission-forms-publications/>.~~

~~(b) If the Personal History Statement (F-3) was completed more than 120 days prior to the applicant's date of appointment, the Personal History Statement (F-3) shall be updated by the applicant who shall initial and date all changes or a new Personal History Statement (F-3) must be completed.~~

(b) Prior to the investigation, the applicant shall complete the Commission's Personal History Statement Form (F-3) to provide a basis for the investigation. The agency shall certify that the results of the background investigation are consistent with the information provided by the applicant on the Personal History Statement Form (F-3) and give the applicant the opportunity to update the Personal History Statement Form (F-3) prior to submission to the Division.

(c) The employing agency shall ensure the properly notarized and dated signatures are affixed to the Personal History Statement (F-3). It shall also certify that the results of the background investigation are consistent with the information provided by the applicant on the Personal History Statement (F-3); if not, the employing agency shall provide the applicant the opportunity to update the F-3 prior to submission to the Division. The agency shall utilize an investigator with prior experience or training in conducting background investigations. The investigator shall document the results of the investigation on the Mandated Background Investigation Form (F-8) and shall include in the report of investigation:

- (1) biographical data;
- (2) family data;
- (3) scholastic data;
- (4) employment data;
- (5) criminal history data;
- (6) interviews with the applicant's references; and
- (7) a summary of the investigator's findings and conclusions regarding the applicant's moral character known to the agency or listed on the applicant's Personal History Statement (F-3). This documentation shall be included with all other documentation required in 12 NCAC 10B .0408.

(d) ~~The employing agency, prior to employment, shall examine the applicant's character traits and habits displayed in his or her performance as a justice officer and shall determine whether the applicant is of good moral character as defined in Rule .0301(a)(8). The investigator shall summarize the results of the investigation on the Commission mandated Background Investigation Form (F-8) which shall be signed and dated by the investigator. The Background Investigation Form (F-8) is available on the Commission's website. The employing agency shall include a signed and notarized Release Authorization Form that authorizes the Division staff to obtain documents and records pertaining to the applicant for certification that may be required in order to determine whether certification may be granted.~~

(e) ~~The Background Investigation Form (F-8) shall include records checks from:~~

- (1) ~~a Statewide search of the Administrative Office of the Courts (AOC) computerized system;~~
- (2) ~~the national criminal record database accessible through the Division of Criminal Information (DCI) network;~~
- (3) ~~the North Carolina Division of Motor Vehicles, if the applicant has ever possessed a driver's license issued in North Carolina; and~~
- (4) ~~out of state motor vehicles check obtained through the Division of Criminal Information or obtained through the any other state's Division of Motor Vehicles if the applicant held a license in that state(s) within the 10 year period prior to the date of appointment.~~

(f) ~~The background investigation must also include records checks from jurisdictions where the applicant resided within the 10 year period prior to the date of appointment and where the applicant attended high school, as follows:~~

- (1) ~~Where the applicant resided in jurisdictions in North Carolina, Clerk of Court records checks shall be acceptable;~~
- (2) ~~Where the applicant resided in another country, an Interpol records check shall be acceptable provided the country is a member of Interpol; or if the applicant was in the United States military, a military records check shall be acceptable; or if neither, efforts shall be made and documented to attempt to obtain a records check from the country and submitted if available; and~~

- (3) ~~Where the applicant resided in a state other than North Carolina, a records check through the Division of Criminal Information using the Out of State Computer Name Query (IQ) shall be acceptable provided the state will respond to that type of inquiry. If not, then either a records check response from both the municipality, city, or town where the applicant resided and the county wide Sheriff's Office or Police Department obtained through traditional correspondence, or a records check from the appropriate county wide or state wide record holding agency shall be acceptable.~~

(g) ~~If the applicant had prior military service, the Background Investigation must also include a copy of the applicant's DD214 that shows the characterization of discharge for each discharge that occurred and military discipline received, if any. If the DD214 indicates a discharge characterization of any type other than Honorable, then a military records check shall also be required.~~

(h) ~~All records checks shall be performed on each name by which the applicant for certification has ever been known since the age of 12. If the applicant has had an official name change that occurred after the applicant had reached the age of 12 years of age, then the name change shall be documented.~~

(i) ~~The employing agency shall forward to the Division certified copies of any criminal charge(s) and disposition(s) known to the agency or listed on the applicant's Personal History Statement (F-3). The employing agency shall explain any charges or other violations that may result from the records checks required in Paragraph (e) of this Section that do not pertain to the applicant for certification. This documentation shall be included with all other documentation required in 12 NCAC 10B .0408.~~

(j) ~~The employing agency shall include a signed and notarized Release Authorization Form that authorizes the Division staff to obtain documents and records pertaining to the applicant for certification that may be required in order to determine whether certification may be granted.~~

(k)(c) ~~The employing agency shall provide the results of a completed and processed form AOC-CR-280, Law Enforcement Application for Verification of Expunction under G.S. 15A-145.4, 15A-145.5, 15A-145.6, 15A-145.8A or 15A-146, for each applicant presented for certification. The AOC-CR-280 form is available on the Commission's website.~~

*Authority G.S. 17E-7.*

### **12 NCAC 10B .0306 EMPLOYMENT INTERVIEW**

(a) Prior to employment, the employing agency shall conduct an interview of the applicant to determine the applicant's abilities and potential for success as a justice officer.

(b) The sheriff or agency head may conduct the interview personally, or he may delegate personally or by delegating the responsibility to a qualified staff member or panel.

*Authority G.S. 17E-7.*

**12 NCAC 10B .0307 CRIMINAL HISTORY RECORD**

(a) Consistent with and subject to the requirements of 12 NCAC 10B .0204, every justice officer employed or certified in North Carolina shall not have committed or been convicted by a local, state, federal or military court of:

- (1) a felony; ~~or~~
- (2) a crime for which the punishment could have been imprisonment for more than two ~~years~~ years;

~~(b) Consistent with and subject to the requirements of 12 NCAC 10B .0204, every justice officer employed or certified in North Carolina should not have committed or been convicted by a local, state, federal or military court of:~~

- (3) a crime or unlawful act defined as a "Class B Misdemeanor" and which occurred after the date of appointment;
- ~~(4)~~(4) a crime or unlawful act defined as a "Class B Misdemeanor" within the five year period prior to the date of appointment; or
- ~~(5)~~(5) four or more crimes or unlawful acts defined as "Class B Misdemeanors" regardless of the date of conviction or commission; or
- ~~(6)~~(6) four or more crimes or unlawful acts defined as "Class A Misdemeanors" except the applicant can be employed if the last conviction or commission occurred more than two years prior to the date of appointment; or
- ~~(7)~~(7) a combination of four or more "Class A or B Misdemeanors" regardless of the date.
- (8) for personnel who carry a firearm in the execution of their duties, an offense that, pursuant to 18 USC 922 (g)(8), would prohibit the possession of a firearm or ammunition.

~~(e)~~(b) The requirements of this Rule shall be applicable at all times during which the officer is certified by the Commission and shall also apply to all applications for certification.

*Authority G.S. 17E-7.*

**SECTION .0400 - CERTIFICATION OF JUSTICE OFFICERS**

**12 NCAC 10B .0408 VERIFICATION OF RECORDS TO DIVISION**

(a) Prior to issuing certification of each justice officer, for the purpose of verifying compliance with these Rules, the employing agency shall submit to the Division, along with the Report of Appointment (F-4), the following documents:

- (1) verification of the applicant's compliance with the educational requirement pursuant to 12 NCAC 10B .0302(a);
- (2) certified copy of the applicant's Oath of Office, if applying for certification as a deputy sheriff;
- (3) the applicant's Medical History Statement (F-1);
- (4) the applicant's Medical Examination Report (F-2 and F-2A);
- (5) the applicant's notarized Personal History Statement (F-3);

(6) the Commission-mandated Background Investigation Form (F-8) with all accompanying documentation set out in 12 NCAC 10B .0305;

(7) documentation of negative results on a drug screen pursuant to 12 NCAC 10B .0301(6); and

(8) verification of the applicant's compliance with the probationary certification requirements pursuant to 12 NCAC 10B .0403(b), if the applicant is a deputy sheriff or a detention officer.

(b) Compliance with this Rule is waived, with the exception of the requirements of 12 NCAC 10B .0408(a)(8), for officers applying for dual certification as defined in 12 NCAC 10B .0103(12) provided that:

- (1) the officer holds a valid certification as either a deputy sheriff, detention officer, or telecommunicator with the employing agency requesting dual certification; and
- (2) the officer has not had a break in service since initial certification with the employing agency requesting dual certification.

(c) Where the Division has previously received a complete Background Investigation Form (F-8) with all accompanying documentation set out in 12 NCAC 10B .0305 in connection with another application for certification to this Commission, the Background Investigation need only be updated from the date of the last background investigation on file in the Division with documentation of compliance with 12 NCAC 10B .0305(e)(1), (2), (3), and a county-wide and certified records check for each name used by the applicant for each jurisdiction where the applicant has resided in North Carolina since the initial Background Investigation (Form F-8) was completed. In addition:

- (1) If the applicant has been issued an out-of-state ~~driver's~~ driver's license by a state other than North Carolina since obtaining certification, then compliance with 12 NCAC 10B .0408(f)(4), is required; and
- (2) If the applicant has resided in a state other than North Carolina since obtaining certification, a certified and county-wide record check from each jurisdiction (if available) shall be provided.

(d) If the Personal History Statement (F-3) required in Subparagraph (a)(5) of this Rule was completed more than 120 days prior to the applicant's date of appointment, the Personal History Statement (F-3) shall be updated by the applicant who shall initial and date all changes or a new Personal History Statement (F-3) shall be completed.

(e) If the Mandated Background Investigation Form (F-8) required in Subparagraph (a)(6) of this Rule was completed more than 120 days prior to the applicant's date of appointment, the Mandated Background Investigation Form (F-8), shall be updated by the background investigator who shall initial and date all changes or a new Mandated Background Investigation Form (F-8), must be completed.

(f) The Background Investigation Form (F-8) shall include records checks from:

- (1) a Statewide search of the Administrative Office of the Courts (AOC) computerized system;
- (2) the national criminal record database accessible through the Division of Criminal Information (DCI) network;
- (3) the North Carolina Division of Motor Vehicles, if the applicant has ever possessed a driver's license issued in North Carolina; and
- (4) out-of-state motor vehicles check obtained through the Division of Criminal Information or obtained through the other state's Division of Motor Vehicles if the applicant held a license in that state(s) within the 10 year period prior to the date of appointment.

(g) The Background Investigation shall include records checks from jurisdictions where the applicant resided within the 10 year period prior to the date of appointment and where the applicant attended high school, as follows:

- (1) Where the applicant resided in jurisdictions in North Carolina, Clerk of Court records checks shall be acceptable;
- (2) Where the applicant resided in another country, an Interpol records check shall be acceptable provided the country is a member of Interpol; or if the applicant was in the United States military, a military records check shall be acceptable; or if neither, efforts shall be made and documented to attempt to obtain a records check from the country and submitted if available; and
- (3) Where the applicant resided in a state other than North Carolina, a records check through the Division of Criminal Information using the Out-of-State Computer Name Query (IQ) shall be acceptable provided the state will respond to that type of inquiry. If not, then either a records check response from both the municipality, city, or town where the applicant resided and the county-wide Sheriff's Office or Police Department obtained through traditional correspondence, or a records check from the appropriate county-wide or state-wide record holding agency shall be acceptable.

(h) If the applicant had prior military service, the Background Investigation shall also include a copy of the applicant's DD214 that shows the characterization of discharge for each discharge that occurred and military discipline received, if any. If the DD214 indicates a discharge characterization of any type other than Honorable, then a military records check shall also be required.

(i) All records checks shall be performed on each name by which the applicant for certification has ever been known since the age of 12. If the applicant has had an official name change that occurred after the applicant had reached the age of 12 years of age, then the name change shall be documented.

(j) The employing agency shall forward to the Division certified copies of any criminal charge(s) and disposition(s) known to the agency or listed on the applicant's Personal History Statement (F-3). The employing agency shall explain any charges or other

violations that may result from the records checks required in Paragraph (f) of this Rule that do not pertain to the applicant for certification.

(d)(k) All information maintained pursuant to the requirements of this Rule shall be subject to all state and federal laws governing confidentiality.

*Authority G.S. 17E-4; 17E-7.*

## **12 NCAC 10B .0410 AGENCY REPORTING OF DRUG SCREENING RESULTS**

(a) Every justice officer shall be examined and certified by a licensed surgeon, physician, physician assistant, nurse practitioner or other licensed independent practitioner to meet physical requirements necessary to fulfill the officer's particular responsibilities and shall have produced a negative result on a drug screen administered according to the following specifications:

- (1) the drug screen shall be a urine test consisting of an initial screening test using an immunoassay method and a confirmatory test on an initial positive result using a gas chromatography/mass spectrometry (GC/MS) or other initial and confirmatory tests authorized or mandated by the Department of Health and Human Services for Federal Workplace Drug Testing Programs;
- (2) a chain of custody shall be maintained on the specimen from collection to the eventual discarding of the specimen;
- (3) the drug screen shall test for the presence of at least cannabis, cocaine, phencyclidine (PCP), opiates, and amphetamines or their metabolites;
- (4) the test threshold values meet the requirements established by the Department of Health and Human Services for Federal Workplace Drug Testing Programs, as found in 82 FR 7920 (2017) incorporated by reference, including later amendments and editions found at no cost at <https://www.federalregister.gov/documents/2017/01/23/2017-00979/mandatory-guidelines-for-federal-workplace-drug-testing-programs>;
- (5) the test conducted shall be not more than 60 days old, calculated from the time when the laboratory reports the results to the date of employment; and
- (6) the laboratory conducting the test shall be certified for federal workplace drug testing programs, and shall adhere to applicable federal rules, regulations, and guidelines pertaining to the handling, testing, storage, and preservation of samples.

(a)(b) Each agency that is required to report individuals to the Commission for certification, or that voluntarily reports telecommunicators to the Commission for certification, shall report in writing to the Division all refusals and all positive results of drug screening obtained from applicants and lateral transfers pursuant to 12 NCAC 10B .0301(6) unless transfers. If the

positive result has been explained to the satisfaction of the agency's medical review ~~officer~~ officer, who shall be a licensed ~~physician~~ physician, the positive results are not required to be reported.

~~(b)(c)~~ Each agency that is required to report individuals to the Commission for certification, or that voluntarily reports telecommunicators to the Commission for certification, and that conducts a drug screen for in-service officers, shall report in writing positive results or refusals to submit to an in-service drug screening to the Sheriffs' Standards Division within 30 days of the positive result or refusal, unless the positive result has been explained to the satisfaction of the agency's medical review officer, who shall be a licensed physician to the extent the drug screen conducted conforms to the specifications of provided the drug screen conducted conforms to 12 NCAC 10B .0301(6)(a), (b), (c), (d) and (f): this Rule.

~~(e)(d)~~ For reporting purposes, a result ~~will be~~ is considered "positive" only in the cases where the drug screen reveals the presence of an illegal drug at a level equal to or greater than the threshold value as established by the Department of Health and Human Services for Federal Workplace Drug Testing Programs and adopted by reference in ~~12 NCAC 10B .0301(6): this Rule.~~

*Authority G.S. 17E-4; 17E-7.*

## **SECTION .0700 - MINIMUM STANDARDS FOR JUSTICE OFFICER SCHOOLS AND TRAINING PROGRAMS OR COURSES OF INSTRUCTION**

### **12 NCAC 10B .0713 ADMISSION OF TRAINEES**

(a) The school director shall not admit any individual as a trainee in any commission-certified basic training course who is not a citizen of the United States.

(b) The school shall not admit any individual younger than ~~24~~ 20 years of age as a trainee in the Detention Officer Certification Course and shall not admit any individual younger than 18 years of age as a trainee in the Telecommunicator Certification Course without the prior written approval of the Director of the Standards Division. The Director shall approve those individuals who will turn ~~24~~ 20 years of age prior to the end of the Detention Officer Certification Course and, those individuals who will turn 18 years of age prior to the end of the Telecommunicator Certification Course.

(c) The school shall not admit any individual who has not provided documentation that he or she meets the educational requirement set out in 12 NCAC 10B .0302.

(d) The school shall give priority admission in commission-certified basic training courses to individuals holding full-time employment with criminal justice agencies.

~~(e) The school shall administer the reading component of a standardized test that reports a grade level for each trainee participating in either the Telecommunicator or Detention Officer Certification Course. The specific test instrument shall be determined by the school director and shall be administered within the first week of the Course. The grade level results for each trainee shall be submitted to the Commission on each trainee's Report of Student Course Completion.~~

~~(f)(e)~~ The school shall not admit any individual as a trainee in a presentation of the Detention Officer Certification Course or the

Telecommunicator Certification Course unless the individual has provided to the School Director a Medical Examination Report Form (F-2) and the Medical History Statement Form (F-1) in compliance with 12 NCAC 10B .0304. The Medical Examination Report Form (F-2) and the Medical History Statement Form (F-1) required by the North Carolina Criminal Justice Education and Training Standards Commission shall be recognized by the Commission for the purpose of complying with this Rule.

~~(g)(f)~~ The school shall not admit any individual trainee in commission-certified basic training courses unless the individual has provided the School Director a certified criminal record check for local and state records where the trainee has resided within the past 10 years and where the trainee attended high school. An Administrative Office of the Courts criminal record check or a comparable out-of-state criminal record check shall satisfy this requirement. If an individual trainee has received a probationary certificate from the Commission at the time of enrollment, this records check requirement shall be waived.

~~(h)(g)~~ The school shall not admit any individual as a trainee in commission-certified basic training courses who has been convicted of the following:

- (1) a felony;
- (2) a crime for which the punishment could have been imprisonment for more than two years;
- (3) a crime or unlawful act defined as a "Class B Misdemeanor" within the five year period prior to the date of appointment;
- (4) four or more crimes or unlawful acts as defined as "Class B Misdemeanors" regardless of the date of conviction;
- (5) four or more crimes or unlawful acts defined as "Class A Misdemeanors" except the trainee may be enrolled if the last conviction occurred more than two years prior to the date of enrollment; or
- (6) a combination of four or more "Class A Misdemeanors" or "Class B Misdemeanors" regardless of the date of conviction.

(i) Individuals charged with crimes specified in this Paragraph that were dismissed or the person was found not guilty may be admitted into the commission-certified basic training courses, but completion will not ensure that certification as a justice officer through the Commission will be issued. Every individual who is admitted as a trainee in a presentation of the Commission-certified Basic Law Enforcement Training Course shall notify the School Director of all criminal offenses that the trainee is arrested for, charged with, pleads no contest to, pleads guilty to, or is found guilty of, and shall notify the School Director of all Domestic Violence Orders (G.S. 50B) and Civil No Contact Orders (50C) that are issued by a judicial official that provide an opportunity for both parties to be present, including all criminal offenses except minor traffic offenses. A minor traffic offense is defined for purposes of this Paragraph as any offense under G.S. 20 or similar laws of other jurisdictions except those Chapter 20 offenses published in the Class B Misdemeanor Manual. Other traffic offenses under laws of other jurisdictions that shall be reported to the School Director include driving while impaired if the maximum allowable punishment is for a term of more than six months but not more than two years and driving while license

permanently revoked or permanently suspended. The notifications required under this Paragraph shall be in writing and shall specify the nature of the offense, the court in which the case was handled, the date of the arrest or criminal charge, the date of issuance of the Domestic Violence Order (G.S. 50B) or Civil No Contact Order (G.S. 50C), and the final disposition and the date thereof. The notifications required under this Paragraph shall be received by the School Director within 30 days of the date the case was disposed of in court. The requirements of this Paragraph shall apply at all times during which the trainee is enrolled in a Basic Law Enforcement Training Course. The requirements of this Paragraph shall be in addition to the notifications required under 12 NCAC 10B .0301 and 12 NCAC 09B .0101(8).

*Authority G.S. 17C-4; 17E-7.*

## **SECTION .0800 - ACCREDITATION OF JUSTICE OFFICER SCHOOLS AND TRAINING COURSES**

### **12 NCAC 10B .0803      REPORTS/DETENTION OFFICER CERT COURSE PRESENTATION/COMPLETION**

Each presentation of the Detention Officer Certification Course shall be reported to the Commission as follows:

- (1) After acquiring accreditation for the course and before commencing each delivery of the course, the school director shall, no less than 30 days prior to the scheduled delivery, notify the Division of the school's intent to offer the training course by submitting a Pre-Delivery Report of Training Course Presentation (Form F-7A); and
- (2) Upon completing delivery of the accredited course, and not more than ten days after receiving from the Commission's representative the Report of Examination Scores, the school director shall notify the Division regarding the progress and achievement of each enrolled trainee by submitting a Post-Delivery Report of Training Course Presentation (Form F-7B). ~~This report shall also include each trainee's reading grade level as determined by testing required in 12 NCAC 10B .0601(e).~~

*Authority G.S. 17E-4; 17E-7.*

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## **TITLE 14B – DEPARTMENT OF PUBLIC SAFETY**

*Notice is hereby given in accordance with G.S. 150B-21.2 that the Private Protective Services Board intends to amend the rules cited as 14B NCAC 16 .0103 and .0807.*

**Link to agency website pursuant to G.S. 150B-19.1(c):**  
<https://www.ncdps.gov/dps-services/permits-licenses/private-protective-services-board>

**Proposed Effective Date:** November 1, 2022

### **Public Hearing:**

**Date:** July 19, 2022

**Time:** 2:00 p.m.

**Location:** 3101 Industrial Dr., Suite 104, Raleigh, NC 27609

**Reason for Proposed Action:** *The definition of "Armed Security Guard" is being amended to remove "private detective" and the rule governing training requirements for Armed Security Guard is being amended to clarify that the 90 day restriction for training prior to registration only applies to the initial training. (For re-qualification it is 180 days.)*

**Comments may be submitted to:** Paul Sherwin, 3101 Industrial Dr., Suite 104, Raleigh, NC 27609; phone (919) 788-5320; fax (919) 715-0370; email paul.sherwin@ncdps.gov

**Comment period ends:** August 30, 2022

### **Procedure for Subjecting a Proposed Rule to Legislative**

**Review:** If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission after the adoption of the Rule. If the Rules Review Commission receives written and signed objections after the adoption of the Rule in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 984-236-1850.

**Fiscal impact. Does any rule or combination of rules in this notice create an economic impact? Check all that apply.**

- ☐ State funds affected
- ☐ Local funds affected
- ☐ Substantial economic impact ( $\geq$  \$1,000,000)
- ☐ Approved by OSBM
- ☒ No fiscal note required

## **CHAPTER 16 - PRIVATE PROTECTIVE SERVICES BOARD**

### **SECTION .0100 - ORGANIZATION AND GENERAL PROVISIONS**

#### **14B NCAC 16 .0103      DEFINITIONS**

In addition to the definitions set forth in G.S. 74C, the following definitions shall apply throughout this Subchapter:

- (1) "Agency Head" means the Chairman of the Board.
- (2) "Applicant" means any person, firm, or corporation applying to the Board for a license, trainee permit, registration, or firearms trainer certificate.

- (3) "Armed ~~Private~~ Security Guard" means an individual employed, full time or part time, by a contract security company or a proprietary security organization:
  - (a) who at any time wears, carries, or possesses a firearm in the performance of his or her duties; and
  - (b) whose principal duty is that of:
    - (i) an armed security guard, officer, patrol, or watchman;
    - (ii) an armed armored car service ~~guard; guard; or~~
    - ~~(iii) a private detective; or~~
    - ~~(iv)(iii)~~ an armed courier service guard.
- (4) "Board" means the Private Protective Services Board established by G.S. 74C.
- (5) "Branch Manager or Operator" means the individual endowed with the responsibility and liability for a branch office.
- (6) "Branch Office" means a separate but dependent part of a central organization engaged in the business of providing private protective services established for the purpose of extending the activities of the central organization. The establishment of a telephone number or mailing address in the company name constitutes prima facie evidence of a branch office. If an out-of-state person, firm, association, or corporation opens an office in North Carolina, the North Carolina office shall be deemed the principal place of business and shall have a resident licensed qualifying agent.
- (7) "Chairman" means the Chairman of the Private Protective Services Board.
- (8) "Contract Security Company" means any person, firm, association, or corporation engaging in a private protective services business as defined in G.S. 74C-3 that provides the services on a contractual basis for a fee or other valuable consideration to any other person, firm, association, or corporation.
- (9) "Direct Supervision" means personal, face-to-face contact and direction of the trainee's activities on a frequent and reasonable basis based upon the trainee's level of experience.
- (10) "Investigative Capacity" means any law enforcement agency position for which the duties include conducting investigations and interviews, completing reports, and testifying in courts, administrative hearings, or military tribunals.
- (11) "Law Enforcement Officer" means a sworn peace officer who has the power of arrest, and who is an employee of the United States, any state, or any political subdivision of a state.
- (12) "Licensee" means any person licensed to perform private protective services in North Carolina in accordance with G.S. 74C.

- (13) "Proprietary Security Organization" means any person, firm, association, corporation, or department that employs watchmen, security guards or "officers," patrol personnel, or couriers in connection with the business affairs of the employer.
- (14) "Qualifying Agent" means the individual licensee who is responsible for the private protective services business. If the licensee maintains an office in North Carolina, the Qualifying Agent must be a resident of North Carolina.
- (15) "Registered agent" means the individual resident of North Carolina designated by the business entity in lieu of the Qualifying Agent as allowed by G.S. 74C-8(c)(1) who may be, but is not required to be, the registered agent required by G.S. 55D-30.
- (16) "Restored" means that an individual is no longer in need of psychiatric care as determined by a physician.
- (17) "Temporary unarmed security guard" means an individual who is hired for a period of 30 days or less within a calendar year and who is designated by his or her employer as a temporary security guard at the start of employment.

*Authority G.S. 74C-3; 74C-5; 74C-8.*

## **SECTION .0800 - ARMED SECURITY GUARD FIREARM REGISTRATION PERMIT**

### **14B NCAC 16 .0807 TRAINING REQUIREMENTS FOR ARMED SECURITY GUARDS**

- (a) Applicants for an armed security guard firearm registration permit shall first complete the basic unarmed security guard training course set forth in Rule .0707 of this Chapter.
- (b) Private investigator licensees applying for an armed security guard firearm registration permit shall first complete a five-hour training course consisting of the courses set forth in Rule .0707(a)(1) and (2) of this Chapter and all additional training requirements set forth in that Rule.
- (c) Applicants for an armed security guard firearm registration permit shall complete a basic training course for armed security guards which consists of at least 20 hours of classroom instruction including:
  - (1) legal limitations on the use of handguns and on the powers and authority of an armed security guard, including familiarity with rules and regulations relating to armed security guards (minimum of four hours);
  - (2) handgun safety, including range firing procedures (minimum of one hour);
  - (3) handgun operation and maintenance (minimum of three hours);
  - (4) handgun fundamentals (minimum of eight hours); and
  - (5) night firing (minimum of four hours).

Subparagraph (c)(2), "operation" under Subparagraph (c)(3), and Subparagraph (c)(4) of this Rule shall be completed prior to the applicant's participation in range firing.

(d) Applicants for an armed security guard firearm registration permit shall attain a score of at least 80 percent accuracy on a firearms range qualification course adopted by the Board and the Secretary of Public Safety, a copy of which is on file in the Director's office, once in three consecutive attempts. Should a student fail to attain a score of 80 percent accuracy, the student may be given a second opportunity to qualify once in three consecutive attempts on the course of fire the student did not pass. Failure to qualify after the second series of attempts shall require the student to repeat the entire basic training course for armed security guards. All attempts must take place within 20 days of the completion of the initial 20 hour course. For rifle qualification all shots shall be located on the target.

(e) All initial armed security guard training required by this Chapter shall be administered by a certified trainer and shall be completed no more than 90 days prior to the date of issuance of the armed security guard firearm registration permit.

(f) All applicants for an armed security guard firearm registration permit shall obtain training under the provisions of this Section using their duty weapon and their duty ammunition or ballistic equivalent ammunition, to include lead-free ammunition that meets the same point of aim, point of impact, and felt recoil of the duty ammunition, for all weapons.

(g) No more than six new or renewal armed security guard applicants per one instructor shall be placed on the firing line at any one time during firearms range training for armed security guards.

(h) Applicants for re-certification of an armed security guard firearm registration permit shall complete a basic recertification training course for armed security guards that consists of at least four hours of classroom instruction and is a review of the requirements set forth in Subparagraphs (c)(1) through (c)(5) of this Rule. The recertification course is valid for 180 days after completion of the course. Applicants for recertification of an armed security guard firearm registration permit shall also complete the requirements of Paragraph (d) of this Rule.

(i) An armed guard registered with one company may be registered with a second company. The registration shall be considered "dual." The registration with the second company shall expire at the same time that the registration expires with the first company. An updated application shall be required to be submitted by the applicant, along with the digital photograph, updated criminal records checks, and a forty dollar (\$40.00) registration fee. If the guard will be carrying a firearm of the same make, model, and caliber, then no additional firearms training shall be required. The licensee shall submit a letter stating the guard will be carrying the same make and model firearm. If the guard will be carrying a firearm of a different make and model, the licensee shall submit a letter to the Board advising of the make, model, and caliber of the firearm the guard will be carrying and the guard shall be required to qualify at the firing range on both the day and night qualification course. The qualification score is valid for 180 days after completion of the course.

(j) To be authorized to carry a standard 12 gauge shotgun in the performance of his or her duties as an armed security guard, an applicant shall complete, in addition to the requirements of

Paragraphs (a), (c), and (d) of this Rule, six hours of classroom training that shall include the following:

- (1) legal limitations on the use of shotgun (minimum of one hour);
- (2) shotgun safety, including range firing procedures (minimum of one hour);
- (3) shotgun operation and maintenance (minimum of one hour);
- (4) shotgun fundamentals (minimum of two hours); and
- (5) night firing (minimum of one hour).

Subparagraph (j)(2), "operation" under Subparagraph (j)(3), and Subparagraph (j)(4) of this Rule shall be completed prior to the applicant's participation in range firing.

(k) An applicant may take the additional shotgun training at a time after the initial training in this Rule. If the shotgun training is completed at a later time, the shotgun certification shall run concurrent with the armed registration permit. In addition to the requirements set forth in Paragraph (j) of this Rule, applicants shall attain a score of at least 80 percent accuracy on a shotgun range qualification course adopted by the Board and the Secretary of Public Safety, a copy of which is on file in the Director's office.

(l) Applicants for shotgun recertification shall complete one hour of classroom training covering the topics set forth in Paragraph (j) of this Rule and shall also complete the requirements of Paragraph (d) of this Rule.

(m) To be authorized to carry a rifle in the performance of his or her duties as an armed security guard, an applicant shall complete, in addition to the requirements of Paragraphs (a), (c), and (d) of this Rule, 16 hours of classroom training which shall include the following:

- (1) legal limitations on the use of rifles (minimum of one hour);
- (2) rifle safety, including range firing procedures (minimum of one hour);
- (3) rifle operation and maintenance (minimum of two hours);
- (4) rifle fundamentals (minimum of ten hours); and
- (5) night firing (minimum two hours).

Subparagraph (m)(2), "operation" under Subparagraph (m)(3), and Subparagraph (m)(4) of this Rule shall be completed prior to the applicant's participation in range firing.

(n) The applicant shall pass a skills course that tests each basic rifle skill and the test of each skill shall be completed within three attempts.

(o) An applicant may take the additional rifle training at a time after the initial training in this Rule. If the rifle training is completed at a later time, the rifle certification shall run concurrent with the armed registration permit. In addition to the requirements set forth in Paragraphs (m) and (n) of this Rule, applicants shall attain a score of at least 80 percent accuracy on a rifle range qualification course adopted by the Board and the Secretary of Public Safety, a copy of which is on file in the Director's office.

(p) Applicants for rifle recertification shall complete an additional one hour of classroom training covering the topics set forth in Paragraph (m) of this Rule and shall also complete the requirements of Paragraph (d) of this Rule.

(q) Upon written request, an applicant for an armed security guard firearm registration permit who possesses a current firearms trainer certificate shall be given a firearms registration permit that will run concurrent with the trainer certificate upon completion of an annual qualification with the applicant's duty firearms as set forth in Paragraph (d) of this Rule.

(r) An armed security guard is required to qualify annually both for day and night firing with his or her duty handgun, shotgun, and rifle, if applicable. If the security guard fails to qualify on any course of fire, the security guard shall not carry the firearm until such time as he or she meets the qualification requirements. Upon failure to qualify, the firearm instructor shall notify the security guard that he or she is no longer authorized to carry the firearm and the firearm instructor shall notify the employer and the Private Protective Services Board staff on the next business day.

(s) A firearm training certificate of an armed security guard remains valid even if the guard leaves the employment of one company for the employment of another. The range qualifications shall remain valid if the guard will be carrying a firearm of the same make, model, and caliber and no additional firearms training shall be required. The licensee shall submit a letter stating the guard will be carrying the same make and model firearm. If the guard will be carrying a firearm of a different make and model, the licensee shall submit a letter to the Board advising of the make, model, and caliber of the firearm the guard will be carrying and the guard shall be required to qualify at the firing range on both the day and night qualification course. The qualification score is valid for 180 days after completion of the course. However, nothing herein shall extend the period of time the qualification is valid.

*Authority G.S. 74C-5; 74C-9; 74C-13.*

## **TITLE 21 - OCCUPATIONAL LICENSING BOARDS AND COMMISSIONS**

### **CHAPTER 32 - MEDICAL BOARD**

*Notice is hereby given in accordance with G.S. 150B-21.2 that the Medical Board intends to adopt the rule cited as 21 NCAC 32A .0115.*

**Link to agency website pursuant to G.S. 150B-19.1(c):**  
[www.ncmedboard.org/about\\_the\\_board/rule\\_changes](http://www.ncmedboard.org/about_the_board/rule_changes)

**Proposed Effective Date:** *December 1, 2022*

**Public Hearing:**

**Date:** *August 30, 2022*

**Time:** *10:00 a.m.*

**Location:** *The public hearing will be held remotely via teleconference 1-919-518-9840; Conference ID: 957 499 419#*

**Reason for Proposed Action:** *To establish a rule for petitioning the NC Medical Board for rule making.*

**Comments may be submitted to:** *Wanda Long, P.O. Box 20007, Raleigh, NC 27619-0007; phone (919) 326-1109; email [rules@ncmedboard.org](mailto:rules@ncmedboard.org)*

**Comment period ends:** *August 30, 2022*

**Procedure for Subjecting a Proposed Rule to Legislative Review:** If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission after the adoption of the Rule. If the Rules Review Commission receives written and signed objections after the adoption of the Rule in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 984-236-1850.

**Fiscal impact. Does any rule or combination of rules in this notice create an economic impact? Check all that apply.**

- ☐ **State funds affected**
- ☐ **Local funds affected**
- ☐ **Substantial economic impact ( $\geq$  \$1,000,000)**
- ☐ **Approved by OSBM**
- ☒ **No fiscal note required**

## **SUBCHAPTER 32A - ORGANIZATION**

### **21 NCAC 32A .0115 PETITION FOR RULE-MAKING**

(a) Any person submitting a petition to adopt, amend, or repeal a rule by the Board shall address a petition to the Board's Rule Making Coordinator at the office address in 21 NCAC 32A .0101.

- (1) The petition shall contain the following:
  - (A) for petitions to adopt or amend a rule, a draft of the proposed rule or amendment;
  - (B) a statement of the effect of the requested rule change; and
  - (C) the name and address of the petitioner.
- (2) The petition may contain the following:
  - (A) the reason for the proposal;
  - (B) the effect of the new rule on existing rules; or
  - (C) any data supporting the rule proposal.

(b) Within 120 days of submission of the petition, the Board shall render a final decision. If the decision is to grant the petition, the Board shall initiate a rule-making proceeding by issuing a notice as provided for in G.S. 150B-20(c). If the decision is to deny the petition, the Board shall send the petitioner written notice of the decision. The notice shall state the reasons for denying the petition and refer to the appeal rights set forth in G.S. 150B-20(d).

*Authority G.S. 150B-20.*

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**APPROVED RULES**

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*This Section includes a listing of rules approved by the Rules Review Commission followed by the full text of those rules. The rules that have been approved by the RRC in a form different from that originally noticed in the Register or when no notice was required to be published in the Register are identified by an \* in the listing of approved rules. Statutory Reference: G.S. 150B-21.17.*

Rules approved by the Rules Review Commission at its meeting on May 19, 2022 Meeting.

**REGISTER CITATION TO THE  
NOTICE OF TEXT****STATE AUDITOR, OFFICE OF THE**

<u>Petitions for Rulemaking</u>	03 NCAC	01	.0301*	36:14 NCR
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**COMMERCE - EMPLOYMENT SECURITY, DIVISION OF**

<u>Signatures on Reports and Forms</u>	04 NCAC	24A	.0108*	36:16 NCR
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<u>Appeals Hearing Notice</u>	04 NCAC	24C	.0204*	36:16 NCR
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<u>Telephone Hearings</u>	04 NCAC	24C	.0205	36:16 NCR
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<u>Rescheduling a Hearing</u>	04 NCAC	24C	.0207*	36:16 NCR
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<u>Conduct of Hearings</u>	04 NCAC	24C	.0209*	36:16 NCR
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<u>Withdrawal of Appeal</u>	04 NCAC	24C	.0214*	36:16 NCR
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<u>New Filing After Withdrawal of Appeal</u>	04 NCAC	24C	.0215*	36:16 NCR
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**NATURAL AND CULTURAL RESOURCES, DEPARTMENT OF**

<u>Application</u>	07 NCAC	02H	.0303*	36:14 NCR
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<u>Circulation</u>	07 NCAC	02H	.0305*	36:14 NCR
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<u>Volunteers</u>	07 NCAC	02H	.0307	36:14 NCR
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**ENVIRONMENTAL QUALITY, DEPARTMENT OF**

<u>Statement of Purpose, Policy, and Scope</u>	15A NCAC	01C	.0101	36:08 NCR
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<u>Definitions</u>	15A NCAC	01C	.0103*	36:08 NCR
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<u>Agency Compliance</u>	15A NCAC	01C	.0104	36:08 NCR
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<u>Lead and Cooperating Divisions Responsibility</u>	15A NCAC	01C	.0105	36:08 NCR
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<u>Scoping and Hearings</u>	15A NCAC	01C	.0106	36:08 NCR
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<u>Limitation on Actions During NCEPA Process</u>	15A NCAC	01C	.0107	36:08 NCR
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<u>Emergencies</u>	15A NCAC	01C	.0108*	36:08 NCR
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<u>Preparation of Environmental Documents</u>	15A NCAC	01C	.0109	36:08 NCR
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<u>Implementation</u>	15A NCAC	01C	.0205	36:08 NCR
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<u>When to Prepare Environmental Documents</u>	15A NCAC	01C	.0206	36:08 NCR
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<u>Incorporation by Reference</u>	15A NCAC	01C	.0207	36:08 NCR
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<u>Incomplete or Unavailable Information</u>	15A NCAC	01C	.0208*	36:08 NCR
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<u>Activities Above the Minimum Criteria</u>	15A NCAC	01C	.0304	36:08 NCR
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<u>Activities Undertaken by DEQ</u>	15A NCAC	01C	.0305*	36:08 NCR
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<u>Activities of a Special Nature</u>	15A NCAC	01C	.0306*	36:08 NCR
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<u>Purpose of the Minimum Criteria Thresholds</u>	15A NCAC	01C	.0405	36:08 NCR
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<u>Sampling, Survey, Monitoring, and Related Research Activi...</u>	15A NCAC	01C	.0406	36:08 NCR
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<u>Standard Maintenance or Repair Activities</u>	15A NCAC	01C	.0407	36:08 NCR
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<u>Minor Construction Activities</u>	15A NCAC	01C	.0408	36:08 NCR
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<u>Management Activities</u>	15A NCAC	01C	.0409*	36:08 NCR
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<u>Private Use of Public Lands</u>	15A NCAC	01C	.0410*	36:08 NCR
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<u>Remediation Activities</u>	15A NCAC	01C	.0411*	36:08 NCR
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**ENVIRONMENTAL MANAGEMENT COMMISSION**

<u>Definitions</u>	15A NCAC 02B .0202*	35:22 NCR
<u>Fresh Surface Water Quality Standards for Class C Waters</u>	15A NCAC 02B .0211*	35:22 NCR
<u>Fresh Surface Water Quality Standards for Class B Waters</u>	15A NCAC 02B .0219*	35:22 NCR
<u>Tidal Salt Water Quality Standards for Class SC Waters</u>	15A NCAC 02B .0220	35:22 NCR
<u>Classifications: General</u>	15A NCAC 02B .0301	35:22 NCR
<u>Cape Fear River Basin</u>	15A NCAC 02B .0311*	35:22 NCR
<u>Purpose</u>	15A NCAC 02L .0101	36:08 NCR
<u>Definitions</u>	15A NCAC 02L .0102*	36:08 NCR
<u>Policy</u>	15A NCAC 02L .0103*	36:08 NCR
<u>Restricted Designation</u>	15A NCAC 02L .0104*	36:08 NCR
<u>Initial Response, Site Assessment, and Corrective Action</u>	15A NCAC 02L .0106*	36:08 NCR
<u>Compliance Boundary</u>	15A NCAC 02L .0107*	36:08 NCR
<u>Review Boundary</u>	15A NCAC 02L .0108*	36:08 NCR
<u>Delegation</u>	15A NCAC 02L .0109	36:08 NCR
<u>Monitoring</u>	15A NCAC 02L .0110*	36:08 NCR
<u>Reports</u>	15A NCAC 02L .0111*	36:08 NCR
<u>Analytical Procedures</u>	15A NCAC 02L .0112	36:08 NCR
<u>Variance</u>	15A NCAC 02L .0113*	36:08 NCR
<u>Notification Requirements</u>	15A NCAC 02L .0114*	36:08 NCR

**MARINE FISHERIES COMMISSION**

<u>Definitions</u>	15A NCAC 03I .0101*	36:07 NCR
<u>Pound Net Set Permit Application and Processing</u>	15A NCAC 03J .0502*	36:07 NCR
<u>Pound Net Set Permit Renewal</u>	15A NCAC 03J .0503	36:07 NCR
<u>Pound Net Set Permit Transfer</u>	15A NCAC 03J .0504*	36:07 NCR
<u>Pound Net Set Permit Conditions</u>	15A NCAC 03J .0505	36:07 NCR
<u>Permits for Relaying Shellfish from Polluted Areas</u>	15A NCAC 03K .0104	36:07 NCR
<u>Recreational Harvest of Shellfish</u>	15A NCAC 03K .0105	36:07 NCR
<u>Taking or Unloading Oysters and Clams on Sunday or at Night</u>	15A NCAC 03K .0106	36:07 NCR
<u>Permits to Use Mechanical Methods for Shellfish on Shellf...</u>	15A NCAC 03K .0111	36:07 NCR
<u>Oyster Harvest Management</u>	15A NCAC 03K .0201*	36:07 NCR
<u>Mechanical Harvest of Clams from Public Bottom</u>	15A NCAC 03K .0302	36:07 NCR
<u>Shrimp Harvest Restrictions</u>	15A NCAC 03L .0101	36:07 NCR
<u>Striped Bass Season, Size, and Harvest Limit: Atlantic Ocean</u>	15A NCAC 03M .0204	36:07 NCR
<u>Auxiliary Vessels</u>	15A NCAC 03O .0103*	36:07 NCR
<u>Requirements for Bait and Mussel Dealers</u>	15A NCAC 03O .0105	36:07 NCR
<u>License Replacement and Fees</u>	15A NCAC 03O .0107	36:07 NCR
<u>License Refunds</u>	15A NCAC 03O .0110	36:07 NCR
<u>Shellfish Lease Application Processing</u>	15A NCAC 03O .0203	36:07 NCR
<u>Shellfish Lease Renewal</u>	15A NCAC 03O .0205	36:07 NCR
<u>Shellfish Lease Application: Request for Review</u>	15A NCAC 03O .0206	36:07 NCR
<u>Shellfish Lease and Franchise Production Reports</u>	15A NCAC 03O .0207*	36:07 NCR
<u>Termination Procedures for Shellfish Leases and Franchises</u>	15A NCAC 03O .0208	36:07 NCR
<u>Standards and Requirements for Franchises</u>	15A NCAC 03O .0210	36:07 NCR
<u>Standard Commercial Fishing License Eligibility Board</u>	15A NCAC 03O .0401	36:07 NCR
<u>Standard Commercial Fishing License Eligibility Applicati...</u>	15A NCAC 03O .0402*	36:07 NCR

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**APPROVED RULES**

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<u>Standard Commercial Fishing License Eligibility Board Review</u>	15A NCAC	03O	.0403	36:07 NCR
<u>Standard Commercial Fishing License Eligibility Criteria</u>	15A NCAC	03O	.0404*	36:07 NCR
<u>Standard Commercial Fishing License Eligibility Pool Cert...</u>	15A NCAC	03O	.0406	36:07 NCR
<u>License, Permit, or Certificate Denial: Request for Review</u>	15A NCAC	03P	.0101*	36:07 NCR
<u>Crab Spawning Sanctuaries</u>	15A NCAC	03R	.0110	36:07 NCR
<u>Purse Seines Prohibited</u>	15A NCAC	03R	.0111	36:07 NCR
<u>Crab Harvest Management Areas</u>	15A NCAC	03R	.0118	36:07 NCR

**WILDLIFE RESOURCES COMMISSION**

<u>Henderson County</u>	15A NCAC	10F	.0312	36:14 NCR
<u>Stanly County</u>	15A NCAC	10F	.0317	36:14 NCR
<u>Warren County</u>	15A NCAC	10F	.0318	36:14 NCR
<u>Burke County</u>	15A NCAC	10F	.0323	36:14 NCR
<u>Montgomery County</u>	15A NCAC	10F	.0327*	36:14 NCR
<u>Mecklenburg and Gaston Counties</u>	15A NCAC	10F	.0333	36:14 NCR
<u>Northampton and Warren Counties</u>	15A NCAC	10F	.0336	36:14 NCR
<u>Pitt County</u>	15A NCAC	10F	.0354	36:14 NCR
<u>Halifax County</u>	15A NCAC	10F	.0378	36:14 NCR

**MARINE FISHERIES COMMISSION**

<u>Relaying Permits</u>	15A NCAC	18A	.0303	36:07 NCR
<u>Depuration Harvesting Permits</u>	15A NCAC	18A	.0304	36:07 NCR
<u>Shellfish Management Areas</u>	15A NCAC	18A	.0912	36:07 NCR

**ARCHITECTURE AND REGISTERED INTERIOR DESIGNERS, BOARD OF**

<u>Organization of Board and Officers</u>	21 NCAC	02	.0102	36:15 NCR
<u>Seal of Board</u>	21 NCAC	02	.0106	36:15 NCR
<u>Fees</u>	21 NCAC	02	.0108	36:15 NCR
<u>Definitions</u>	21 NCAC	02	.0109*	36:15 NCR
<u>Architect, Registered Interior Designer, Firm or Partners...</u>	21 NCAC	02	.0201	36:15 NCR
<u>Applicability of Board Rules</u>	21 NCAC	02	.0202	36:15 NCR
<u>Rules of Professional Conduct</u>	21 NCAC	02	.0203*	36:15 NCR
<u>Forms of Practice</u>	21 NCAC	02	.0204	36:15 NCR
<u>Name of Firm</u>	21 NCAC	02	.0205*	36:15 NCR
<u>Requirement for and Use of Professional Seal by an Architect ...</u>	21 NCAC	02	.0206*	36:15 NCR
<u>Dishonest Conduct</u>	21 NCAC	02	.0208	36:15 NCR
<u>Unprofessional Conduct</u>	21 NCAC	02	.0209	36:15 NCR
<u>Independent Judgement and Disclosure</u>	21 NCAC	02	.0212	36:15 NCR
<u>Individual Licenses and Registrations</u>	21 NCAC	02	.0213*	36:15 NCR
<u>Firm Practice of Architecture and Registered Interior Design</u>	21 NCAC	02	.0214	36:15 NCR
<u>Out of State Firms</u>	21 NCAC	02	.0215	36:15 NCR
<u>Architect Emeritus</u>	21 NCAC	02	.0217*	36:15 NCR
<u>Limited Liability Companies</u>	21 NCAC	02	.0218	36:15 NCR
<u>Architectural Licensure by Examination</u>	21 NCAC	02	.0302*	36:15 NCR
<u>Architecture Licensure by Reciprocity</u>	21 NCAC	02	.0303	36:15 NCR
<u>Interior Design Registration</u>	21 NCAC	02	.0306*	36:15 NCR
<u>Scope</u>	21 NCAC	02	.0901	36:15 NCR
<u>Requirements</u>	21 NCAC	02	.0903*	36:15 NCR

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**APPROVED RULES**

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<u>Determination of Credit</u>	21 NCAC	02	.0904	36:15 NCR
<u>Record Keeping</u>	21 NCAC	02	.0905*	36:15 NCR
<u>Exceptions</u>	21 NCAC	02	.0906*	36:15 NCR
<u>Reinstatement</u>	21 NCAC	02	.0907	36:15 NCR
<u>Continuing Education Reciprocity</u>	21 NCAC	02	.0908*	36:15 NCR
<u>Documentation and Audits</u>	21 NCAC	02	.0909	36:15 NCR
<u>Non-Compliance</u>	21 NCAC	02	.0910*	36:15 NCR

**REAL ESTATE COMMISSION**

<u>Broker-in-Charge Course</u>	21 NCAC	58A	.1712*	36:16 NCR
<u>Application For Registration</u>	21 NCAC	58B	.0101*	36:16 NCR
<u>Registration Fee</u>	21 NCAC	58B	.0102	36:16 NCR
<u>Renewal of Timeshare Program Registration</u>	21 NCAC	58B	.0103*	36:16 NCR
<u>Amendments to Timeshare Program Registration</u>	21 NCAC	58B	.0104*	36:16 NCR
<u>Notice of Termination</u>	21 NCAC	58B	.0105	36:16 NCR
<u>General Provisions</u>	21 NCAC	58B	.0201	36:16 NCR
<u>Public Offering Statement Summary</u>	21 NCAC	58B	.0202*	36:16 NCR
<u>Receipt for Public Offering Statement</u>	21 NCAC	58B	.0203	36:16 NCR
<u>Proof of Cancellation</u>	21 NCAC	58B	.0301*	36:16 NCR
<u>Retention of Timeshare Records</u>	21 NCAC	58B	.0401*	36:16 NCR
<u>Timeshare Agency Agreements and Disclosure</u>	21 NCAC	58B	.0402	36:16 NCR
<u>Timeshare Trust Funds</u>	21 NCAC	58B	.0501*	36:16 NCR
<u>Designation of Program Broker</u>	21 NCAC	58B	.0601*	36:16 NCR
<u>Duties of the Program Broker</u>	21 NCAC	58B	.0602*	36:16 NCR
<u>Limitation, Denial, Withdrawal, or Termination of Educati...</u>	21 NCAC	58H	.0210*	36:16 NCR
<u>Limitation, Denial, or Withdrawal of Instructor Approval</u>	21 NCAC	58H	.0303*	36:16 NCR

*The following rules are subject to Legislative Review.*

**MARINE FISHERIES COMMISSION**

<u>Introduce, Transfer, or Hold Imported Marine and Estuarin...</u>	15A NCAC	03I	.0104*	36:07 NCR
<u>Leaving Devices Unattended</u>	15A NCAC	03I	.0105*	36:07 NCR
<u>Biological Sampling</u>	15A NCAC	03I	.0113	36:07 NCR
<u>Recordkeeping Requirements</u>	15A NCAC	03I	.0114*	36:07 NCR
<u>Disposal of Evidence</u>	15A NCAC	03I	.0118	36:07 NCR
<u>Fixed or Stationary Nets</u>	15A NCAC	03J	.0101*	36:07 NCR
<u>Purse Seines</u>	15A NCAC	03J	.0105*	36:07 NCR
<u>Long Haul and Swipe Net Requirements</u>	15A NCAC	03J	.0109	36:07 NCR
<u>Seines</u>	15A NCAC	03J	.0110*	36:07 NCR
<u>Pots</u>	15A NCAC	03J	.0301*	36:07 NCR
<u>Recreational Use of Pots</u>	15A NCAC	03J	.0302	36:07 NCR
<u>Trotlines (Multiple Hook or Multiple Bait)</u>	15A NCAC	03J	.0305*	36:07 NCR
<u>Definitions and Standards for Pound Nets and Pound Net Sets</u>	15A NCAC	03J	.0501*	36:07 NCR
<u>Prohibited Activities in Polluted Shellfish Areas</u>	15A NCAC	03K	.0101*	36:07 NCR
<u>Rakes Prohibited</u>	15A NCAC	03K	.0102	36:07 NCR
<u>Shellfish Management Areas</u>	15A NCAC	03K	.0103	36:07 NCR
<u>Depuration of Clams and Oysters</u>	15A NCAC	03K	.0107	36:07 NCR
<u>Dredges and Mechanical Methods Prohibited</u>	15A NCAC	03K	.0108	36:07 NCR

**APPROVED RULES**

<u>Shellfish Harvest Tags</u>	15A NCAC	03K	.0109	36:07 NCR
<u>Culling Requirements for Oysters</u>	15A NCAC	03K	.0202	36:07 NCR
<u>Mechanical Methods for Oystering Prohibited</u>	15A NCAC	03K	.0204*	36:07 NCR
<u>Marketing Oysters Taken from a Shellfish Lease or Franchise</u>	15A NCAC	03K	.0205	36:07 NCR
<u>Oyster Size and Harvest Limit Exemptions</u>	15A NCAC	03K	.0207	36:07 NCR
<u>Seed Oyster Management Areas</u>	15A NCAC	03K	.0208	36:07 NCR
<u>Oyster Sanctuaries</u>	15A NCAC	03K	.0209	36:07 NCR
<u>Size and Harvest Limits of Clams</u>	15A NCAC	03K	.0301*	36:07 NCR
<u>Prohibited Taking of Clams</u>	15A NCAC	03K	.0304*	36:07 NCR
<u>Clam Size and Harvest Limit Exemptions</u>	15A NCAC	03K	.0305	36:07 NCR
<u>Polluted Area Permit Requirements</u>	15A NCAC	03K	.0401	36:07 NCR
<u>Sea Scallops Size Limit and Tolerance</u>	15A NCAC	03K	.0505*	36:07 NCR
<u>Marketing Scallops Taken from a Shellfish Lease or Franchise</u>	15A NCAC	03K	.0507	36:07 NCR
<u>Weekend Shrimping Prohibited</u>	15A NCAC	03L	.0102	36:07 NCR
<u>Prohibited Nets, Mesh Lengths, and Areas</u>	15A NCAC	03L	.0103	36:07 NCR
<u>Recreational Shrimp Limits</u>	15A NCAC	03L	.0105*	36:07 NCR
<u>Crab Harvest Restrictions</u>	15A NCAC	03L	.0201	36:07 NCR
<u>Crab Trawling</u>	15A NCAC	03L	.0202	36:07 NCR
<u>Crab Dredging</u>	15A NCAC	03L	.0203	36:07 NCR
<u>Crab Pots</u>	15A NCAC	03L	.0204	36:07 NCR
<u>Crab Spawning Sanctuaries</u>	15A NCAC	03L	.0205	36:07 NCR
<u>Striped Bass Requirements; General</u>	15A NCAC	03M	.0201*	36:07 NCR
<u>Striped Bass Season, Size, and Harvest Limit: Internal Wa...</u>	15A NCAC	03M	.0202	36:07 NCR
<u>Striped Bass; Prohibited Trawling</u>	15A NCAC	03M	.0205*	36:07 NCR
<u>Flounder</u>	15A NCAC	03M	.0503*	36:07 NCR
<u>Prohibited Gear, Primary Nursery Areas</u>	15A NCAC	03N	.0104	36:07 NCR
<u>Prohibited Gear, Secondary Nursery Areas</u>	15A NCAC	03N	.0105	36:07 NCR
<u>Procedures and Requirements to Obtain Licenses, Endorseme...</u>	15A NCAC	03O	.0101	36:07 NCR
<u>Procedures and Requirements to Renew Licenses, Endorsemen...</u>	15A NCAC	03O	.0102	36:07 NCR
<u>Commercial Unloading of Fish</u>	15A NCAC	03O	.0104	36:07 NCR
<u>Assignment of Standard Commercial Fishing License</u>	15A NCAC	03O	.0109	36:07 NCR
<u>Surrender of Licenses</u>	15A NCAC	03O	.0111	36:07 NCR
<u>Ocean Fishing Pier Reporting Requirements</u>	15A NCAC	03O	.0113	36:07 NCR
<u>Fishing Gear Requirements for Shellfish Leases and Franch...</u>	15A NCAC	03O	.0211	36:07 NCR
<u>Eligibility for Recreational Commercial Gear Licenses</u>	15A NCAC	03O	.0301*	36:07 NCR
<u>Authorized Gear for Recreational Commercial Gear Licenses</u>	15A NCAC	03O	.0302	36:07 NCR
<u>Possession Limits for Recreational Commercial Gear Licenses</u>	15A NCAC	03O	.0303*	36:07 NCR
<u>Standard Commercial Fishing License Eligibility Pool Appl...</u>	15A NCAC	03O	.0405*	36:07 NCR
<u>General Permit Conditions</u>	15A NCAC	03O	.0502*	36:07 NCR
<u>Suspension and Revocation of Permits</u>	15A NCAC	03O	.0504*	36:07 NCR

**WILDLIFE RESOURCES COMMISSION**

<u>Inland Game Fishes Designated</u>	15A NCAC	10C	.0301	36:14 NCR
<u>Manner of Taking Inland Game Fishes</u>	15A NCAC	10C	.0302	36:14 NCR
<u>Taking Possession of Inland Game Fishes</u>	15A NCAC	10C	.0304	36:14 NCR
<u>Largemouth Bass</u>	15A NCAC	10C	.0305	36:14 NCR
<u>Crappie</u>	15A NCAC	10C	.0306	36:14 NCR
<u>Flounder</u>	15A NCAC	10C	.0307	36:14 NCR

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**APPROVED RULES**

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<u>Kokanee Salmon</u>	15A NCAC	10C	.0308	36:14 NCR
<u>American Shad and Hickory Shad</u>	15A NCAC	10C	.0313	36:14 NCR
<u>Striped Bass</u>	15A NCAC	10C	.0314*	36:14 NCR
<u>White Bass</u>	15A NCAC	10C	.0318	36:14 NCR
<u>White Perch</u>	15A NCAC	10C	.0319	36:14 NCR
<u>Smallmouth Bass</u>	15A NCAC	10C	.0321	36:14 NCR
<u>Alabama Bass and Spotted Bass</u>	15A NCAC	10C	.0322	36:14 NCR
<u>Redeye Bass</u>	15A NCAC	10C	.0323	36:14 NCR
<u>Bullheads</u>	15A NCAC	10C	.0324	36:14 NCR
<u>Sea Trout</u>	15A NCAC	10C	.0325	36:14 NCR
<u>Red Drum</u>	15A NCAC	10C	.0326	36:14 NCR
<u>Manner of Taking Nongame Fishes</u>	15A NCAC	10C	.0401	36:14 NCR
<u>Taking Nongame Fishes by Special Device for Bait or Perso...</u>	15A NCAC	10C	.0402	36:14 NCR
<u>Special Devices</u>	15A NCAC	10C	.0404	36:14 NCR
<u>Possession of Licenses</u>	15A NCAC	10C	.0405	36:14 NCR
<u>Trawls and Dredges</u>	15A NCAC	10C	.0406	36:14 NCR
<u>Permitted Special Devices and Open Seasons</u>	15A NCAC	10C	.0407	36:14 NCR
<u>Taking and Possession of Nongame Fishes</u>	15A NCAC	10C	.0409	36:14 NCR
<u>American Eel</u>	15A NCAC	10C	.0410	36:14 NCR
<u>Atlantic Croaker</u>	15A NCAC	10C	.0411	36:14 NCR
<u>Black Drum</u>	15A NCAC	10C	.0412	36:14 NCR
<u>Blue Crab</u>	15A NCAC	10C	.0413	36:14 NCR
<u>Bluefish</u>	15A NCAC	10C	.0414	36:14 NCR
<u>Bowfin</u>	15A NCAC	10C	.0415	36:14 NCR
<u>Blue Catfish, Channel Catfish, and Flathead Catfish</u>	15A NCAC	10C	.0416	36:14 NCR
<u>Cobia</u>	15A NCAC	10C	.0417	36:14 NCR
<u>Freshwater Mussels</u>	15A NCAC	10C	.0418	36:14 NCR
<u>Grass Carp</u>	15A NCAC	10C	.0419	36:14 NCR
<u>King Mackerel</u>	15A NCAC	10C	.0420	36:14 NCR
<u>Margined Madtom and Tadpole Madtom</u>	15A NCAC	10C	.0421	36:14 NCR
<u>Striped Mullet and White Mullet</u>	15A NCAC	10C	.0422	36:14 NCR
<u>Alewife and Blueback Herring</u>	15A NCAC	10C	.0423	36:14 NCR
<u>Sharks</u>	15A NCAC	10C	.0424	36:14 NCR
<u>Sheepshead</u>	15A NCAC	10C	.0425	36:14 NCR
<u>Spanish Mackerel</u>	15A NCAC	10C	.0426	36:14 NCR
<u>Spot</u>	15A NCAC	10C	.0427	36:14 NCR
<u>Tarpon</u>	15A NCAC	10C	.0428	36:14 NCR
<u>Weakfish (Gray Trout)</u>	15A NCAC	10C	.0429	36:14 NCR
<u>Other Fish</u>	15A NCAC	10C	.0430	36:14 NCR
<u>Inland Game Fishes Designated in Coastal Fishing Waters</u>	15A NCAC	10C	.0701	36:14 NCR
<u>Bear Sanctuaries</u>	15A NCAC	10D	.0106	36:11 NCR
<b>MARINE FISHERIES COMMISSION</b>				
<u>Permits</u>	15A NCAC	18A	.0135	36:07 NCR
<u>Permits</u>	15A NCAC	18A	.0302	36:07 NCR
<u>Dealer Tags</u>	15A NCAC	18A	.0425*	36:07 NCR

**TITLE 03 - OFFICE OF THE STATE AUDITOR**

**03 NCAC 01 .0301 PETITIONS FOR RULEMAKING**

(a) Any person may request the adoption of a new rule, or the amendment or repeal of an existing rule promulgated by the Office of the State Auditor by addressing a petition to the Rulemaking Coordinator, Office of the State Auditor, 20601 Mail Service Center, Raleigh, N.C. 27699-0600.

(b) The petition must be titled "Petition for Rulemaking" and contain the following information:

- (1) name, address and email address of each petitioner;
- (2) a citation to any rule petitioner desires to amend or repeal with either a draft of the proposed rule or amendment, or a summary of the major elements of a proposed rule.

(c) The petition may contain the following information:

- (1) the reason for submitting the petition;
- (2) the anticipated cost factors;
- (3) any additional data supporting the petition.

(d) Within 30 days of submission of the petition, the State Auditor, or deputy pursuant to G.S. 147-64.10, shall render a final decision. If the decision is to deny the petition, the petitioner shall be notified in writing, stating the reasons for the denial and refer to the appeal rights set forth in G.S. 150B-20(d). If the decision is to grant the petition, written notice of the decision shall be provided as set forth in G.S. 150B-20(c) and rulemaking proceedings shall be initiated.

*History Note: Authority G.S. 147-64.9; 150B-20;  
Eff. June 1, 2022.*

**TITLE 04 - DEPARTMENT OF COMMERCE**

**04 NCAC 24A .0108 SIGNATURES ON REPORTS AND FORMS**

Where DES requires a signature on a report or form, the writing shall be signed by:

- (1) the individual, if the person required to submit the report or form is an individual;
- (2) the president, vice president, or other officer if the employing unit required to submit the report or form is a corporation;
- (3) a partner, if the employing unit required to submit the report or form is a partnership or limited liability partnership;
- (4) a member, if the employing unit required to submit the form is a limited liability company or professional limited liability company;
- (5) an authorized member or officer having knowledge of its affairs, if the employing unit required to submit the report or form is an unincorporated organization;
- (6) the fiduciary, if the employing unit required to submit the report or form is a trust or estate;
- (7) an authorized representative of a governmental entity; or

- (8) an agent appointed by the employing unit under a power of attorney in accordance with 04 NCAC 24A .0109.

*History Note: Authority G.S. 96-4; 96-9.15;  
Eff. July 1, 2015;  
Amended Eff. June 1, 2022.*

**04 NCAC 24C .0204 APPEALS HEARING NOTICE**

(a) The Appeals Section shall mail notice of the hearing to each party at least 14 days before the hearing date.

(b) A party who elects to receive correspondence and notices by electronic transmission shall receive an email notification, at least 14 days before the hearing date, indicating that the hearing notice is available in their SCUBI account.

(c) Notice of the hearing shall include:

- (1) the determination appealed;
- (2) the appealing party;
- (3) the time of the hearing;
- (4) the date of the hearing;
- (5) if requested at the time of filing the appeal, the physical location of an in-person hearing;
- (6) the telephone number of each party for telephone hearings;
- (7) each issue, with statutory reference, to be heard and decided;
- (8) the name and contact information of the designated Appeals Referee;
- (9) the manner by which witnesses may offer evidence and participate in the hearing;
- (10) each party's right to legal representation;
- (11) instructions for requesting a rescheduling of the hearing pursuant to 04 NCAC 24C .0207;
- (12) each party's right to request the issuance of a subpoena for the production of records or for individuals to appear and testify, as well as instructions for making these requests pursuant to 04 NCAC 24C .0401;
- (13) instructions on how to request an in-person hearing;
- (14) instructions on how to give evidence at a hearing pursuant to 04 NCAC 24C .0209;
- (15) notice that documents accompanying the hearing notice are available in their SCUBI account; and
- (16) instructions that if the individual's telephone number is not listed or is incorrect to contact the Appeals Referee prior to the scheduled start time of the hearing to provide the correct telephone number pursuant to 04 NCAC 24C .0205.

(d) The determination, the written appeal, the claimant's application for unemployment insurance, the employer's response to claimant's application for unemployment insurance, if any, and any documents provided to the Appeals Section with the appeal shall accompany the hearing notice. If a party desires to introduce additional documents or other evidence, e.g., audio or video recordings, photographs, or screenshots, at a hearing, the party shall submit the additional documents or other evidence to the

Appeals Referee or hearing officer and to all other parties prior to the hearing in accordance with 04 NCAC 24C .0209(a), (c), and (d).

*History Note: Authority G.S. 96-4; 96-15;  
Eff. July 1, 2015;  
Amended Eff. June 1, 2022; September 1, 2017.*

**04 NCAC 24C .0205 TELEPHONE HEARINGS**

(a) Hearings shall be conducted by telephone conference call, unless a request is made for an in-person hearing at the time the appeal is filed or an objection is made pursuant to Rule .0206 of this Section.

(b) The Appeals Hearing Notice will list a telephone number for each party. This is the telephone number the Appeals Referee will call unless a different telephone number is provided in accordance with this Rule.

- (1) If no telephone number is listed for a party, that party shall provide a telephone number directly to the Appeals Referee prior to the scheduled start time of the hearing.
- (2) If a party wishes to be called at a telephone number other than the one listed, that party shall provide a telephone number directly to the Appeals Referee prior to the scheduled start time of the hearing.
- (3) If a party wishes to have witnesses called for participation in the hearing, that party shall provide the name and telephone number for each witness directly to the Appeals Referee prior to the scheduled start time of the hearing.

(c) Telephone numbers for parties and additional witnesses shall be provided to the Appeals Referee by telephone or by email. The telephone number and email address for the Appeals Referee are listed on the Appeals Hearing Notice.

(d) If a party fails to provide a telephone number to the Appeals Referee prior to the scheduled start time of the hearing, the Appeals Referee shall call the party at the telephone number listed on the Appeals Hearing Notice. If no telephone number is listed for a party, and no number has otherwise been provided in accordance with this Rule, no call will be placed to that party for the hearing.

*History Note: Authority G.S. 96-4; 96-15;  
Eff. July 1, 2015;  
Amended Eff. June 1, 2022; October 1, 2017.*

**04 NCAC 24C .0207 RESCHEDULING A HEARING**

(a) An Appeals Referee may continue a hearing for "good cause" as defined in 04 NCAC 24A .0105. In addition to the reasons set forth in G.S. 96-15(d1), the reasons for which a continuance may be granted include, but are not limited to, the following:

- (1) illness;
- (2) death of an immediate family member. Immediate family member is defined as an individual's wife, husband, mother, father, brother, sister, son, daughter, grandmother, grandfather, grandson, granddaughter, regardless of whether the relationship is a

biological, adoptive, step-, half-, or in-law relationship;

- (3) a need to obtain an interpreter or translator;
- (4) a religious observance;
- (5) jury duty;
- (6) actively seeking legal representation;
- (7) appearance in another proceeding before the Division or the Board of Review;
- (8) active military duty;
- (9) a scheduling conflict created by or to accommodate return-to-employment activities of the claimant;
- (10) to accommodate the business needs of the employer;
- (11) a scheduling conflict of the Appeals Referee; or
- (12) based on the operation and scheduling needs of the Appeals Section.

(b) Any request for continuance by a party prior to the hearing shall be made in writing to the Appeals Referee listed on the Appeals Hearing Notice, or where applicable, Order for Continuance or Order for Adjournment. The written request shall explain the reasons the request is being sought.

(c) Unless the parties are notified by the Appeals Referee or the Appeals Section that a request for continuance has been granted, the hearing will be conducted as scheduled.

*History Note: Authority G.S. 96-4; 96-15;  
Eff. July 1, 2015;  
Amended Eff. June 1, 2022.*

**04 NCAC 24C .0209 CONDUCT OF HEARINGS**

(a) Hearings may be conducted by a Hearing Officer or an Appeals Referee, including the Chief Appeals Referee and the Deputy Chief Appeals Referee. Consistent with G.S. 96-15(f), all hearings shall be conducted in a manner to preserve the substantial rights of the parties.

- (1) The parties to an appeal before an Appeals Referee have the right to present relevant and material evidence as determined by the Appeals Referee.
- (2) The Appeals Referee may ask questions to develop the record as to the relevant facts, circumstances, and issues presented at the hearing.
- (3) The Appeals Referee may examine parties and witnesses, and shall allow cross-examination.
- (4) All issues relevant to the appeal shall be considered and ruled upon.

(b) The Appeals Referee shall give each party 10 minutes from the time of the scheduled hearing to appear for the hearing. If the appealing party fails to appear at the hearing and a continuance had not been previously granted, the Appeals Referee shall issue an Appeals Decision dismissing the appeal. If the appealing party appears and the non-appealing party fails to appear, the Appeals Referee shall proceed with the hearing .

(c) If a party wishes to introduce documents or other evidence not provided by the Appeals Section with the Appeals Hearing Notice, the party shall provide a copy to the Appeals Referee and to all other parties prior to the hearing.

(d) Any party propounding in excess of 25 pages of documents, photographs, or screen shots shall number and paginate each exhibit, and provide an index listing each exhibit and its corresponding page number, which will become part of the official record.

(e) Official notice may be taken by the Appeals Referee of all facts for which judicial notice may be taken as well as other facts within the specialized knowledge of the DES. The official notice and its source shall be stated on the record. Each party shall be given an opportunity to dispute the noticed fact by argument and submission of evidence on the record.

*History Note:* Authority G.S. 96-4; 96-15; 20 CFR 650.2;  
*Eff.* July 1, 2015;  
*Amended Eff.* June 1, 2022.

**04 NCAC 24C .0214 WITHDRAWAL OF APPEAL**

(a) The appealing party may request to withdraw an appeal. Any request to withdraw an appeal must be made to the Appeals Referee scheduled to conduct the hearing.

(b) A request to withdraw an appeal may be made in writing or orally.

- (1) If the request is made in writing, it shall be made part of the record and include:
  - (A) the Appeals Docket Number;
  - (B) the names of parties to the appeal;
  - (C) the name of the individual making the request, and the individual's job title if the employer is the requesting party; and
  - (D) a telephone number where the individual making the request to withdraw may be reached. The written request to withdraw shall be made part of the record.
- (2) If the request is made orally, it shall be recorded by the Appeals Referee using the digital recording system used to record hearings in accordance with G.S. 96-15(c).

(c) If a request to withdraw the appeal is granted, the Appeals Referee shall issue a written order. The order shall contain no right to appeal the withdrawal of the appeal.

(d) If the request to withdraw the appeal is denied, the Appeals Referee shall notify the requesting party and make an oral ruling on the record providing the information considered and the reason the request was denied. The order shall contain no right to appeal the denial of the withdrawal of the appeal.

(e) The Appeal Referee's order granting or denying the request shall be included in the official record of the case.

*History Note:* Authority G.S. 96-4; 96-15;  
*Eff.* July 1, 2018;  
*Amended Eff.* June 1, 2022.

**04 NCAC 24C .0215 NEW FILING AFTER WITHDRAWAL OF APPEAL**

A party who has withdrawn their appeal pursuant to 04 NCAC 24C .0214 may file a new appeal of the determination by the Adjudicator consistent with 04 NCAC 24C .0203. The refiled

appeal shall be scheduled for hearing before an Appeals Referee consistent with G.S. 96-15(c). Either the DES or a party may raise the issue of timeliness if the refiled appeal is received after the appeal rights to the determination have expired. The issue of timeliness shall be determined in accordance with G.S. 96-15(b)(2).

*History Note:* Authority G.S. 96-4; 96-15;  
*Eff.* July 1, 2018;  
*Amended Eff.* June 1, 2022.

**TITLE 07 – DEPARTMENT OF NATURAL AND CULTURAL RESOURCES**

**07 NCAC 02H .0303 APPLICATION**

(a) To obtain services from Accessible Books and Library Services, users shall submit an application to the Library, 1841 Capital Boulevard, Raleigh, North Carolina 27635. Applications shall be submitted on a form prepared by the Library and include the user's:

- (1) applicant's basic facts, such as applicant name and contact information;
- (2) name, address, and telephone number of an alternative contact;
- (3) status as an honorably discharged veteran of the Armed Forces of the United States;
- (4) qualifying disability, as outlined in 36 CFR 701.6(b)(1);
- (5) degree of hearing impairment, if any; and
- (6) language, reading and service delivery method preferences.

(b) Applications shall be certified by an individual authorized under 36 CFR 701.6 to certify an applicant's eligibility pursuant to 07 NCAC 02H .0302 and shall include the certifying individual's name, address and telephone number, title and occupation, and an original signature. The certifying individual shall not be a relative of the applicant, even if otherwise qualified.

*History Note:* Authority G.S. 125-2;  
*Eff.* April 1, 2011;  
*Readopted Eff.* February 1, 2018;  
*Amended Eff.* June 1, 2022.

**07 NCAC 02H .0305 CIRCULATION**

(a) The Library shall provide materials and playback equipment to users in accordance with the Library of Congress' NLS Network Library Manual hereby incorporated by reference, including subsequent amendments and editions, and accessible to users free of charge at <https://statelibrary.ncdcr.gov/blind-print-disabled/apply-services/loan-policies-and-handbook#nls-administrative-procedures>.

(b) The Director of Accessible Books and Library Services may suspend a user's Library services for one or more violations of the following:

- (1) failure to return materials within the borrowing period. The borrowing period for materials are as follows:
  - (A) six weeks for books;

- (B) two weeks for magazines; and
- (C) three weeks for DVD and VHS tapes;
- (2) damage to equipment or materials;
- (3) unauthorized use of materials or equipment, such as loaning materials or equipment to an ineligible person or modification of items owned by the Library; or
- (4) exhibiting verbal or physical behavior toward Library staff that is abusive, offensive, or threatening.

(c) The Director of Accessible Books and Library Services shall determine the period of suspension not to exceed six months. In determining whether a violation shall result in suspension, the Director shall consider the violation, the extent of harm to the Library's property, and any violations previously committed by the user. The Director shall send a letter of suspension to the user via U.S. Mail. The letter shall specify the violation and the period of suspension. Upon expiration of the suspension period, the user may contact the Library for resumption of services.

*History Note: Authority G.S. 125-2; Eff. May 1, 2011; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 22, 2017; Amended Eff. June 1, 2022; January 1, 2022; February 1, 2018.*

**07 NCAC 02H .0307 VOLUNTEERS**

*History Note: Authority G.S. 125-2; 143B-10; Eff. April 1, 2011; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 22, 2017; Repealed Eff. June 1, 2022.*

**TITLE 15A - DEPARTMENT OF ENVIRONMENTAL QUALITY**

**15A NCAC 01C .0101 STATEMENT OF PURPOSE, POLICY, AND SCOPE**

- (a) The purpose of the rules in this Subchapter is to establish procedures within the Department of Environmental Quality (DEQ) related to the North Carolina Environmental Policy Act (NCEPA).
- (b) Environmental documents shall be available to public officials and citizens before decisions are made and before actions are taken. The information shall be reliable and sufficient to allow selection among alternatives.
- (c) The Secretary is the "responsible state official" for DEQ. The Secretary may delegate responsibility for the implementation of the NCEPA to staff.
- (d) The provisions of the rules in this Subchapter, the Department of Administration's rules (01 NCAC 25), and the NCEPA shall be read together as a whole in order to comply with the spirit and letter of the law.

- (e) These Rules establish minimum criteria to determine when preparation of an environmental document is not required when DEQ is the state project agency.

*History Note: Authority G.S. 113A-2; 113A-6; 113A-9; 143B-10; Eff. August 1, 1989; Transferred from T15.01D .0201 Eff. November 1, 1989; Amended Eff. April 1, 2003; August 1, 1996; March 1, 1990; Readopted Eff. June 1, 2022.*

**15A NCAC 01C .0103 DEFINITIONS**

The definition of any word or phrase used in rules of this Subchapter is the same as given in G.S. 113A-9. The following words and phrases have the following meaning.

- (1) "Channel Disturbance" means activities that permanently remove or degrade the natural functions of the stream such as culverting, relocation, channelization, or streambank stabilization methods including gabions, rip rap, or similar hard structures.
- (2) "Cumulative Impacts" means environmental impacts resulting from incremental effects of an activity when added to other past, present, and reasonably foreseeable future activities regardless of what entities undertake such other actions. Cumulative impacts are the reasonably foreseeable impacts from individually minor but collectively significant activities.
- (3) "Direct Impacts" mean environmental impacts which are caused by an activity and occurring at the same time and place.
- (4) "Disposal" means the discharge, deposit, injection, dumping, spilling, leaking, or placing of any waste into or on any land or water so that the waste or any constituent part of the waste may enter the environment or be emitted into the air or discharged into any waters, including groundwaters, or beneath or on the surface of the land.
- (5) "Ecosystem" means all the interrelated organisms and their environment within a defined area.
- (6) "Forestry Management Plan" means a document that guides the practical and sustainable application of biological, physical, quantitative, managerial, economic, social, and policy principles to the regeneration, management, utilization, and conservation of forests to meet specified goals, and objectives while maintaining the productivity of the forest. Forest management includes management for aesthetics, fish, recreation, urban values, water, wilderness, wildlife, wood products and other forest resource values.
- (7) "Hazardous Waste" means a waste, or combination of wastes, in any state or form including gas, liquid, or solid, that because of its quantity, concentration, or physical,

- chemical, or infectious characteristics may cause or contribute to an increase in mortality or an increase in irreversible or incapacitating reversible illness, or pose a present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.
- (8) "High Quality Waters (HQW)" has the same meaning as in 15A NCAC 02B .0224.
  - (9) "Inlet" means a waterway between islands connecting a lagoon, estuary, sound, or similar water body with the ocean.
  - (10) "Instream Flow" means the amount of water needed in a stream to adequately provide for downstream uses occurring within the stream channel, including some or all of the following: aquatic habitat, recreation, wetlands maintenance, navigation, hydropower, riparian vegetation, and water quality.
  - (11) "Land-Disturbing Activity" has the same meaning as in G.S. 113A-52.
  - (12) "Lead Division" means the division within DEQ that has been appointed by the Secretary, pursuant to 15A NCAC 01C .0105, to have primary responsibility for preparation of an environmental document when DEQ is the state project agency.
  - (13) "Perennial Stream" means a channel that contains water year round during a year of normal rainfall with the aquatic bed located below the water table for most of the year. Groundwater is the primary source of water for a perennial stream, but it also carries stormwater runoff. A perennial stream exhibits the typical biological, hydrological, and physical characteristics commonly associated with the continuous conveyance of water.
  - (14) "Prime agricultural and forest land" means lands that possess the best combination of physical and chemical characteristics for producing food, feed, fiber (including forest products), forage, oilseed, and other agricultural products (including livestock), without intolerable soil erosion. This does not apply to lands that are already in or committed to development projects such as water impoundment, transportation, and urban development.
  - (15) "Reclaimed Water" has the same meaning as in 15A NCAC 02U .0103.
  - (16) "Resource" means any natural product or value, not necessarily economic, but including trees, minerals, wildlife, clean air and water, fisheries, ecosystems, landscapes, and open space.
  - (17) "River Basin" means the watershed of a major river system.
  - (18) "Secondary Impacts" mean indirect impacts caused by and resulting from a specific activity that occur later in time or further removed in distance than direct impacts, but are reasonably foreseeable. Indirect impacts may include growth inducing effects and other effects related to induced changes in the pattern of land use, population density or growth rate, and related effects on air, water, and other natural systems, including ecosystems.
  - (19) "Secretary" means the Secretary of DEQ.
  - (20) "State Project Agency" means the state department or council of state agency that has been designated pursuant to 01 NCAC 25 .0210(a) for ensuring compliance with NCEPA.
  - (21) "Stream Enhancement" means the process of implementing stream rehabilitation practices in order to improve water quality or ecological function. These practices are typically conducted on the stream bank or in the flood prone area. Enhancement activities may also include the placement of in-stream habitat structures.
  - (22) "Stream Restoration" means 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. This process also includes restoring the geomorphic dimension, pattern, and profile as well as biological and chemical integrity, including transport of water and sediment produced by the stream's watershed in order to achieve dynamic equilibrium.
  - (23) "Total Design Withdrawal" means the pumping rate at which water can be removed from the contributing stream. It is the sum of any pre-existing withdrawal capacity plus any withdrawal increase.
  - (24) "Wetlands" has the same meaning as in 15A NCAC 02B .0202.

*History Note:* Authority G.S. 113A-2; 113A-6; 113A-9; 143B-10;  
*Eff.* April 1, 2003;  
*Readopted Eff.* June 1, 2022.

**15A NCAC 01C .0104 AGENCY COMPLIANCE**

- (a) DEQ shall interpret the provisions of the NCEPA as a supplement to its existing authority and as a mandate to view its policies and programs in the light of the NCEPA's comprehensive environmental objectives.
- (b) As part of making a decision on a project for which an environmental document has been prepared, DEQ shall review the document and incorporate it as part of continuing deliberations. The resulting decision shall be made after weighing all of the impacts and mitigation measures presented in the environmental document, which shall become part of the decision-making record.

*History Note: Authority G.S. 113A-2; 113A-5; 113A-6; 113A-10; 143B-10;  
Eff. April 1, 2003;  
Readopted Eff. June 1, 2022.*

**15A NCAC 01C .0105 LEAD AND COOPERATING DIVISIONS RESPONSIBILITY**

Where DEQ is the state project agency and more than one of its divisions must issue a permit or other authorization for the project requiring review under NCEPA, the Secretary shall appoint a lead division to be responsible for preparation of the environmental document. The lead and cooperating divisions' responsibilities shall be established by the Secretary.

*History Note: Authority G.S. 113A-2; 113A-4; 113A-6; 113A-7; 143B-10;  
Eff. April 1, 2003;  
Readopted Eff. June 1, 2022.*

**15A NCAC 01C .0106 SCOPING AND HEARINGS**

When DEQ is the state project agency, DEQ shall utilize scoping and hearing processes to the extent appropriate to the complexity, potential for environmental effects, and level of expressed interest associated with the proposed action. Scoping and hearing processes are public processes designed to determine the types of environmental issues to be addressed in environmental documents. They are open processes intended to obtain the view of other agencies and the public in order for state agencies to make informed decisions.

*History Note: Authority G.S. 113A-2; 113A-4; 113A-6; 143B-10;  
Eff. April 1, 2003;  
Readopted Eff. June 1, 2022.*

**15A NCAC 01C .0107 LIMITATION ON ACTIONS DURING NCEPA PROCESS**

- (a) If an environmental document is required under NCEPA, DEQ shall not undertake an action until the environmental document for that action is final.
- (b) If DEQ is considering a proposed action for which an environmental document is to be or is being prepared under NCEPA, DEQ shall promptly notify the applicant that DEQ cannot take final action until the environmental document is completed and available for use as a decision-making tool. The notification shall be consistent with the statutory and regulatory requirements of DEQ and may be in the form of a notification that the application is incomplete.
- (c) When a program within DEQ decides that a proposed action, for which other DEQ actions are pending or have been taken, requires environmental documentation, then that program shall promptly notify all the other relevant DEQ programs of the decision.
- (d) When statutory and regulatory requirements prevent DEQ from suspending action, DEQ shall deny any action for which it determines an environmental document is required under NCEPA but not yet available as a decision-making tool.

*History Note: Authority G.S. 113A-2; 113A-4; 113A-6; 113A-7; 143B-10;  
Eff. April 1, 2003;  
Readopted Eff. June 1, 2022.*

**15A NCAC 01C .0108 EMERGENCIES**

- (a) If there is an immediate threat to public health, safety, and welfare, DEQ may take otherwise lawful actions with potential environmental effects without preparing an environmental document. In those emergency circumstances, DEQ shall limit actions to those necessary to control and mitigate for the immediate threat to the public health, safety, and welfare.
- (b) DEQ may prepare and maintain environmental documents for repetitive emergency programs affecting the public to review the scope of involved activities, identify specific effects to be expected, and identify mitigation measures that can be employed.

*History Note: Authority G.S. 113A-4; 113A-6; 113A-7; 143B-10;  
Eff. April 1, 2003;  
Readopted Eff. June 1, 2022.*

**15A NCAC 01C .0109 PREPARATION OF ENVIRONMENTAL DOCUMENTS**

- (a) When DEQ is the state project agency, DEQ may request information from an applicant to prepare an environmental document. DEQ shall independently evaluate the information provided and shall be responsible for its accuracy.
- (b) When DEQ is the state project agency, an environmental document may be prepared by a consultant, including the applicant for the action's consultant. If DEQ allows an applicant for the action to prepare an environmental document, DEQ shall furnish guidance and participate in the preparation, and take responsibility for its scope, objectivity, content, and accuracy.
- (c) The Environmental Assessment Guidance Document available through the State Clearinghouse provides guidance in preparing environmental documents.
- (d) When DEQ is the state project agency, the content and finalization of an environmental document shall comply with NCEPA, DEQ's rules, and the Department of Administration's rules (01 NCAC 25).

*History Note: Authority G.S. 113A-4; 113A-5; 113A-6; 113A-9; 143B-10;  
Eff. April 1, 2003;  
Readopted Eff. June 1, 2022.*

**15A NCAC 01C .0205 IMPLEMENTATION**

*History Note: Authority G.S. 113A-2; 113A-4; 113A-5; 113A-6; 143B-10;  
Eff. April 1, 2003;  
Repealed Eff. June 1, 2022.*

**15A NCAC 01C .0206 WHEN TO PREPARE ENVIRONMENTAL DOCUMENTS**

- (a) When an environmental document is required under NCEPA and DEQ is the state project agency, DEQ shall prepare an environmental document unless the action falls below the

minimum criteria set forth in Section .0400 of this Subchapter. As described in 15A NCAC 01C .0306, the Secretary may require preparation of an environmental document that would otherwise not be required through application of DEQ's minimum criteria.

(b) An environmental assessment is not necessary if DEQ has decided to prepare an environmental impact statement.

(c) DEQ shall ensure that the activity that is the subject of the environmental document is properly defined. Closely connected activities should be reviewed together. Closely connected activities include:

- (1) activities that automatically trigger other activities that may require environmental impact statements;
- (2) activities that cannot or will not proceed unless other activities occur either previously or simultaneously; and
- (3) activities that are interdependent parts of a larger plan of development and depend on the larger plan of development for justification.

*History Note:* Authority G.S. 113A-2; 113A-4; 113A-6; 143B-10;

*Eff. April 1, 2003;*

*Readopted Eff. June 1, 2022.*

#### **15A NCAC 01C .0207 INCORPORATION BY REFERENCE**

(a) DEQ shall incorporate material into environmental documents by reference to cut down on bulk without impeding DEQ and public reviews of the action. The incorporated material shall be cited in the document and its contents briefly described.

(b) Incorporated-by-reference material shall be made available by the applicant for inspection by reviewers and potentially interested persons within the time allowed for comment.

*History Note:* Authority G.S. 113A-4; 113A-6; 113A-10; 143B-10;

*Eff. April 1, 2003;*

*Readopted Eff. June 1, 2022.*

#### **15A NCAC 01C .0208 INCOMPLETE OR UNAVAILABLE INFORMATION**

(a) Where DEQ is evaluating effects upon the environment in an environmental document and there are gaps in relevant information or scientific uncertainty, DEQ shall make clear that such information is lacking or that uncertainty exists.

(b) In considering whether unavailable information should be sought and included in the environmental document, DEQ shall consider whether the information can be obtained, how long it would take to obtain that information, and the significance of the information to understanding the effects of the proposed action or alternative. If, after considering those factors, DEQ proceeds with preparation of the environmental document without the information, DEQ shall include within the environmental document:

- (1) a statement that such information is incomplete or unavailable;
- (2) a statement of the relevance of the incomplete or unavailable information to evaluating

reasonably foreseeable significant adverse impacts on the human environment;

(3) a summary of existing credible scientific evidence which is relevant to evaluating the reasonably foreseeable significant adverse impacts on the human environment; and

(4) DEQ's evaluation of such impacts based upon theoretical approaches or research methods generally accepted in the scientific community.

(c) For the purposes of this Section, "reasonably foreseeable" includes impacts which have catastrophic consequences, even if their probability of occurrence is low, provided that the analysis of the impacts is supported by credible scientific evidence, is not based on pure conjecture, and is within the rule of reason.

*History Note:* Authority G.S. 113A-4; 113A-6; 143B-10;

*Eff. April 1, 2003;*

*Readopted Eff. June 1, 2022.*

#### **15A NCAC 01C .0304 ACTIVITIES ABOVE THE MINIMUM CRITERIA**

*History Note:* Authority G.S. 113A-2; 113A-4; 113A-6; 113A-11; 143B-10;

*Eff. April 1, 2003;*

*Repealed Eff. June 1, 2022.*

#### **15A NCAC 01C .0305 ACTIVITIES UNDERTAKEN BY DEQ**

The following activities, when undertaken by DEQ, shall require preparation of an environmental document unless they satisfy the minimum criteria set out in Section .0400 of this Subchapter.

- (1) Construction of facilities or infrastructures on lands and waters owned or managed by DEQ.
- (2) Demolition of or additions, rehabilitation, and or renovations to a structure listed in the National Register of Historic Places or more than 50 years of age except where agreement exists with the Department of Natural and Cultural Resources that the structure lacks architectural or historical significance.
- (3) Ground disturbances involving National Register listed archaeological sites or areas around buildings 50 years old or older, except where agreement exists with the Department of Natural and Cultural Resources.

*History Note:* Authority G.S. 113A-4; 113A-6; 113A-8; 113A-9; 113A-10; 143B-10;

*Eff. April 1, 2003;*

*Readopted Eff. June 1, 2022.*

#### **15A NCAC 01C .0306 ACTIVITIES OF A SPECIAL NATURE**

The Secretary may require preparation of an environmental document that would otherwise not be required through application of DEQ's minimum criteria if the Secretary determines:

- (1) the proposed activity may have a potential for significant adverse effects on wetlands; surface waters such as rivers, streams, and estuaries; parklands; game lands; prime agricultural or forest lands; or areas of local, state, or federally recognized scenic, recreational, archaeological, ecological, scientific research, or historical value, including secondary impacts; or would threaten a species identified on the Department of Interior's or the State's threatened and endangered species lists;
- (2) the proposed activity could cause changes in industrial, commercial, residential, agricultural, or silvicultural land use concentrations or distributions which would be expected to create adverse water quality, instream flow, air quality, or ground water impacts; or affect long-term recreational benefits, fish, wildlife, or their natural habitats;
- (3) the proposed activity has secondary impacts, or is part of cumulative impacts, not generally covered in the approval process for the state action, and that may result in a potential risk to human health or the environment; or
- (4) the proposed activity is of such an unusual nature or has such widespread implications that a concern for its environmental effects has been identified by DEQ or expressed to DEQ.

*History Note:* Authority G.S. 113A-4; 113A-6; 113A-9; 113A-10; 113A-11; 113A-12; 143B-10;  
*Eff. April 1, 2003;*  
*Readopted Eff. June 1, 2022.*

**15A NCAC 01C .0405 PURPOSE OF THE MINIMUM CRITERIA THRESHOLDS**

If NCEPA requires preparation of an environmental document and DEQ is the state project agency, the minimum criteria set forth in this Section determine when preparation of an environmental document is not required because the action or class of actions have no significant long-term impact on the environment. An activity shall satisfy each applicable minimum criteria threshold to maintain this status. As set out in Rule .0306 of this Subchapter, the Secretary may require preparation of an environmental document that would otherwise not be required through application of DEQ's minimum criteria.

*History Note:* Authority G.S. 113A-2; 113A-4; 113A-6; 113A-11; 143B-10;  
*Eff. April 1, 2003;*  
*Readopted Eff. June 1, 2022.*

**15A NCAC 01C .0406 SAMPLING, SURVEY, MONITORING, AND RELATED RESEARCH ACTIVITIES**

Sampling, survey, monitoring and research activities do not require the preparation of environmental documents. These activities include, but are not limited to the following:

- (1) Aerial photography projects involving the photographing or mapping of the lands of the state;
- (2) Biology sampling and monitoring of:
  - (a) Fisheries resources through the use of traditional commercial fishing gear, electricity, and rotenone; and
  - (b) Wildlife resources through the use of traditional techniques, including but not limited to traps, drugs, and firearms;
- (3) Soil survey projects involving the sampling or mapping of the soils of the state;
- (4) Establishing stream gaging stations for the purpose of measuring water flow at a particular site;
- (5) Placement of monitoring wells for the purpose of measuring groundwater levels, quantity, or quality;
- (6) Gathering surface or subsurface information on the geology, minerals, or energy resources, of the state.
- (7) Placement and use of geodetic survey control points;
- (8) Other routine survey and resource monitoring activities, or other temporary activities required for research into the environment that do not have adverse effects; and
- (9) Investigation and assessment of sites contaminated with regulated substances.

*History Note:* Authority G.S. 113A-4; 113A-6; 113A-9; 113A-10; 113A-11; 113A-12; 143B-10;  
*Eff. April 1, 2003;*  
*Readopted Eff. June 1, 2022.*

**15A NCAC 01C .0407 STANDARD MAINTENANCE OR REPAIR ACTIVITIES**

Standard maintenance or repair activities, if needed to maintain the originally defined function of an existing project or facility (but without expansion, increase in quantity, decrease in quality, use, or release of hazardous waste), do not require the preparation of environmental documents. These activities include but are not limited to maintenance and repair of the following:

- (1) Housekeeping projects that maintain a facility's original condition and physical features, including re-roofing and minor alterations where in-kind materials and techniques are used. This also encompasses structures 50 years of age and older and for which no separate law, rule, or regulation dictates a formal review and approval process;
- (2) Roads, bridges, parking lots, and their related facilities;
- (3) Utilities on their existing rights-of-way;
- (4) Surface drainage systems;
- (5) Boat ramps, docks, piers, bulkheads, rip rap, breakwaters and associated facilities;

- (6) Diked, high ground dredge-material disposal areas;
- (7) Activities necessary to fulfill the existing requirements of in-effect permits for the protection of the environment and human health;
- (8) Other maintenance and repair activities on projects that are consistent with previously approved environmental documents; and
- (9) Routine grounds maintenance and landscaping of sidewalks, trails, walls, gates, and related facilities, including outdoor exhibits.

*History Note: Authority G.S. 113A-4; 113A-6; 113A-9; 113A-10; 113A-11; 113A-12; 143B-10;*

*Eff. April 1, 2003;*

*Readopted Eff. June 1, 2022.*

### **15A NCAC 01C .0408 MINOR CONSTRUCTION**

#### **ACTIVITIES**

This Rule sets out the general and specific minimum criteria for construction activities. Construction and land disturbing activities that satisfy both the general minimum criteria and any specific minimum criteria applicable to the project do not require preparation of environmental documents.

(1) General criteria.

(a) In the 20 coastal counties, land disturbing activity that:

- (i) is located more than 575 feet away from waters classified as High Quality Waters (HQW) or impacts less than five acres located all or in part within 575 feet of waters classified as High Quality Waters (HQW);

- (ii) is located outside of any Outstanding Resource Waters (ORW) watershed or area that requires specific management actions to protect ORW waters as defined in 15A NCAC 02B .0225; and

- (iii) impacts less than five acres located in any Outstanding Resource Waters (ORW) watershed or in any area that requires specific management actions to protect ORW waters as defined in 15A NCAC 02B .0225.

(b) Land disturbing activity outside the 20 coastal counties that:

- (i) is located more than one mile from waters classified as HQW or impacts less than five acres located within one

- (ii) mile of and draining to waters classified as HQW; is located outside of any Outstanding Resource Waters (ORW) watershed or area that requires specific management actions to protect ORW waters as defined in 15A NCAC 02B .0225;

- (iii) impacts less than five acres located in any Outstanding Resource Waters (ORW) watershed or in any area that requires specific management actions to protect ORW waters as defined in 15A NCAC 02B .0225; and

- (iv) is located more than 25 feet from any waters classified as Trout (Tr) waters or impacts less than five acres located all or in part within 25 feet of any waters classified as Trout (Tr) waters.

- (c) Channel disturbance and land disturbing activities associated with non-compensatory stream restoration or stream enhancement.

- (d) Land disturbing activities impacting wetlands if the activity will result in the loss of one acre or less of Class WL wetlands.

- (e) Land disturbing activities impacting streams if the activity will result in channel disturbance of less than 500 linear feet of perennial streams. Land disturbing activities that impact 500 linear feet or more of perennial streams do not require preparation of an environmental document if stream restoration or stream enhancement is performed.

(2) Specific Criteria.

- (a) The following activities related to wastewater treatment systems.

- (i) Relocation of discharge points within the same river basin;

- (ii) New discharge facilities with a proposed permitted expansion of less than 500,000 gallons per day and producing an instream waste concentration of less than 33 percent during the 7-day 10-year low flow conditions;

- |  |   |
|--|---|
| <ul style="list-style-type: none"> <li>(iii) Expansion of an existing discharge facility of less than 500,000 gallons per day additional flow;</li> <li>(iv) New surface irrigation, high rate infiltration, or subsurface waste water systems with a proposed permitted capacity not exceeding 100,000 gallons per day;</li> <li>(v) Reclaimed water utilization systems with reclaimed water utilization being the sole disposal option with a proposed permitted capacity not exceeding 200,000 gallons per day;</li> <li>(vi) New reclaimed water utilization sites with a proposed permitted capacity not to exceed 500,000 gallons per day when the reclaimed water utilization system is required for compliance with any other wastewater disposal permit;</li> <li>(vii) New reclaimed water utilization sites with a proposed permitted capacity not to exceed 1,000,000 gallons per day when the reclaimed water utilization system is not required for compliance with any other wastewater disposal permit;</li> <li>(viii) New reclaimed water utilization distribution lines;</li> <li>(ix) New permits or modification to existing permits for land application of residuals utilization, where less than 10 acres not previously permitted is prior converted within three years or will be converted from a non-plantation forested area to application area;</li> <li>(x) New or expanding surface disposal sites disposing less than 3000 dry tons of residuals per year;</li> <li>(xi) Gravity sewer extensions with less than three miles of new lines or lines of less than 18 inches in diameter; and</li> <li>(xii) New or expanding individual pump stations and associated force mains with a proposed</li> </ul> | <ul style="list-style-type: none"> <li>permitted capacity of less than 1750 gallons per minute.</li> </ul>  |
|  | <ul style="list-style-type: none"> <li>(b) The following activities related to potable water systems.                             <ul style="list-style-type: none"> <li>(i) Improvements to water treatment plants that involve less than 1,000,000 gallons per day added capacity and total design withdrawal less than one-fifth of the 7-day, 10-year low flow of the contributing stream;</li> <li>(ii) Improvements not intended to add capacity to the facility;</li> <li>(iii) Installation of appurtenances in existing rights-of-way for streets or utilities, or water lines and appurtenances less than five miles in length and having only directional bore stream crossings or no stream crossings; and</li> <li>(iv) Construction of water tanks, or booster pumping or secondary or remote disinfection stations.</li> </ul> </li> <li>(c) Groundwater withdrawals of less than 1,000,000 gallons per day where such withdrawals are not expected to cause alterations in established land use patterns, or degradation of groundwater or surface water quality.</li> <li>(d) The following activities related to solid waste disposal:                             <ul style="list-style-type: none"> <li>(i) Construction of solid waste management facilities, other than landfills exempt pursuant to G.S. 130A-294 (a)(4), which store, treat, process incinerate, or dispose of less than 350 tons per day (averaged over one year) of solid waste; and</li> <li>(ii) Disposal of solid waste by land application on 100 total acres or less, where less than 10 percent of the total land application area is converted from a non-plantation forested area.</li> </ul> </li> <li>(e) Construction of a minor source or modification of a minor source of air emissions as defined in 15A NCAC 02D .0530, that are less than 100 tons per year or 250 tons per year as defined therein.</li> <li>(f) Construction relating to the reclamation of underground storage</li> </ul> |

- tanks and restoration of groundwater quality.
- (g) The construction, repair or removal of dams less than 25 feet in height and having less than 50 acre-feet of effective storage capacity.
- (h) Any new construction for a building that involves all of the following;
  - (i) A footprint of less than 10,000 square feet;
  - (ii) A location that is not a National Register Archaeological site; and
  - (iii) The building's purpose is not for storage of hazardous waste.
- (i) Demolition of or additions, rehabilitation or renovations to a structure not listed in the National Register of Historic places or less than 50 years of age.
- (j) Routine grounds construction and landscaping of sidewalks, trails, walls, gates and related facilities, including outdoor exhibits.
- (k) Installation of on-farm Best Management Practices that meet the standards of the North Carolina Soil and Water Conservation Commission and the federal Natural Resources Conservation Service.
- (l) Construction or remodeling of swimming pools.
- (m) Construction of a new two-lane road in accordance with DOT accepted design practices and DOT standards and specifications involving less than a total of 25 cumulative acres of ground surface limited to a single project, and not contiguous to any other project making use of this provision.
- (n) Expansion of a two-lane road in accordance with DOT accepted design practices and DOT standards and specifications involving less than a total of 10 cumulative acres of ground surface limited to a single project, and not contiguous to any other project making use of this provision.

- (1) Replenishment of shellfish beds through the placement of seed oysters, seed clams or shellfish cultch on marine or estuarine habitats.
- (2) Creation and enhancement of marine fisheries habitat through the establishment of artificial reefs in accordance with the Division of Marine Fisheries' Artificial Reef Master Plan.
- (3) Placement of fish attractors and shelter in public waters managed by the N.C. Wildlife Resources Commission.
- (4) Translocation and stocking of native or naturalized fish and wildlife in accordance with appropriate DEQ species management plans, watershed management plans, or other state agency approved resource management plans.
- (5) Reintroduction of native endangered or threatened species in accordance with state or federal guidelines or recovery plans.
- (6) Production of native and agricultural plant species to create or enhance fish or wildlife habitat and forest resources, including fertilization, planting, mowing, and burning in accordance with fisheries, wildlife, or forestry management plans.
- (7) Forest products harvest in accordance with the forestry Best Management Practices (BMPs) and the performance standards in the Forest Practice Guidelines (FPGs) Related to Water Quality (02 NCAC 60C) and the United States Forest Service or the N.C. Division of Forest Resources forest management plans.
- (8) Reforestation of woodlands in accordance with the United States Forest Service or the N.C. Division of Forest Resources forest management plans.
- (9) Use of forestry best management practices to meet the performance standards in Forest Practice Guidelines Related to Water Quality codified as in 02 NCAC 60C.
- (10) The control of forest or agricultural insects and disease outbreaks by biological treatments, mechanical treatments, or the lawful application of labeled pesticides by licensed applicators, or any combination of those practices, on areas of no more than 100 acres.
- (11) Control of species composition on managed forestlands as prescribed by approved forest management plans by the lawful application of labeled herbicides by licensed applicators, on areas no more than 100 acres.
- (12) Control of aquatic weeds in stream channels, canals and other water bodies, by the lawful application of labeled herbicides by licensed applicators pursuant to Article 15, Chapter 113A of the NC General Statutes.
- (13) Removal of logs, stumps, trees, and other debris from stream channels where there is no channel excavation, and activities are carried out in accordance with "Best Management Practices

*History Note: Authority G.S. 113A-4; 113A-6; 113A-9; 113A-10; 113A-11; 113A-12; 143B-10; Eff. April 1, 2003; Readopted Eff. June 1, 2022.*

**15A NCAC 01C .0409 MANAGEMENT ACTIVITIES**

Management activities do not require the preparation of environmental documents. These activities include but are not limited to the following:

- (BMPs) for Selective Clearing and Snagging," Appendix B in Incremental Effects of Large Woody Debris Removal on Physical Aquatic Habitat, US Army Corps of Engineers Technical Report EL-92-35, Smith et al, 1992, or other guidelines approved through the Intergovernmental Review process as set out at 01 NCAC 25 .0211.
- (14) Dredging of existing navigation channels and basins to originally approved specifications, provided that the spoil is placed in existing and approved high ground disposal areas.
- (15) Controlled or prescribed burning for wildlife, timber enhancement, and hazard reduction in accordance with applicable management plans.
- (16) Plowing fire lines with tractor plow units, or other mechanized equipment, for the purpose of suppressing wildland (brush, grass, or woodland) fires and prescribed burning.
- (17) Scooping or dipping water from streams, lakes, or sounds with aircraft or helicopters for the purpose of suppressing wild land (brush, grass, or woodland) fires.
- (18) Drainage projects where the mean seasonal water table elevation will be lowered less than one foot over an area of one square mile or less, and riparian and wetland areas will not be affected.
- (19) Manipulation of water levels in reservoirs or impoundments in accordance with approved management plans, for the purpose of providing for water supply storage, flood control, recreation, hydroelectric power, fish and wildlife, downstream water quality and aquatic weed control.
- (20) Installation of on-farm Best Management Practices that meet the standards of the North Carolina Soil and Water Conservation Commission and the federal Natural Resources Conservation Service.
- (21) Continuation of previously permitted activities where no increase in quantity or decrease in quality are proposed.
- (22) Acquisition or acceptance of real property to be retained in a totally natural condition for its environmental benefits.
- (23) Acquisition or acceptance of real property to be managed in accordance with plans for which environmental documents have been approved.
- (24) Care of all trees, plants, and groundcovers on public lands.
- (25) Care, including medical treatment, of all animals maintained for public display.
- (26) Activities authorized for control of mosquitoes such as the following:
- (a) Mosquito control water management work in freshwater streams performed in accordance with "Best Management Practices (BMPs) for Selective Clearing and Snagging" Appendix B in Incremental Effects of Large Woody Debris Removal on Physical Aquatic Habitat, US Army Corps of Engineers Technical Report EL-92-35, Smith et al, 1992, or other guidelines reviewed through the Intergovernmental Review process as set out at 01 NCAC 25 .0211;
  - (b) Mosquito control water management work in salt marsh environments performed under Open Marsh Water Management guidelines reviewed through the Intergovernmental Review process as set out at 01 NCAC 25 .0211;
  - (c) Lawful application of chemicals approved for mosquito control by the United States Environmental Protection Agency and the State when performed under the supervision of licensed operators; and
  - (d) Lawful use of established species to control mosquitoes.
- History Note: Authority G.S. 113A-4; 113A-6; 113A-9; 113A-10; 113A-11; 113A-12; 143B-10; Eff. April 1, 2003; Readopted Eff. June 1, 2022.*
- 15A NCAC 01C .0410 PRIVATE USE OF PUBLIC LANDS**
- Activities related to the private use of public lands, when conducted in accordance with permit requirements, do not require the preparation of environmental documents. These activities include but are not limited to the following:
- (1) use of pound nets;
  - (2) shellfish, relaying and transplanting;
  - (3) harvest of shellfish during closed season;
  - (4) special fisheries management activities under 15A NCAC 03O .0506;
  - (5) aquaculture operations within coastal waters;
  - (6) scientific collecting within coastal waters;
  - (7) introduction and transfer of marine and estuarine organisms.
- History Note: Authority G.S. 113A-4; 113A-6; 113A-9; 113A-10; 113A-11; 113A-12; 143B-10; Eff. April 1, 2003; Readopted Eff. June 1, 2022.*
- 15A NCAC 01C .0411 REMEDIATION ACTIVITIES**
- Activities that seek to clean up, remove, remediate, abate, contain, or otherwise protect public health or the environment from the effect of contamination released to the environment do not require the preparation of environmental documents.
- History Note: Authority G.S. 113A-4; 113A-6; 113A-9; 113A-10; 113A-11; 113A-12; 143B-10;*

*Eff. April 1, 2003;  
Readopted Eff. June 1, 2022.*

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**15A NCAC 02B .0202 DEFINITIONS**

The definition of any word or phrase used in this Section shall be the same as given in G.S. 143, Article 21. The following words and phrases shall be defined as follows:

- (1) "Acute toxicity to aquatic life" means lethality or other harmful effects sustained by either resident aquatic populations or indicator species used as test organisms in a controlled toxicity test due to a short-term exposure (relative to the life cycle of the organism) of 96 hours or less to a specific chemical or mixture of chemicals (as in an effluent). Acute toxicity shall be determined using the following procedures:
  - (a) for specific chemical constituents or compounds, acceptable levels shall be equivalent to a concentration of one-half or less of the Final Acute Value (FAV) as determined according to "Guidelines for Deriving Numerical Water Quality Criteria for the Protection of Aquatic Life and its Uses" published by the Environmental Protection Agency and referenced in the Federal Register (50 FR 30784, July 29, 1985) which is incorporated by reference including subsequent amendments and editions.
  - (b) for specific chemical constituents or compounds for which values described under Sub-Item (a) of this Item cannot be determined, acceptable levels shall be equivalent to a concentration of one-third or less of the lowest available LC50 value.
  - (c) for effluents, acceptable levels shall be defined as no statistically measurable lethality (99 percent confidence level using Student's t-test) during a specified exposure period. Concentrations of exposure shall be based on permit requirements and procedures in accordance with 15A NCAC 02H .1110.
  - (d) in instances where detailed dose response data indicate that levels of acute toxicity are different from those defined in this Rule, the Director may determine on a case-by-case basis an alternate acceptable level through statistical analyses of the dose response in accordance with 15A NCAC 02H .1110.

- (2) "Acute to Chronic Ratio" or "ACR" means the ratio of acute toxicity expressed as an LC50 for a specific toxicant or an effluent to the chronic value for the same toxicant or effluent.
- (3) "Agricultural uses" means the use of waters for stock watering, irrigation, and other farm purposes.
- (4) "Applicator" means any person, firm, corporation, wholesaler, retailer, or distributor; any local, State, or federal governmental agency; or any other person who applies fertilizer to the land of a consumer or client or to land that they own, lease, or otherwise hold rights.
- (5) "Approved treatment," as applied to water supplies, means treatment approved by the Division in accordance with 15A NCAC 18C .0301 through .0309, as authorized by G.S. 130A-315 and G.S. 130A-317.
- (6) "Attainable water uses" means uses that can be achieved by the imposition of effluent limits and cost effective and reasonable best management practices (BMP) for nonpoint source control.
- (7) "Available cyanide" means inorganic cyanides that are free (HCN and CN<sup>-</sup>) and metal-cyanide complexes that are dissociated into free cyanide ions under mildly acidic conditions (pH 3 to 6).
- (8) "Average" means the arithmetical average of the analytical results of all representative samples taken under prevailing environmental conditions during a specified period (for example: daily, weekly, or monthly).
- (9) "Best Management Practice" or "BMP" means a structural or nonstructural management-based practice used singularly or in combination to reduce point source or nonpoint source inputs to receiving waters in order to achieve water quality protection goals.
- (10) "Best usage" or "Best use" of waters, as specified for each class, means those uses as determined by the Environmental Management Commission in accordance with the provisions of G.S. 143-214.1.
- (11) "Bioaccumulation factor" or "BAF" means a unitless value that describes the degree to which substances are taken up or accumulated into tissues of aquatic organisms from water directly and from food or other ingested materials containing the accumulated substances, and is measured as a ratio of a substance's concentration in tissue versus its concentration in water in situations where exposure to the substance occurs from both water and the food chain.
- (12) "Bioconcentration factor" or "BCF" means a unitless value that describes the degree to which substances are absorbed or concentrated into tissues of aquatic organisms from water directly

- and is measured as a ratio of substance's concentration in tissue versus its concentration in water in situations where exposure to the substance occurs from water only.
- (13) "Biological integrity" means the ability of an aquatic ecosystem to support and maintain a balanced and indigenous community of organisms having species composition, diversity, population densities, and functional organization similar to that of reference conditions.
- (14) "Buffer" means a natural or vegetated area through which stormwater runoff flows in a diffuse manner so that the runoff does not become channelized and which provides for infiltration of the runoff and filtering of pollutants.
- (15) "Chronic toxicity to aquatic life" means any harmful effect sustained by either resident aquatic populations or indicator species used as test organisms in a controlled toxicity test due to long-term exposure (relative to the life cycle of the organism) or exposure during a substantial portion of the duration of a sensitive period of the life cycle to a specific chemical substance or mixture of chemicals (as in an effluent). In absence of extended periods of exposure, early life stage or reproductive toxicity tests may be used to define chronic impacts.
- (16) "Chronic value for aquatic life" means the geometric mean of two concentrations identified in a controlled toxicity test as the No Observable Effect Concentration (NOEC) and the Lowest Observable Effect Concentration (LOEC).
- (17) "Commercial applicator" means any person, firm, corporation, wholesaler, retailer, distributor, or any other person who for hire or compensation applies fertilizer to the land of a consumer or client.
- (18) "Concentration" means the mass of a substance per volume of water and, for the purposes of this Section, shall be expressed as milligrams per liter (mg/l), micrograms per liter (ug/l), or nanograms per liter (ng/l).
- (19) "Contiguous" means those wetlands landward of the mean high water line or normal water level and within 575 feet of classified surface waters that appear as solid blue lines on the most recently published versions of U.S.G.S. 1:24,000 (7.5 minute) scale topographic maps, which are available at no cost at <http://www.usgs.gov/pubprod/>.
- (20) "Critical area" means the area adjacent to a water supply intake or reservoir where risk associated with pollution is greater than risk associated with pollution from the remaining portions of the watershed. The boundary of a critical area is defined as:
- (a) extending either 1/2 mile in a straight line fashion upstream from and draining to the normal pool elevation of the reservoir in which the intake is located or to the ridge line of the watershed, whichever is nearest the normal pool elevation of the reservoir;
  - (b) extending either 1/2 mile in a straight line fashion upstream from and draining to the intake (or other appropriate downstream location associated with the water supply) located directly in the stream or river (run-of-the-river) or to the ridge line of the watershed, whichever is nearest the intake; or
  - (c) extending a different distance from the reservoir or intake as adopted by the Commission during the reclassification process pursuant to Rule .0104 of this Subchapter.
- Since WS-I watersheds are essentially undeveloped, establishment of a critical area is not required.
- (21) "Cropland" means agricultural land that is not covered by a certified animal waste management plan and is used for growing corn, grains, oilseed crops, cotton, forages, tobacco, beans, or other vegetables or fruits.
- (22) "Designated Nonpoint Source Agency" means an agency specified by the Governor in the North Carolina Nonpoint Source Management Program, as approved by the Environmental Protection Agency pursuant to the 1987 amendments to the federal Clean Water Act 33 U.S.C. 1329 that established Section 319 Nonpoint source management programs.
- (23) "Director" means the Director of the Division.
- (24) "Discharge" means the addition of any man-induced waste effluent either directly or indirectly to State surface waters.
- (25) "Division" means the Division of Water Resources or its successors.
- (26) "Domestic wastewater discharge" means the discharge of sewage, non-process industrial wastewater, other domestic wastewater, or any combination of these items. Domestic wastewater includes, but is not limited to, liquid waste generated by domestic water using fixtures and appliances from any residence, place of business, or place of public assembly, even if it contains no sewage. Examples of domestic wastewater include once-through non-contact cooling water, seafood packing facility discharges, and wastewater from restaurants.

- (27) "Effluent channel" means a discernable confined and discrete conveyance that is used for transporting treated wastewater to a receiving stream or other body of water, as provided in Rule .0228 of this Section.
- (28) "Existing uses" mean uses actually attained in the water body on or after November 28, 1975, whether or not they are included in the water quality standards.
- (29) "Fertilizer" means any substance containing nitrogen or phosphorus that is used primarily as plant food.
- (30) "Fishing" means the taking of fish by recreational or commercial methods, the consumption of fish or shellfish, the propagation of fish, or the propagation of other aquatic life as is necessary to protect the biological integrity of the environment for fish.
- (31) "Forest vegetation" means the plants of an area that grow in disturbed or undisturbed conditions in wooded plant communities in any combination of trees, saplings, shrubs, vines, and herbaceous plants, including mature and successional forests and cutover stands.
- (32) "Freshwater" means all waters that under natural conditions have a chloride ion content of 500 mg/l or less.
- (33) "Industrial discharge" means the discharge of industrial process treated wastewater or wastewater other than sewage. Stormwater shall not be considered to be an industrial wastewater unless it is contaminated with industrial wastewater. Industrial discharge includes:
  - (a) wastewater resulting from any process of industry or manufacture or from the development of any natural resource;
  - (b) wastewater resulting from processes of trade or business, including wastewater from laundromats and car washes, but not wastewater from restaurants; and
  - (c) for the purpose of prohibiting discharges to waters classified as Water Supply (WS) in accordance with Rules .0212, .0214, .0215, .0216, and .0218 of this Section, wastewater discharged from a municipal wastewater treatment plant required to administer a pretreatment program pursuant to 15A NCAC 02H .0904.
- (34) "Land-disturbing activity" means any use of the land that results in a change in the natural cover or topography that may cause or contribute to sedimentation.
- (35) "LC50" means that concentration of a toxic substance that is lethal or immobilizing to 50 percent of the sensitive aquatic toxicity testing species tested during a specified exposure period, as required by NPDES permit, under aquatic conditions characteristic of the receiving waters. Sensitive species for aquatic toxicity testing is defined by Subparagraph (50) of this Rule.
- (36) "Lentic" means an aquatic ecosystem with standing or slow flowing water such as a lake, pond, or reservoir.
- (37) "Local government" means a city or county in singular or plural as defined in G.S. 160A-1(2) and G.S. 158A-10.
- (38) "Lotic" means an aquatic ecosystem with rapidly flowing water such as a stream or river.
- (39) "Lower piedmont and coastal plain waters" means those waters of the Catawba River Basin below Lookout Shoals Dam; the Yadkin River Basin below the junction of the Forsyth, Yadkin, and Davie County lines; and all of the waters of Cape Fear, Lumber, Roanoke, Neuse, Tar-Pamlico, Chowan, Pasquotank, and White Oak River Basins; except tidal salt waters which are assigned S classifications.
- (40) "MF" means the membrane filter procedure for bacteriological analysis.
- (41) "Mixing zone" means a region of the receiving water in the vicinity of a discharge within which dispersion and dilution of constituents in the discharge occurs. Zones shall be subject to conditions established in accordance with Rule .0204(b) of this Section.
- (42) "Mountain and upper piedmont waters" means all of the waters of the Hiwassee; Little Tennessee, including the Savannah River drainage area; French Broad; Broad; New; and Watauga River Basins; and those portions of the Catawba River Basin above Lookout Shoals Dam and the Yadkin River Basin above the junction of the Forsyth, Yadkin, and Davie County lines.
- (43) "Nonpoint source pollution" means pollution that enters waters mainly as a result of precipitation and subsequent runoff from lands that have been disturbed by man's activities and includes all sources of water pollution that are not required to have a permit in accordance with G.S. 143-215.1(c).
- (44) "Non-process discharge" means industrial effluent not directly resulting from the manufacturing process. An example is non-contact cooling water from a compressor.
- (45) "Offensive condition" means any condition or conditions resulting from the presence of sewage, industrial wastes, or other wastes within the waters of the State or along the shorelines thereof that shall either directly or indirectly cause foul or noxious odors, unsightly conditions, or breeding of abnormally large quantities of mosquitoes or other insect pests; damage private or public water supplies

- or other structures; result in the development of gases which destroy or damage surrounding property, herbage, or grasses; cause the impairment of taste such as from fish flesh tainting; or affect the health of any person residing or working in the area.
- (46) "Primary contact recreation" means swimming, diving, skiing, and similar uses involving human body contact with water where such activities take place in an organized or on a frequent basis.
- (47) "Primary nursery area" or "PNA" means tidal saltwaters that provide essential habitat for the early development of commercially important fish and shellfish and are so designated by the Marine Fisheries Commission.
- (48) "Protected area" means the area adjoining and upstream of the critical area in a WS-IV water supply in which protection measures are required. The boundary of a protected area is defined as:
- (a) extending either five miles in an as-the-river-runs manner upstream from and draining to the normal pool elevation of the reservoir in which the intake is located or to the ridge line of the watershed, whichever is nearest the normal pool elevation of the reservoir;
  - (b) extending either 10 miles in an as-the-river-runs manner upstream from and draining to the intake located directly in the stream or river run-of-the-river or to the ridge line of the watershed, whichever is nearest the intake. In some cases the protected area shall encompass the entire watershed; or
  - (c) extending a different distance from the reservoir or intake as adopted by the Commission during the reclassification process pursuant to Rule .0104 of this Subchapter.
- (49) "Residential development" means buildings for residence such as attached and detached single family dwellings, apartment complexes, condominiums, townhouses, cottages, and their associated outbuildings such as garages, storage buildings, and gazebos.
- (50) "Residuals" has the same meaning as in 15A NCAC 02T .0103.
- (51) "Riparian area" means an area that is adjacent to a body of water.
- (52) "Secondary contact recreation" means wading, boating, other uses not involving human body contact with water, and activities involving human body contact with water where such activities take place on an infrequent, unorganized, or incidental basis.
- (53) "Sensitive species for aquatic toxicity testing" means any species utilized in procedures accepted by the Commission or its designee in accordance with Rule .0103 of this Subchapter, and the following genera:
- (a) Arbacia;
  - (b) Ceriodaphnia;
  - (c) Champia;
  - (d) Chironomus;
  - (e) Cyprinodon;
  - (f) Daphnia;
  - (g) Hyalella;
  - (h) Lumbriculus;
  - (i) Menidia;
  - (j) Mysidopsis;
  - (k) Notropis;
  - (l) Oncorhynchus;
  - (m) Penaeus;
  - (n) Pimephales;
  - (o) Salmo;
  - (p) Salvelinus;
  - (q) Selenastrum.
- (54) "Shellfish culture" means the use of waters for the propagation, storage, and gathering of oysters, clams, and other shellfish for market purposes.
- (55) "Swamp waters" means those waters that are classified as such by the Environmental Management Commission, pursuant to Rule .0101 of this Subchapter, and that have natural characteristics due to topography, such as low velocity, dissolved oxygen, or pH, that are different from streams draining steeper topography.
- (56) "Tidal salt waters" means all waters that have a natural chloride ion content in excess of 500 parts per million.
- (57) "Toxic substance" or "Toxicant" means any substance or combination of substances (including disease-causing agents) that, after discharge and upon exposure, ingestion, inhalation, or assimilation into any organism, either directly from the environment or indirectly by ingestion through food chains, has the potential to cause death, disease, behavioral abnormalities, cancer, genetic mutations, physiological malfunctions (including malfunctions or suppression in reproduction or growth), or physical deformities in such organisms or their offspring.
- (58) "Trout waters" means those waters that are classified as such by the Environmental Management Commission, pursuant to Rule .0101 of this Subchapter, and have conditions that sustain and allow for natural trout propagation and survival and for year-round maintenance of stocked trout.
- (59) "Water dependent structures" means those structures that require access or proximity to or

siting within surface waters to fulfill its purpose, such as boat ramps, boat houses, docks, and bulkheads. Ancillary facilities such as restaurants, outlets for boat supplies, parking lots, and commercial boat storage areas are not water dependent structures.

- (60) "Water quality based effluent limits (or limitations) and management practices" mean limits and practices developed by the Division to protect water quality standards and best uses of surface waters, consistent with the requirements of G.S. 143-214.1 and the federal Water Pollution Control Act, as amended.
- (61) "Waters with quality higher than the standards" means waters that the Director determines (pursuant to Rule .0206 of this Section) have the capacity to receive additional pollutant loading and continue to meet applicable water quality standards.
- (62) "Watershed" means a natural area of drainage, including all tributaries contributing to the supply of at least one major waterway within the State, the specific limits of each separate watershed to be designated by the Commission as defined by G.S. 143-213(21).
- (63) "WER" or "Water effect ratio" expresses the difference between the measures of the toxicity of a substance in laboratory waters and the toxicity in site water.
- (64) "Wetlands" are "waters" as defined by G.S. 143-212(6) that are inundated or saturated by an accumulation of surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands do not include prior converted cropland as defined in the National Food Security Act Manual, Fifth Edition, which is hereby incorporated by reference, not including subsequent amendments and editions, and is available free of charge at <https://directives.sc.egov.usda.gov/RollupViewer.aspx?hid=29340>.

*History Note:* Authority G.S. 143-213; 143-214.1; 143-215.3(a)(1);  
*Eff. February 1, 1976;*  
*Amended Eff. August 1, 1995; February 1, 1993; August 3, 1992; August 1, 1990;*  
*RRC Objection Eff. July 18, 1996 due to lack of authority and ambiguity;*  
*Amended Eff. August 1, 1998; October 1, 1996;*  
*Readopted Eff. November 1, 2019;*  
*Amended Eff. June 1, 2022.*

#### **15A NCAC 02B .0211 FRESH SURFACE WATER QUALITY STANDARDS FOR CLASS C WATERS**

In addition to the standards set forth in Rule .0208 of this Section, the following water quality standards shall apply to all Class C waters. Additional standards applicable to other freshwater classifications are specified in Rules .0212, .0214, .0215, .0216, .0218, .0219, .0223, .0224, .0225, and .0231 of this Section.

- (1) The best usage of waters shall be aquatic life propagation, survival, and maintenance of biological integrity (including fishing and fish); wildlife; secondary contact recreation; agriculture; and any other usage except for primary contact recreation or as a source of water supply for drinking, culinary, and food processing purposes. All freshwaters shall be classified to protect these uses at a minimum.
- (2) The conditions of waters shall be such that waters are suitable for all best uses specified in this Rule. Sources of water pollution that preclude any of these uses on either a short-term or long-term basis shall be deemed to violate a water quality standard;
- (3) Chlorine, total residual: 17 ug/l;
- (4) Chlorophyll a (corrected): not greater than 40 ug/l for lakes, reservoirs, and other waters subject to growths of macroscopic or microscopic vegetation not designated as trout waters, and not greater than 15 ug/l for lakes, reservoirs, and other waters subject to growths of macroscopic or microscopic vegetation designated as trout waters (not applicable to lakes or reservoirs less than 10 acres in surface area). The Commission or its designee may prohibit or limit any discharge of waste into surface waters if the surface waters experience or the discharge would result in growths of microscopic or macroscopic vegetation such that the standards established pursuant to this Rule would be violated or the intended best usage of the waters would be impaired;
- (5) Cyanide, available or total: 5.0 ug/l;
- (6) Dissolved oxygen: not less than 6.0 mg/l for trout waters; for non-trout waters, not less than a daily average of 5.0 mg/l with an instantaneous value of not less than 4.0 mg/l; swamp waters, lake coves, or backwaters, and lake bottom waters may have lower values if caused by natural conditions;
- (7) Fecal coliform: shall not exceed a geometric mean of 200/100ml (MF count) based upon at least five samples taken over a 30-day period, nor exceed 400/100ml in more than 20 percent of the samples examined during such period. Violations of this Item are expected during rainfall events and may be caused by uncontrollable nonpoint source pollution. All coliform concentrations shall be analyzed using the membrane filter technique. If high turbidity or other conditions would cause the membrane

- filter technique to produce inaccurate data, the most probable number (MPN) 5-tube multiple dilution method shall be used.
- (8) Floating solids, settleable solids, or sludge deposits: only such amounts attributable to sewage, industrial wastes, or other wastes as shall not make the water unsafe or unsuitable for aquatic life and wildlife or impair the waters for any designated uses;
  - (9) Fluoride: 1.8 mg/l;
  - (10) Gases, total dissolved: not greater than 110 percent of saturation;
  - (11) Metals:
    - (a) With the exception of mercury, acute and chronic freshwater aquatic life standards for metals shall be based upon measurement of the dissolved fraction of the metal. Mercury water quality standards shall be based upon measurement of the total recoverable metal;
    - (b) With the exception of mercury, aquatic life standards for metals listed in this Sub-Item shall apply as a function of the pollutant's water effect ratio (WER). The WER shall be assigned a value equal to one unless any person demonstrates to the Division's satisfaction in a permit proceeding that another value is developed in accordance with the "Water Quality Standards Handbook: Second Edition" published by the US Environmental Protection Agency (EPA-823-B-12-002), which is hereby incorporated by reference, including
      - (i) Selenium, chronic: The standard for chronic selenium has the following components: fish egg/ovary tissue, fish whole body or muscle tissue, and water column (lentic and lotic). These components shall be used in the following order of preference provided data is available:
        - (i) Fish egg/ovary tissue;
        - (ii) Fish whole body or muscle tissue;
        - (iii) Water column.
    - (c) Freshwater metals standards that are not hardness-dependent shall be as follows:
      - (i) Arsenic, dissolved, acute: WER· 340 ug/l;
      - (ii) Arsenic, dissolved, chronic: WER· 150 ug/l;
      - (iii) Beryllium, dissolved, acute: WER· 65 ug/l;
      - (iv) Beryllium, dissolved, chronic: WER· 6.5 ug/l;
      - (v) Chromium VI, dissolved, acute: WER· 16 ug/l;
      - (vi) Chromium VI, dissolved, chronic: WER· 11 ug/l;
      - (vii) Mercury, total recoverable, chronic: 0.012 ug/l;
      - (viii) Silver, dissolved, chronic: WER· 0.06 ug/l;
- Fish tissue concentrations are determined as dry weight and water column concentrations are based on the dissolved fraction of selenium. Fish tissue components are expressed as steady-state concentrations and provide instantaneous point measurements that reflect integrative accumulation of selenium over time and space in fish populations at a given site. Fish tissue components supersede the water column component when both fish tissue and water concentrations are measured. Egg-ovary tissue results, where available, supersede all other tissue and water column components. The chronic selenium standards are as follows:

Component		Magnitude	Duration
Fish tissue	Fish egg/ovary tissue	15.1 mg/kg	Instantaneous
	Fish whole body or muscle tissue	8.5 mg/kg whole body	Instantaneous
		11.3 mg/kg muscle	Instantaneous
Water column	Lentic or Lotic	1.5 ug/l lentic	30-day average
		3.1 ug/l lotic	30-day average

- (e) Hardness-dependent freshwater metals standards shall be derived using the equations specified in Table A: Dissolved Freshwater Standards for Hardness-Dependent Metals. If the actual instream hardness (expressed as  $\text{CaCO}_3$  or  $\text{Ca}+\text{Mg}$ ) is less than 400 mg/l, standards shall be calculated based upon the actual instream hardness. If the instream hardness is greater than 400 mg/l, the maximum applicable hardness shall be 400 mg/l.

Table A: Dissolved Freshwater Standards for Hardness-Dependent Metals

Numeric standards calculated at 25 mg/l hardness are listed below for illustrative purposes. The Water Effects Ratio (WER) is equal to one unless determined otherwise under Sub-Item (11)(b) of this Rule.

Metal	Equations for Hardness-Dependent Freshwater Metals (ug/l)	Standard at 25 mg/l hardness (ug/l)
Cadmium, Acute	$\text{WER} \cdot \{1.136672 - [\ln \text{ hardness}](0.041838)\} \cdot e^{\{0.9789 [\ln \text{ hardness}] - 3.443\}}$	0.75
Cadmium, Acute, Trout waters	$\text{WER} \cdot \{1.136672 - [\ln \text{ hardness}](0.041838)\} \cdot e^{\{0.9789 [\ln \text{ hardness}] - 3.866\}}$	0.49
Cadmium, Chronic	$\text{WER} \cdot \{1.101672 - [\ln \text{ hardness}](0.041838)\} \cdot e^{\{0.7977 [\ln \text{ hardness}] - 3.909\}}$	0.25
Chromium III, Acute	$\text{WER} \cdot [0.316 \cdot e^{\{0.8190 [\ln \text{ hardness}] + 3.7256\}}]$	180
Chromium III, Chronic	$\text{WER} \cdot [0.860 \cdot e^{\{0.8190 [\ln \text{ hardness}] + 0.6848\}}]$	24
Copper, Acute	$\text{WER} \cdot [0.960 \cdot e^{\{0.9422 [\ln \text{ hardness}] - 1.700\}}]$ Or, Aquatic Life Ambient Freshwater Quality Criteria-Copper 2007 Revision (EPA-822-R-07-001)	3.6  NA
Copper, Chronic	$\text{WER} \cdot [0.960 \cdot e^{\{0.8545 [\ln \text{ hardness}] - 1.702\}}]$ Or, Aquatic Life Ambient Freshwater Quality Criteria-Copper 2007 Revision (EPA-822-R-07-001)	2.7  NA
Lead, Acute	$\text{WER} \cdot \{1.46203 - [\ln \text{ hardness}](0.145712)\} \cdot e^{\{1.273 [\ln \text{ hardness}] - 1.460\}}$	14
Lead, Chronic	$\text{WER} \cdot \{1.46203 - [\ln \text{ hardness}](0.145712)\} \cdot e^{\{1.273 [\ln \text{ hardness}] - 4.705\}}$	0.54
Nickel, Acute	$\text{WER} \cdot [0.998 \cdot e^{\{0.8460 [\ln \text{ hardness}] + 2.255\}}]$	140
Nickel, Chronic	$\text{WER} \cdot [0.997 \cdot e^{\{0.8460 [\ln \text{ hardness}] + 0.0584\}}]$	16
Silver, Acute	$\text{WER} \cdot [0.85 \cdot e^{\{1.72 [\ln \text{ hardness}] - 6.59\}}]$	0.30
Zinc, Acute	$\text{WER} \cdot [0.978 \cdot e^{\{0.8473 [\ln \text{ hardness}] + 0.884\}}]$	36
Zinc, Chronic	$\text{WER} \cdot [0.986 \cdot e^{\{0.8473 [\ln \text{ hardness}] + 0.884\}}]$	36

- (f) Compliance with acute instream metals standards shall only be evaluated using an average of two or more samples collected within one hour. Compliance with chronic instream metals standards, except for selenium shall only be evaluated using an average of a minimum of four samples taken on consecutive days or as a 96-hour average;
- (12) Oils, deleterious substances, or colored or other wastes: only such amounts as shall not render the waters injurious to public health, secondary recreation, or to aquatic life and wildlife, or adversely affect the palatability of fish,
- aesthetic quality, or impair the waters for any designated uses. For the purpose of implementing this Rule, oils, deleterious substances, or colored or other wastes shall include substances that cause a film or sheen upon or discoloration of the surface of the water or adjoining shorelines, as described in 40 CFR 110.3(a)-(b), incorporated by reference including subsequent amendments and editions. This material is available, free of charge, at: <http://www.ecfr.gov/>;
- (13) Pesticides:
- (a) Aldrin: 0.002 ug/l;
  - (b) Chlordane: 0.004 ug/l;
  - (c) DDT: 0.001 ug/l;

- (d) Demeton: 0.1 ug/l;
- (e) Dieldrin: 0.002 ug/l;
- (f) Endosulfan: 0.05 ug/l;
- (g) Endrin: 0.002 ug/l;
- (h) Guthion: 0.01 ug/l;
- (i) Heptachlor: 0.004 ug/l;
- (j) Lindane: 0.01 ug/l;
- (k) Methoxychlor: 0.03 ug/l;
- (l) Mirex: 0.001 ug/l;
- (m) Parathion: 0.013 ug/l; and
- (n) Toxaphene: 0.0002 ug/l;
- (14) pH: shall be between 6.0 and 9.0 except that swamp waters may have a pH as low as 4.3 if it is the result of natural conditions;
- (15) Phenolic compounds: only such levels as shall not result in fish-flesh tainting or impairment of other best usage;
- (16) Polychlorinated biphenyls (total of all PCBs and congeners identified): 0.001 ug/l;
- (17) Radioactive substances, based on at least one sample collected per quarter:
  - (a) Combined radium-226 and radium-228: the average annual activity level for combined radium-226 and radium-228 shall not exceed five picoCuries per liter;
  - (b) Alpha Emitters: the average annual gross alpha particle activity (including radium-226, but excluding radon and uranium) shall not exceed 15 picoCuries per liter;
  - (c) Beta Emitters: the average annual activity level for strontium-90 shall not exceed eight picoCuries per liter, nor shall the average annual gross beta particle activity (excluding potassium-40 and other naturally occurring radionuclides) exceed 50 picoCuries per liter, nor shall the average annual activity level for tritium exceed 20,000 picoCuries per liter;
- (18) Temperature: not to exceed 2.8 degrees C (5.04 degrees F) above the natural water temperature, and in no case to exceed 29 degrees C (84.2 degrees F) for mountain and upper piedmont waters and 32 degrees C (89.6 degrees F) for lower piedmont and coastal plain waters; the temperature for trout waters shall not be increased by more than 0.5 degrees C (0.9 degrees F) due to the discharge of heated liquids, but in no case to exceed 20 degrees C (68 degrees F);
- (19) Toluene: 0.36 ug/l in trout classified waters or 11 ug/l in all other waters;
- (20) Trialkyltin compounds: 0.07 ug/l expressed as tributyltin;
- (21) Turbidity: the turbidity in the receiving water shall not exceed 50 Nephelometric Turbidity

Units (NTU) in streams not designated as trout waters and 10 NTU in streams, lakes, or reservoirs designated as trout waters; for lakes and reservoirs not designated as trout waters, the turbidity shall not exceed 25 NTU; if turbidity exceeds these levels due to natural background conditions, the existing turbidity level shall not be increased. Compliance with this turbidity standard shall be deemed met when land management activities employ Best Management Practices (BMPs), as defined by Rule .0202 of this Section, recommended by the Designated Nonpoint Source Agency, as defined by Rule .0202 of this Section.

- (22) Toxic Substance Level Applicable to NPDES Permits: Chloride: 230 mg/l. If chloride is determined by the waste load allocation to be exceeded in a receiving water by a discharge under the specified 7Q10 criterion for toxic substances, the discharger shall monitor the chemical or biological effects of the discharge. Efforts shall be made by all dischargers to reduce or eliminate chloride from their effluents. Chloride shall be limited as appropriate in the NPDES permit if sufficient information exists to indicate that it may be a causative factor resulting in toxicity of the effluent.

*History Note: Authority G.S. 143-214.1; 143-215.3(a)(1); Eff. February 1, 1976;*  
*Amended Eff. January 1, 2015; May 1, 2007; April 1, 2003; August 1, 2000; October 1, 1995; August 1, 1995; April 1, 1994; February 1, 1993;*  
*Readopted Eff. November 1, 2019;*  
*Amended Eff. June 1, 2022.*

#### **15A NCAC 02B .0219 FRESH SURFACE WATER QUALITY STANDARDS FOR CLASS B WATERS**

The following water quality standards shall apply to surface waters that are for primary contact recreation as defined in Rule .0202 of this Section, and are classified as Class B waters. Water quality standards applicable to Class C waters as described in Rule .0211 of this Section also apply to Class B waters.

- (1) The best usage of Class B waters shall be primary contact recreation and any other best usage specified for Class C waters.
- (2) Class B waters shall meet the standards of water quality for outdoor bathing places as specified in Item (3) of this Rule and shall be of sufficient size and depth for primary contact recreation. In assigning the B classification to waters intended for primary contact recreation, the Commission shall consider the relative proximity of sources of water pollution and the potential hazards involved in locating swimming areas close to sources of water pollution and shall not assign this classification to waters in which such water pollution could result in a hazard to public

- health. Sources of water pollution that preclude any of these uses on either a short-term or long-term basis shall be deemed to violate a water quality standard.
- (3) Quality standards applicable to Class B waters:
- (a) Sewage, industrial wastes, or other wastes: none shall be allowed that are not treated to the satisfaction of the Commission. In determining the degree of treatment required for such waste when discharged into waters to be used for bathing, the Commission shall consider the quality and quantity of the sewage and wastes involved and the proximity of such discharges to waters in this class. Discharges in the immediate vicinity of bathing areas shall not be allowed if the Director determines that the waste cannot be treated to ensure the protection of primary contact recreation;
- (b) Fecal coliforms shall not exceed a geometric mean of 200/100 ml (MF count) based on at least five samples taken over a 30 day period, nor exceed 400/100 ml in more than 20 percent of the samples examined during such period.
- (4) Wastewater discharges to waters classified as B shall meet the reliability requirements specified in 15A NCAC 02H .0124. Discharges to waters where a primary contact recreational use is determined by the Director to be attainable shall be required to meet water quality standards and reliability requirements to protect this use concurrently with reclassification efforts.

*History Note:* Authority G.S. 143-214.1; 143-215.3(a)(1);  
*Eff. January 1, 1990;*  
*Amended Eff. October 1, 1995;*  
*Readopted Eff. November 1, 2019;*  
*Amended Eff. June 1, 2022.*

**15A NCAC 02B .0220 TIDAL SALT WATER QUALITY STANDARDS FOR CLASS SC WATERS**

In addition to the standards set forth in Rule .0208 of this Section, the following water quality standards shall apply to all Class SC waters. Additional standards applicable to other tidal salt water classifications are specified in Rules .0221 and .0222 of this Section.

- (1) The best usage of waters classified as SC shall be aquatic life propagation, survival, and maintenance of biological integrity (including fishing, fish, and Primary Nursery Areas (PNAs)); wildlife; secondary contact recreation as defined in Rule .0202 in this Section; and any usage except primary contact recreation or shellfishing for market purposes. All saltwaters

- shall be classified to protect these uses at a minimum.
- (2) The best usage of waters classified as SC shall be maintained as specified in this Rule. Any source of water pollution that precludes any of these uses on either a short-term or a long-term basis shall be deemed to violate a water quality standard;
- (3) Chlorophyll a (corrected): not greater than 40 ug/l in sounds, estuaries, and other waters subject to growths of macroscopic or microscopic vegetation. The Commission or its designee may prohibit or limit any discharge of waste into surface waters if the Director determines that the surface waters experience or the discharge would result in growths of microscopic or macroscopic vegetation such that the standards established pursuant to this Rule would be violated or the intended best usage of the waters would be impaired;
- (4) Cyanide: 1 ug/l;
- (5) Dissolved oxygen: not less than 5.0 mg/l, except that swamp waters, poorly flushed tidally influenced streams or embayments, or estuarine bottom waters may have lower values if caused by natural conditions;
- (6) Enterococcus, including *Enterococcus faecalis*, *Enterococcus faecium*, *Enterococcus avium* and *Enterococcus gallinarum*: not exceed a geometric mean of 35 enterococci per 100 ml based upon a minimum of five samples taken over a 30-day period. For the purposes of beach monitoring and notification, "Coastal Recreational Waters Monitoring, Evaluation and Notification" regulations (15A NCAC 18A .3400), available free of charge at: <http://www.ncoah.com/>, are incorporated by reference including subsequent amendments and editions;
- (7) Floating solids, settleable solids, or sludge deposits: only such amounts attributable to sewage, industrial wastes, or other wastes as shall not make the waters unsafe or unsuitable for aquatic life and wildlife, or impair the waters for any designated uses;
- (8) Gases, total dissolved: not greater than 110 percent of saturation;
- (9) Metals:
- (a) With the exception of mercury and selenium, acute and chronic tidal salt water quality standards for metals shall be based upon measurement of the dissolved fraction of the metals. Mercury and selenium shall be based upon measurement of the total recoverable metal;
- (b) With the exception of mercury and selenium, acute and chronic tidal saltwater quality aquatic life standards

- for metals listed in this Sub-Item shall apply as a function of the pollutant's water effect ratio (WER). The WER shall be assigned a value equal to one unless any person demonstrates to the Division in a permit proceeding that another value is developed in accordance with the "Water Quality Standards Handbook: Second Edition" published by the US Environmental Protection Agency (EPA-823-B-12-002). Alternative site-specific standards may also be developed when any person submits values that demonstrate to the Commission that they were derived in accordance with the "Water Quality Standards Handbook: Second Edition, Recalculation Procedure or the Resident Species Procedure."
- (c) Acute and chronic tidal salt water quality metals standards shall be as follows:
- (i) Arsenic, acute: WER· 69 ug/l;
  - (ii) Arsenic, chronic: WER· 36 ug/l;
  - (iii) Cadmium, acute: WER· 33 ug/l;
  - (iv) Cadmium, chronic: WER· 7.9 ug/l;
  - (v) Chromium VI, acute: WER· 1100 ug/l;
  - (vi) Chromium VI, chronic: WER· 50 ug/l;
  - (vii) Copper, acute: WER· 4.8 ug/l;
  - (viii) Copper, chronic: WER· 3.1 ug/l;
  - (ix) Lead, acute: WER· 210 ug/l;
  - (x) Lead, chronic: WER· 8.1 ug/l;
  - (xi) Mercury, total recoverable, chronic: 0.025 ug/l;
  - (xii) Nickel, acute: WER· 74 ug/l;
  - (xiii) Nickel, chronic: WER· 8.2 ug/l;
  - (xiv) Selenium, total recoverable, chronic: 71 ug/l;
  - (xv) Silver, acute: WER· 1.9 ug/l;
  - (xvi) Silver, chronic: WER· 0.1 ug/l;
  - (xvii) Zinc, acute: WER· 90 ug/l; and
  - (xviii) Zinc, chronic: WER· 81 ug/l;
- (d) Compliance with acute instream metals standards shall only be evaluated using an average of two or more samples collected within one hour. Compliance with chronic instream metals standards shall only be evaluated using averages of a minimum of four samples taken on consecutive days, or as a 96-hour average;
- (10) Oils, deleterious substances, or colored or other wastes: only such amounts as shall not render the waters injurious to public health, secondary recreation, aquatic life, and wildlife or adversely affect the palatability of fish, aesthetic quality, or impair the waters for any designated uses. For the purpose of implementing this Rule, oils, deleterious substances, or colored or other wastes shall include substances that cause a film or sheen upon or discoloration of the surface of the water or adjoining shorelines, as described in 40 CFR 110.3, incorporated by reference including any subsequent amendments and editions. This material is available free of charge at <https://www.govinfo.gov>.
- (11) Pesticides:
- (a) Aldrin: 0.003 ug/l;
  - (b) Chlordane: 0.004 ug/l;
  - (c) DDT: 0.001 ug/l;
  - (d) Demeton: 0.1 ug/l;
  - (e) Dieldrin: 0.002 ug/l;
  - (f) Endosulfan: 0.009 ug/l;
  - (g) Endrin: 0.002 ug/l;
  - (h) Guthion: 0.01 ug/l;
  - (i) Heptachlor: 0.004 ug/l;
  - (j) Lindane: 0.004 ug/l;
  - (k) Methoxychlor: 0.03 ug/l;
  - (l) Mirex: 0.001 ug/l;
  - (m) Parathion: 0.178 ug/l; and
  - (n) Toxaphene: 0.0002 ug/l;
- (12) pH: shall be between 6.8 and 8.5, except that swamp waters may have a pH as low as 4.3 if it is the result of natural conditions;
- (13) Phenolic compounds: only such levels as shall not result in fish-flesh tainting or impairment of other best usage;
- (14) Polychlorinated biphenyls: (total of all PCBs and congeners identified) 0.001 ug/l;
- (15) Radioactive substances, based on at least one sample collected per quarter:
- (a) Combined radium-226 and radium-228: the average annual activity level for combined radium-226, and radium-228 shall not exceed five picoCuries per liter;
  - (b) Alpha Emitters: the average annual gross alpha particle activity (including radium-226, but excluding radon and uranium) shall not exceed 15 picoCuries per liter;
  - (c) Beta Emitters: the average annual activity level for strontium-90 shall

- not exceed eight picoCuries per liter, nor shall the average annual gross beta particle activity (excluding potassium-40 and other naturally occurring radionuclides exceed 50 picoCuries per liter, nor shall the average annual activity level for tritium exceed 20,000 picoCuries per liter;
- (16) Salinity: changes in salinity due to hydrological modifications shall not result in removal of the functions of a PNA. Projects that are determined by the Director to result in modifications of salinity such that functions of a PNA are impaired shall employ water management practices to mitigate salinity impacts;
- (17) Temperature: shall not be increased above the natural water temperature by more than 0.8 degrees C (1.44 degrees F) during the months of June, July, and August, shall not be increased by more than 2.2 degrees C (3.96 degrees F) during other months, and shall in no case exceed 32 degrees C (89.6 degrees F) due to the discharge of heated liquids;
- (18) Trialkyltin compounds: 0.007 ug/l expressed as tributyltin;
- (19) Turbidity: the turbidity in the receiving water shall not exceed 25 Nephelometric Turbidity Units (NTU); if turbidity exceeds this level due to natural background conditions, the existing turbidity level shall not be increased. Compliance with this turbidity standard shall be deemed met when land management activities employ Best Management Practices (BMPs), defined by Rule .0202 of this Section, recommended by the Designated Nonpoint Source Agency, as defined by Rule .0202 of this Section.

*History Note: Authority G.S. 143-214.1; 143-215.3(a)(1); Eff. October 1, 1995;*

*Amended Eff. January 1, 2015; May 1, 2007; August 1, 2000;*

*Readopted Eff. November 1, 2019;*

*Amended Eff. June 1, 2022.*

#### **15A NCAC 02B .0301 CLASSIFICATIONS: GENERAL**

(a) The classifications assigned to the waters of the State of North Carolina are set forth in river basin classification schedules provided at <https://deq.nc.gov/about/divisions/water-resources/water-planning/classification-standards/river-basin-classification> and in Rules .0302 to .0317 of this Section. These classifications are based upon procedures described in Rule .0101 of this Subchapter.

(b) Classifications. The classifications assigned to the waters of North Carolina are denoted by the letters C, B, WS-I, WS-II, WS-III, WS-IV, WS-V, WL, SC, SB, SA, SWL, Tr, Sw, NSW, ORW, HQW, and UWL. The "best usage", as defined in Rule .0202 of

this Subchapter, for each classification is defined in the rules as follows:

- (1) Fresh Waters Classifications:
  - (A) Class C: Rule .0211 of this Subchapter;
  - (B) Class B: Rule .0219 of this Subchapter;
  - (C) Class WS-I (Water Supply): Rule .0212 of this Subchapter;
  - (D) Class WS-II (Water Supply): Rule .0214 of this Subchapter;
  - (E) Class WS-III (Water Supply): Rule .0215 of this Subchapter;
  - (F) Class WS-IV (Water Supply): Rule .0216 of this Subchapter;
  - (G) Class WS-V (Water Supply): Rule .0218 of this Subchapter; and
  - (H) Class WL (Wetlands): Rule .0231 of this Subchapter.
- (2) Tidal Salt Waters Classifications:
  - (A) Class SC: Rule .0220 of this Subchapter;
  - (B) Class SB: Rule .0222 of this Subchapter;
  - (C) Class SA: Rule .0221 of this Subchapter; and
  - (D) Class SWL: Rule .0231 of this Subchapter.
- (3) Supplemental Classifications:
  - (A) Class Tr (Trout Waters): Rule .0202 of this Subchapter;
  - (B) Class Sw (Swamp): Rule .0202 of this Subchapter;
  - (C) Class NSW (Nutrient Sensitive Waters): Rule .0223 of this Subchapter;
  - (D) Class ORW (Outstanding Resource Waters): Rule .0225 of this Subchapter;
  - (E) Class HQW (High Quality Waters): Rule .0224 of this Subchapter; and
  - (F) Class UWL (Unique Wetlands): Rule .0231 of this Subchapter.

(c) Water Quality Standards. The water quality standards applicable to each classification assigned are those established in the rules of Section .0200 of this Subchapter.

(d) Index Number. The index number is an identification number assigned to each stream or segment of a stream, indicating the specific tributary progression between the main stem stream and tributary stream. The index number can be referenced to the Division's river basin classification schedules (hydrologic and alphabetic) for each river basin.

(e) Classification Date. The classification date indicates the date on which enforcement of the provisions of General Statutes 143-215.1 became effective with reference to the classification assigned to the various streams in North Carolina.

(f) Unnamed Streams.

- (1) Any stream that is not listed in a river basin classification schedule carries the same

classification as that assigned to the stream segment to which it is tributary except:

- (A) unnamed freshwaters tributary to tidal saltwaters will be classified "C"; or
  - (B) after November 1, 1986, any areas of tidal saltwater created by dredging projects approved in accordance with 15A NCAC 07H .0208 and connected to Class SA waters shall be classified "SC" unless case-by-case reclassification proceedings are conducted per Rule .0101 of this Subchapter.
- (2) In addition to Subparagraph (1) of this Paragraph, for unnamed streams entering other states, tribes approved for treatment as a state and administering a U.S. Environmental Protection Agency approved water quality standards program, or for specific areas of a river basin, the following Rules shall apply:
- (A) Hiwassee River Basin (Rule .0302 of this Section);
  - (B) Little Tennessee River Basin and Savannah River Drainage Area (Rule .0303 of this Section);
  - (C) French Broad River Basin (Rule .0304 of this Section);
  - (D) Watauga River Basin (Rule .0305 of this Section);
  - (E) Broad River Basin (Rule .0306 of this Section);
  - (F) New River Basin (Rule .0307 of this Section);
  - (G) Catawba River Basin (Rule .0308 of this Section);
  - (H) Yadkin-Pee Dee River Basin (Rule .0309 of this Section);
  - (I) Lumber River Basin (Rule .0310 of this Section);
  - (J) Roanoke River Basin (Rule .0313 of this Section);
  - (K) Tar-Pamlico River Basin (Rule .0316 of this Section); and
  - (L) Pasquotank River Basin (Rule .0317 of this Section).

*History Note: Authority G.S. 143-214.1; 143-214.5; 143-215.1; 143-215.3(a)(1);*

*Eff. February 1, 1976;*

*Amended Eff. August 1, 1995; August 3, 1992; August 1, 1990; October 1, 1989;*

*Readopted Eff. November 1, 2019;*

*Amended Eff. June 1, 2022.*

#### **15A NCAC 02B .0311 CAPE FEAR RIVER BASIN**

(a) Classifications assigned to the waters within the Cape Fear River Basin are set forth in the Cape Fear River Basin Classification Schedule, which may be inspected at the following places:

- (1) the Internet at <https://deq.nc.gov/about/divisions/water-resources/water-planning/classification-standards/river-basin-classification>; and
- (2) the following offices of the North Carolina Department of Environmental Quality:
  - (A) Winston-Salem Regional Office  
450 West Hanes Mill Road  
Winston-Salem, North Carolina;
  - (B) Fayetteville Regional Office  
225 Green Street  
Systel Building Suite 714  
Fayetteville, North Carolina;
  - (C) Raleigh Regional Office  
3800 Barrett Drive  
Raleigh, North Carolina;
  - (D) Washington Regional Office  
943 Washington Square Mall  
Washington, North Carolina;
  - (E) Wilmington Regional Office  
127 Cardinal Drive Extension  
Wilmington, North Carolina; and
  - (F) Division of Water Resources  
Central Office  
512 North Salisbury Street  
Raleigh, North Carolina.

(b) The Cape Fear River Basin Classification Schedule was amended effective:

- (1) March 1, 1977;
- (2) December 13, 1979;
- (3) December 14, 1980;
- (4) August 9, 1981;
- (5) April 1, 1982;
- (6) December 1, 1983;
- (7) January 1, 1985;
- (8) August 1, 1985;
- (9) December 1, 1985;
- (10) February 1, 1986;
- (11) July 1, 1987;
- (12) October 1, 1987;
- (13) March 1, 1988;
- (14) August 1, 1990.

(c) The Cape Fear River Basin Classification Schedule was amended effective June 1, 1988 as follows:

- (1) Cane Creek [Index No. 16-21-(1)] from source to a point 0.5 mile north of N.C. Hwy. 54 (Cane Reservoir Dam) including the Cane Creek Reservoir and all tributaries has been reclassified from Class WS-III to WS-I.
- (2) Morgan Creek [Index No. 16-41-1-(1)] to the University Lake dam including University Lake and all tributaries has been reclassified from Class WS-III to WS-I.

(d) The Cape Fear River Basin Classification Schedule was amended effective July 1, 1988 by the reclassification of Crane Creek (Crains Creek) [Index No. 18-23-16-(1)] from source to mouth of Beaver Creek including all tributaries from C to WS-III.

(e) The Cape Fear River Basin Classification Schedule was amended effective January 1, 1990 as follows:

- (1) Intracoastal Waterway (Index No. 18-87) from southern edge of White Oak River Basin to western end of Permuda Island (a line from Morris Landing to Atlantic Ocean), from the eastern mouth of Old Topsail Creek to the southwestern shore of Howe Creek and from the southwest mouth of Shinn Creek to channel marker No. 153 including all tributaries except the King Creek Restricted Area, Hardison Creek, Old Topsail Creek, Mill Creek, Futch Creek and Pages Creek were reclassified from Class SA to Class SA ORW.
  - (2) Topsail Sound and Middle Sound ORW Area which includes all waters between the Barrier Islands and the Intracoastal Waterway located between a line running from the western most shore of Mason Inlet to the southwestern shore of Howe Creek and a line running from the western shore of New Topsail Inlet to the eastern mouth of Old Topsail Creek was reclassified from Class SA to Class SA ORW.
  - (3) Masonboro Sound ORW Area which includes all waters between the Barrier Islands and the mainland from a line running from the southwest mouth of Shinn Creek at the Intracoastal Waterway to the southern shore of Masonboro Inlet and a line running from the Intracoastal Waterway Channel marker No. 153 to the southside of the Carolina Beach Inlet was reclassified from Class SA to Class SA ORW.
- (f) The Cape Fear River Basin Classification Schedule was amended effective January 1, 1990 as follows: Big Alamance Creek [Index No. 16-19-(1)] from source to Lake Mackintosh Dam including all tributaries has been reclassified from Class WS-III NSW to Class WS-II NSW.
- (g) The Cape Fear River Basin Classification Schedule was amended effective August 3, 1992 with the reclassification of all water supply waters (waters with a primary classification of WS-I, WS-II or WS-III). These waters were reclassified to WS-I, WS-II, WS-III, WS-IV or WS-V as defined in the revised water supply protection rules (15A NCAC 02B .0100, .0200 and .0300), which became effective on August 3, 1992. In some cases, streams with primary classifications other than WS were reclassified to a WS classification due to their proximity and linkage to water supply waters. In other cases, waters were reclassified from a WS classification to an alternate appropriate primary classification after being identified as downstream of a water supply intake or identified as not being used for water supply purposes.
- (h) The Cape Fear River Basin Classification Schedule was amended effective June 1, 1994 as follows:
- (1) The Black River from its source to the Cape Fear River [Index Nos. 18-68-(0.5), 18-68-(3.5) and 18-65-(11.5)] was reclassified from Classes C Sw and C Sw HQW to Class C Sw ORW.
  - (2) The South River from Big Swamp to the Black River [Index Nos. 18-68-12-(0.5) and 18-68-12(11.5)] was reclassified from Classes C Sw and C Sw HQW to Class C Sw ORW.
  - (3) Six Runs Creek from Quewhiffle Swamp to the Black River [Index No. 18-68-2] was reclassified from Class C Sw to Class C Sw ORW.
- (i) The Cape Fear River Basin Classification Schedule was amended effective September 1, 1994 with the reclassification of the Deep River [Index No. 17-(36.5)] from the Town of Gulf-Goldston water supply intake to US highway 421 including associated tributaries from Class C to Classes C, WS-IV and WS-IV CA.
- (j) The Cape Fear River Basin Classification Schedule was amended effective August 1, 1998 with the revision to the primary classification for portions of the Deep River [Index No. 17-(28.5)] from Class WS-IV to Class WS-V, Deep River [Index No. 17-(41.5)] from Class WS-IV to Class C, and the Cape Fear River [Index 18-(10.5)] from Class WS-IV to Class WS-V.
- (k) The Cape Fear River Basin Classification Schedule was amended effective April 1, 1999 with the reclassification of Buckhorn Creek (Harris Lake)[Index No. 18-7-(3)] from the backwaters of Harris Lake to the Dam at Harris Lake from Class C to Class WS-V.
- (l) The Cape Fear River Basin Classification Schedule was amended effective April 1, 1999 with the reclassification of the Deep River [Index No. 17-(4)] from the dam at Oakdale-Cotton Mills, Inc. to the dam at Randleman Reservoir (located 1.6 mile upstream of U.S. Hwy 220 Business), and including tributaries from Class C and Class B to Class WS-IV and Class WS-IV & B. Streams within the Randleman Reservoir Critical Area have been reclassified to WS-IV CA. The Critical Area for a WS-IV reservoir is defined as 0.5 mile and draining to the normal pool elevation of the reservoir. All waters within the Randleman Reservoir Water Supply Watershed are within a designated Critical Water Supply Watershed and are subject to a special management strategy specified in Rule .0248 of this Subchapter.
- (m) The Cape Fear River Basin Classification Schedule was amended effective August 1, 2002 as follows:
- (1) Mill Creek [Index Nos. 18-23-11-(1), 18-23-11-(2), 18-23-11-3, 18-23-11-(5)] from its source to the Little River, including all tributaries was reclassified from Class WS-III NSW and Class WS-III B NSW to Class WS-III NSW HQW@ and Class WS-III B NSW HQW@.
  - (2) McDeed's Creek [Index Nos. 18-23-11-4, 18-23-11-4-1] from its source to Mill Creek, including all tributaries was reclassified from Class WS III NSW and Class WS-III B NSW to Class WS-III NSW HQW@ and Class WS-III B NSW HQW@.
- The "@" symbol as used in this Paragraph means that if the governing municipality has deemed that a development is covered under a "5/70 provision" as described in Rule .0624 of this Subchapter, then that development is not subject to the stormwater requirements as described in 15A NCAC 02H .1021.
- (n) The Cape Fear River Basin Classification Schedule was amended effective November 1, 2004 as follows:
- (1) the portion of Rocky River [Index Number 17-43-(1)] from a point 0.3 mile upstream of Town of Siler City upper reservoir dam to a point 0.3

mile downstream of Lacy Creek from WS-III to WS-III CA.

- (2) the portion of Rocky River [Index Number 17-43-(8)] from dam at lower water supply reservoir for Town of Siler City to a point 65 feet below dam (site of proposed dam) from C to WS-III CA.
- (3) the portion of Mud Lick Creek (Index No. 17-43-6) from a point 0.4 mile upstream of Chatham County SR 1355 to Town of Siler City lower water supply reservoir from WS-III to WS-III CA.
- (4) the portion of Lacy Creek (17-43-7) from a point 0.6 mile downstream of Chatham County SR 1362 to Town of Siler City lower water supply reservoir from WS-III to WS-III CA.

(o) The Cape Fear River Basin Classification Schedule was amended effective November 1, 2007 with the reclassifications listed below, and the North Carolina Division of Water Resources maintains a Geographic Information Systems data layer of these UWLs.

- (1) Military Ocean Terminal Sunny Point Pools, all on the eastern shore of the Cape Fear River [Index No. 18-(71)] were reclassified to Class WL UWL.
- (2) Salters Lake Bay near Salters Lake [Index No. 18-44-4] was reclassified to Class WL UWL.
- (3) Jones Lake Bay near Jones Lake [Index No. 18-46-7-1] was reclassified to Class WL UWL.
- (4) Weymouth Woods Sandhill Seep near Mill Creek [18-23-11-(1)] was reclassified to Class WL UWL.
- (5) Fly Trap Savanna near Cape Fear River [Index No. 18-(71)] was reclassified to Class WL UWL.
- (6) Lily Pond near Cape Fear River [Index No. 18-(71)] was reclassified to Class WL UWL.
- (7) Grassy Pond near Cape Fear River [Index No. 18-(71)] was reclassified to Class WL UWL.
- (8) The Neck Savanna near Sandy Run Swamp [Index No. 18-74-33-2] was reclassified to Class WL UWL.
- (9) Bower's Bog near Mill Creek [Index No. 18-23-11-(1)] was reclassified to Class WL UWL.
- (10) Bushy Lake near Turnbull Creek [Index No. 18-46] was reclassified to Class WL UWL.

(p) The Cape Fear River Basin Classification Schedule was amended effective January 1, 2009 as follows:

- (1) the portion of Cape Fear River [Index No. 18-(26)] (including tributaries) from Smithfield Packing Company's intake, located approximately 2 miles upstream of County Road 1316, to a point 0.5 miles upstream of Smithfield Packing Company's intake from Class C to Class WS-IV CA.
- (2) the portion of Cape Fear River [Index No. 18-(26)] (including tributaries) from a point 0.5 miles upstream of Smithfield Packing

Company's intake to a point 1 mile upstream of Grays Creek from Class C to Class WS-IV.

(q) The Cape Fear River Basin Classification Schedule was amended effective August 11, 2009 with the reclassification of all Class C NSW waters and all Class B NSW waters upstream of the dam at B. Everett Jordan Reservoir from Class C NSW and Class B NSW to Class WS-V NSW and Class WS-V & B NSW, respectively. All waters within the B. Everett Jordan Reservoir Watershed are within a designated Critical Water Supply Watershed and are subject to a special management strategy specified in Rules .0262 through .0273 of this Subchapter.

(r) The Cape Fear River Basin Classification Schedule was amended effective September 1, 2009 with the reclassification of a portion of the Haw River [Index No. 16-(28.5)] from the Town of Pittsboro water supply intake, which is located approximately 0.15 mile west of U.S. 15/501, to a point 0.5 mile upstream of the Town of Pittsboro water supply intake from Class WS-IV to Class WS-IV CA.

(s) The Cape Fear River Basin Classification Schedule was amended effective March 1, 2012 with the reclassification of the portion of the Haw River [Index No. 16-(1)] from the City of Greensboro's intake, located approximately 650 feet upstream of Guilford County 2712, to a point 0.5 miles upstream of the intake from Class WS-V NSW to Class WS-IV CA NSW, and the portion of the Haw River [Index No. 16-(1)] from a point 0.5 miles upstream of the intake to a point 0.6 miles downstream of U.S. Route 29 from Class WS-V NSW to Class WS-IV NSW.

(t) The Cape Fear River Basin Classification Schedule was amended effective November 1, 2019 with the reclassification of a portion of Sandy Creek [Index No. 17-16-(1)] (including tributaries) from a point 0.4 mile upstream of SR-2481 to a point 0.6 mile upstream of N.C. Hwy 22 from WS-III to WS-III CA. The reclassification resulted in an updated representation of the water supply watershed for the Sandy Creek reservoir.

*History Note: Authority G.S. 143-214.1; 143-215.1; 143-215.3(a)(1); Eff. February 1, 1976; Amended Eff. June 30, 2017; March 1, 2012; September 1, 2009; August 11, 2009; January 1, 2009; November 1, 2007; November 1, 2004; August 1, 2002; April 1, 1999; August 1, 1998; September 1, 1994; June 1, 1994; August 3, 1992; August 1, 1990; Readopted Eff. November 1, 2019; Amended Eff. June 1, 2022; July 1, 2021.*

#### **15A NCAC 02L .0101 PURPOSE**

(a) N.C. General Statute 143-214.1 directs that the Commission develop and adopt, after proper study, a series of classifications and standards which will be appropriate for the purpose of classifying each of the waters of the State in such a way as to promote the policy and purposes of the act. Pursuant to this statute, the rules in Sections .0200 and .0300 of this Subchapter establish a series of classifications and water quality standards applicable to the groundwaters of the State.

(b) The rules in Section .0100 of this Subchapter shall apply to all permitted and unpermitted activities or actions, intentional or accidental, that contribute to the degradation of groundwater quality, regardless of any permit issued by a governmental agency authorizing such action or activity. An innocent landowner who

is a bona fide purchaser of property which contains a source of groundwater contamination, who purchased such property without knowledge or a reasonable basis for knowing that groundwater contamination had occurred, or a person whose interest or ownership in the property is based or derived from a security interest in the property, shall not be considered a responsible party.

*History Note: Authority G.S. 143-214.1; 143-214.2; 143-215.3(a)(1); 143B-282; Eff. June 10, 1979; Amended Eff. August 1, 1989; July 1, 1988; September 1, 1984; December 30, 1983; Readopted Eff. June 1, 2022.*

### **15A NCAC 02L .0102 DEFINITIONS**

The definition of any word or phrase used in the Rules in this Subchapter shall be the same as given in G.S. 143-212 and G.S. 143-213 except that the following words and phrases shall have the following meanings:

- (1) "Active remediation" means corrective action that includes active physical, biological, or chemical manipulation of groundwater or of the rock or soil media for the purpose of reducing the amount of contamination or minimizing the spread of contamination.
- (2) "Anthropogenic" means of, relating to, or resulting from the influence of human beings on nature.
- (3) "Background threshold values" mean statistically derived values of the concentrations of substances in environmental media not affected by site conditions, actions, or activities for use as a basis for compliance with the rules in this Subchapter.
- (4) "Bedrock" means any consolidated rock encountered in the place in which it was formed or deposited and which cannot be readily excavated without the use of explosives or power equipment.
- (5) "Chief administrative officer" shall be, for the purposes of this Rule, the mayor, chairman of the county commissioners, the county manager, or the city manager who is responsible for environmental issues in their jurisdiction.
- (6) "Compliance boundary" means a boundary around the waste disposal area of a disposal system at and beyond which standards may not be exceeded and applies to facilities which have received an individual permit issued under the authority of G.S. 143-215.1, Article 9 of G.S. 130A, or Article 11 of G.S. 130A.
- (7) "Compliance zone" means the area encompassed within the compliance boundary.
- (8) "Constituent of interest" means any substance that is manmade or naturally occurring that is associated with or influenced by site activities or actions and that is of interest to the protection of public health or the environment.

- (9) "Contaminant" means any substance that occurs in groundwater as a result of anthropogenic sources or activities in concentrations which exceed the standards.
- (10) "Control" means the ability to physically, mechanically, or chemically influence sources of contamination and contaminant distribution.
- (11) "Corrective action plan" means a plan for controlling or eliminating sources of groundwater contamination or for restoring groundwater quality.
- (12) "Director" means Director of the Division of Water Resources or Waste Management or their delegate.
- (13) "Division" means the Division of Water Resources or Waste Management.
- (14) "Exposure pathway" means a course taken by a contaminant by way of a transport medium after its release to the environment.
- (15) "Free product" means a non-aqueous phase liquid which may be present within the saturated zone or in surface water.
- (16) "Fresh waters" means those groundwaters having a chloride concentration equal to or less than 250 milligrams per liter.
- (17) "Groundwaters" means waters occurring in the subsurface under saturated conditions.
- (18) "Hazardous substance" means any substance as defined by 42 U.S.C. 9601(14).
- (19) "Licensed geologist" means a person who has been licensed as a geologist in accordance with the requirements of G.S. 89E.
- (20) "Licensed soil scientist" means a person who has been licensed as a soil scientist in accordance with the requirements of G.S. 89F.
- (21) "Natural attenuation" means those natural processes acting to restore groundwater quality, including dilution, filtration, sorption, ion-exchange, chemical transformation, and biodegradation.
- (22) "Natural conditions or naturally occurring" means the physical, biological, chemical, and radiological conditions which occur naturally and are not a result of anthropogenic sources or activities.
- (23) "Person" shall be as defined in G.S. 130A-290(22).
- (24) "Potable waters" means those waters suitable for drinking by humans.
- (25) "Practical Quantitation Limit" means the lowest concentration of a given material that can be reliably achieved by a particular analytical technique operated within specified parameters of a given analytical method during routine laboratory analysis while following all applicable state or federal quality assurance and quality control requirements.
- (26) "Professional Engineer" means a person who has been registered and licensed as a

- professional engineer in accordance with the requirements of G.S. 89C.
- (27) "Receptor" is as defined in G.S. 130A-309.201 and, for the purposes of this Rule, shall also include waters of the State as defined in G.S. 143-212(6).
  - (28) "Review boundary" means a boundary around a permitted waste disposal area midway between a waste boundary and a compliance boundary at which groundwater monitoring may be required.
  - (29) "Saturated zone" means that part of the subsurface below the water table in which all the interconnected voids are filled with water under pressure at or greater than atmospheric. It does not include the capillary fringe.
  - (30) "Secretary" means the Secretary of the Department of Environmental Quality or his or her delegate.
  - (31) "Standard" or "standards" means groundwater quality standards as specified in Rule .0202 of this Subchapter and any interim maximum allowable concentrations established by the Director per Rule .0202(c) of this Subchapter.
  - (32) "Suitable for drinking" means a quality of water that does not contain substances in concentrations which, either singularly or in combination, if ingested into the human body, may cause death, disease, behavioral abnormalities, congenital defects, genetic mutations, or result in an incremental lifetime cancer risk in excess of  $1 \times 10^{-6}$ , or result in adverse effects to the consumer due to aesthetic qualities, including taste, odor, or appearance.
  - (33) "Waste boundary" means the perimeter of the permitted waste disposal area.
  - (34) "Waste disposal area" means that portion of a disposal system permitted under authority of G.S. 143-215.1, Article 9 of G.S. 130A, or Article 11 of G.S. 130A whose purpose is the temporary or permanent disposal of waste.
  - (35) "Water table" means the surface of the saturated zone below which all interconnected voids are filled with water and at which the pressure is atmospheric.

*History Note:* Authority G.S. 143-214.1; 143-215; 143B-282; Eff. June 10, 1979.

*Amended Eff.* October 1, 1993; August 1, 1989; July 1, 1988; March 1, 1985;

*Readopted Eff.* June 1, 2022.

#### **15A NCAC 02L .0103 POLICY**

(a) The rules established in this Subchapter are intended to maintain and preserve the quality of the groundwaters, prevent and abate pollution and contamination of the waters of the State, protect public health, and permit management of the groundwaters for their best usage. It is the policy of the Commission that the best usage of the groundwaters of the State

is as a source of drinking water. These groundwaters generally are a potable source of drinking water without the necessity of significant treatment. It is the intent of these Rules to protect the overall high quality of North Carolina's groundwaters to the level established by the standards and to enhance and restore the quality of degraded groundwaters where feasible and necessary to protect human health and the environment, or to ensure their suitability as a future source of drinking water.

(b) The Commission shall not approve any disposal system subject to the provisions of G.S. 143-215.1 which would result in any of the following:

- (1) The significant degradation of groundwaters which have existing quality that is better than the assigned standard, unless such degradation is found to be in the best interests of the public based upon the projected economic benefits of the facility and that public health will be protected.
- (2) A violation of a standard beyond a designated compliance boundary as a result of the permitted activities.
- (3) The impairment of existing groundwater uses or increased risk to public health due to the operation of a disposal system.

(c) Violations of the standards resulting from groundwater withdrawals which are in compliance with water use permits issued pursuant to G.S. 143-215.15, shall not be subject to the corrective action requirements of Rule .0106 of this Section.

(d) No person shall conduct or cause to be conducted, any activity which causes the concentration of any substance to exceed the standards, except as authorized by the rules of this Subchapter.

(e) Work that is within the scope of the practice of geology and engineering, performed pursuant to the requirements of this Subchapter, that involves site assessment, the interpretation of geologic conditions, preparation of corrective action plans, or any work requiring detailed technical knowledge of site conditions which is submitted to the Director, shall be performed by persons, firms, or professional corporations who are licensed to offer geological or engineering services by the appropriate occupational licensing board or are exempted from such licensing by G.S. 89E-6. Work which involves design of remedial systems or specialized construction techniques shall be performed by persons, firms, or professional corporations who are licensed to offer engineering services. Corporations that are authorized by law to perform engineering or geological services and are exempt from the Professional Corporation Act, G.S. 55B, may perform these services.

*History Note:* Authority G.S. 143-214.1; 143-214.2; 143-215.3(a)(1);

143B-282;

*Eff.* June 10, 1979;

*Amended Eff.* August 1, 1989; July 1, 1988; September 1, 1984; December 30, 1983;

*RRC Objection Eff.* September 17, 1993, due to lack of necessity for Paragraph (e);

*Amended Eff.* November 4, 1993;

*Readopted Eff.* June 1, 2022.

**15A NCAC 02L .0104 RESTRICTED DESIGNATION**

(a) The restricted designation (RS) means that groundwater may not be suitable for use as a drinking water supply without treatment.

(b) Upon application by a responsible party, the Director is authorized to apply the RS to GA or GSA groundwaters, as defined under Rule .0201 of this Subchapter, under any of the following circumstances:

- (1) For sites undergoing risk-based remediation per Rule .0106(i) of this Section.
- (2) Areas of remaining contamination where the Secretary has approved the termination of an approved corrective action per Rule .0106(j) of this Section.
- (3) Where a variance has been granted by the Commission as provided in Rule .0113 of this Section.

(c) Groundwaters occurring within an area defined by a compliance boundary in a waste disposal permit are deemed RS.

(d) The boundary of the RS area shall be located 250 feet or greater from the boundary of the contaminant plume and shall include any areas into which the contamination is predicted through modeling or expected through professional judgment to migrate.

(e) Where the RS area crosses, intercepts, or adjoins surface waters, the RS shall not give the right to cause or contribute to an exceedance of the surface water standards established under 15A NCAC 02B .0200.

(f) Application for RS. The person requesting a RS shall provide to the Director a plan that includes the following:

- (1) The person's name, address, and phone number.
- (2) The physical location of the of facility or site where the contamination originated.
- (3) If applicable, a copy of the Secretary's approval for termination of corrective action or a variance granted by the Commission as provided in Rule .0113 of this Section.
- (4) A summary of the site assessment and corrective actions including the results of any predictive modeling that estimates the time to return compliance for the RS area.
- (5) Maps showing the current horizontal and vertical extent of any contamination and the areas where the contamination is predicted or expected to migrate including the current and predicted quantities of any contaminants and all current and potential future receptors within 1,500 feet of contamination.
- (6) A map showing the proposed RS area including the county title number, county tax identification number, or the property tax book and page identifiers of the properties included within the proposed RS area.
- (7) A plan for monitoring the groundwater quality within the RS area that includes the current or proposed wells to be monitored, the frequency of the monitoring, and the constituents of interest to be monitored.

(8) If the proposed RS area extends beyond the source property's boundary, a signed statement from each property owner agreeing to the proposed RS area on their property if required by statute.

(9) If the proposed RS area crosses, intercepts, or adjoins surface waters, a plan to ensure the surface water standards established under 15A NCAC 02B .0200 are not violated.

(g) The Director shall review whether the proposed plan is protective of public health and the environment for receptors within the RS area and otherwise complies with requirements of this Rule. The Director may require a person who proposes a plan to supply any additional information not provided that is necessary to satisfy the requirements of Paragraph (f) of this Rule.

(h) Prior to approving the proposed plan in Paragraph (f) of this Rule, the Division shall provide public notice of the intent to designate any groundwater with RS as follows:

(1) Provide notice at least 30 days prior to any proposed final action to all property owners with signed statements per Subparagraph (f)(8) of this Rule, to the local County Health Director, and the chief administrative officer of the jurisdiction(s) in which the contamination occurs.

(2) The notice shall contain the following information:

- (A) Name, address, and phone number of the agency issuing the public notice;
- (B) A copy of the plan in Paragraph (f) of this Rule or where the plan can be obtained.
- (C) Conditions applicable to removal of the RS designation; and
- (D) Address and phone number of a Division contact from whom interested parties may obtain further information.

(3) The Director shall consider all requests for a public hearing, and if he or she determine that there is significant public interest, he or she shall issue public notice and hold a public hearing in accordance with G.S 143-215.4(b) and Rule .0113(e)(2) of this Section.

(4) The requirements of this Paragraph shall not apply to groundwaters defined in Paragraph (c) of this Rule.

(i) The Director shall approve the plan if the proposal complies with Paragraph (g) of this Rule. Upon making a determination, the Director shall provide specific findings to support their decision to approve or disapprove a proposed plan.

(j) The process for recordation, application, and removal of an approved RS shall be in accordance with G.S. 143B-279.10 or G.S. 143B-279.11. The land use restriction shall be that groundwater within the RS area may not be suitable for drinking without treatment.

(k) The RS shall also be removed if the groundwater within the RS is reclassified by the Commission per G.S. 143-214.1.

*History Note: Authority G.S. 143-214.1; 143-215.3(a)(1); 143B-282(a)(2); 143B-279.9; 143B-279.10; 143B-279.11; Eff. June 10, 1979; Amended Eff. October 1, 1993; December 1, 1989; August 1, 1989; December 30, 1983; Readopted Eff. June 1, 2022.*

**15A NCAC 02L .0106 INITIAL RESPONSE, SITE ASSESSMENT, AND CORRECTIVE ACTION**

(a) Where groundwater quality has been degraded, the required corrective action shall be restoration to the level of the standards, or as closely thereto as is economically and technologically feasible in accordance with this Rule. The corrective action strategies addressed in this Rule can be through either active remediation in Paragraph (g), natural attenuation in Paragraph (h), or risk-based remediation in Paragraph (i). In all cases involving requests to the Secretary for approval of corrective action plans or termination of corrective action, the responsibility for providing all information required by this Rule lies with the person(s) making the request.

(b) Any person conducting or controlling an activity, permitted or unpermitted, that results in the discharge of a waste or hazardous substance or oil to the ground surface, vadose zone, or groundwaters of the State shall take action upon discovery to terminate and control the discharge, mitigate any hazards resulting from exposure to the contaminants, and follow the requirements in Paragraphs (c), (d), or (e) of this Rule.

(c) Any person conducting or controlling an activity that has not been permitted by the Department pursuant to G.S. 143-215.1, Article 9 of G.S. 130A, or Article 11 of G.S. 130A that results in an increase in the concentration of a substance in excess of the standard, other than agricultural operations defined under G.S. 106-581.1, shall take the following steps:

- (1) Within 24 hours of discovery of the violation, notify the Department of the activity that has resulted in the increase and the contaminant concentration levels, if known.
- (2) Respond in accordance with Paragraph (f) of this Rule.
- (3) Implement a monitoring program in accordance with Rule .0110 of this Section.
- (4) Submit a site assessment report to the Director in accordance with Rule .0111 of this Section.
- (5) Submit a notification in accordance with the requirements of Rule .0114(a) of this Section.
- (6) If required, submit a corrective action plan to the Director in accordance with Rule .0111 of this Section or pursue risk-based remediation per Paragraph (i) of this Rule. If a corrective action plan is submitted for active remediation or natural attenuation, then:
  - (A) Submit a notification in accordance with the requirements of Rule .0114(b) of this Section.
  - (B) Implement the corrective action plan upon its approval by the Secretary.
  - (C) Submit a notification in accordance with the requirements of Rule .0114(c) of this Section.

(d) For any person conducting or controlling an activity that is conducted under the authority of a permit issued by the Department pursuant to G.S. 143-215.1, Article 9 of G.S. 130A, or Article 11 of G.S. 130A that results in an increase in concentration of a substance in excess of the standards at or beyond the review boundary:

- (1) The Director may require, based on information including data trends, geologic and hydrogeologic conditions, and spacing between the review and compliance boundaries, that the person shall demonstrate, through predictive calculations or modeling, that one or more of the following will prevent a violation of standards at the compliance boundary:
  - (A) geologic or hydrogeologic conditions;
  - (B) facility design; or
  - (C) operational controls.
- (2) If an exceedance of the standards is expected through professional judgment or predicted through modeling at or beyond the compliance boundary, the person may submit a plan for alteration of existing site conditions, facility design, or operational controls that will prevent a violation at the compliance boundary, and implement that plan upon its approval by the Director. In approving the plan, the Director shall consider geologic and hydrogeologic conditions, the nature and extent of the contamination, technical and economic feasibility, and public health impacts on all potential receptors should the contaminated plume reach them.

(e) For any person conducting or controlling an activity that is conducted under the authority of a permit issued by the Department pursuant to G.S. 143-215.1, Article 9 of G.S. 130A, or Article 11 of G.S. 130A that results in an increase in concentration of a substance in excess of the standards beyond the compliance boundary or within the compliance zone as specified by Rule .0107(p) of this Section, the person shall take the following steps:

- (1) Within 24 hours of discovery of the initial violation, notify the Department of the activity that has resulted in the increase, the contaminants that are in exceedance, and the contaminant concentration levels.
- (2) Respond in accordance with Paragraph (f) of this Rule.
- (3) Implement a monitoring program in accordance with Rule .0110 of this Section.
- (4) Submit a site assessment report to the Director in accordance with Rule .0111 of this Section.
- (5) Submit a notification in accordance with the requirements of Rule .0114(a) of this Section.
- (6) If required, submit a corrective action plan to the Director in accordance with Rule .0111 of this Section or pursue risk-based remediation per Paragraph (i) of this Rule. The corrective action plan may include alteration of existing site conditions, facility design, or operational

controls that will prevent a violation at the compliance boundary. If a corrective action plan is submitted for active remediation or natural attenuation, then:

- (A) Submit a notification in accordance with the requirements of Rule .0114(b) of this Section.
- (B) Implement the corrective action plan upon its approval by the Secretary.
- (C) Submit a notification in accordance with the requirements of Rule .0114(c) of this Section.

(f) Initial response actions required to be conducted prior to or concurrent with the site assessment required in Paragraphs (c) and (e) of this Rule shall include:

- (1) Prevention of fire, explosion, or the spread of noxious fumes.
- (2) Abatement, containment, or control of the migration of contaminants.
- (3) Removal, treatment, or control of any primary pollution source such as buried waste, waste stockpiles, or surficial accumulations of free products.
- (4) Removal, treatment, or control of secondary pollution sources that would be potential continuing sources of pollutants to the groundwaters, such as contaminated soils and non-aqueous phase liquids. Contaminated soils that threaten the quality of groundwaters shall be treated, contained, or disposed of in accordance with rules in this Subchapter and in 15A NCAC 13 applicable to such activities. The treatment or disposal of contaminated soils shall be conducted in a manner that will not result in a violation of the standards or 15A NCAC 13 Rules.

The initial response actions shall be documented in the site assessment report required under Rule .0111(b) of this Section. The Director may request written documentation of the response actions in advance of the site assessment report if the Director determines that there is an immediate threat to human health based on information including the nature and extent of the release, the potential exposure pathways, and proximity to human receptors.

(g) Corrective action using active remediation. A corrective action plan prepared pursuant to Paragraphs (c) or (e) of this Rule shall be implemented using a remedial technology demonstrated to the Director to provide the most effective means, taking into consideration geological and hydrogeological conditions at the contaminated site, for restoration of groundwater quality to the level of the standards. Corrective action plans for active remediation shall include the information in Rule .0111(c) of this Section.

(h) Corrective action using natural attenuation. Any person required to implement an approved corrective action plan for a site subject to Paragraphs (c) or (e) of this Rule may request that the Secretary approve such a plan based upon natural processes of degradation and attenuation of contaminants. Corrective action

plans for natural attenuation shall make the demonstration and include the information in Rule .0111(d) of this Section.

(i) Corrective action using risk-based remediation. A person choosing to use risk-based remediation shall comply with the requirements in G.S. 130A Article 9 Part 8.

(j) Termination of active remediation prior to achieving the standards. Any person required to implement an approved corrective action plan for a site subject to Paragraph (g) of this Rule may request that the Secretary approve termination of the active remediation prior to achieving the standards. The owner and operator of an active remediation system shall demonstrate, by terminating the active remediation and then implementing an approved natural attenuation corrective action under Paragraph (h) of this Rule, that all potential receptors will be protected. A request submitted to the Secretary under this Paragraph shall include:

- (1) A discussion of the duration of the corrective action, the total project cost, projected annual cost for continuance, and evaluation of the success of the corrective action.
- (2) An evaluation of alternate treatment technologies that could potentially result in further reduction of contaminant levels, projected capital, and annual operating costs for each technology.
- (3) The effects, including public health impacts, on groundwater users if contaminant levels remain at levels existing at the time corrective action is terminated.
- (4) The proposed contaminant concentrations to actively remediate to prior to reaching the standards in the source area and all predictive calculations and model runs demonstrating that the standards will be met at all existing or potential receptors, based on travel time and the natural attenuation capacity of subsurface materials or on a barrier to groundwater migration that exists or will be installed by the person making the request.
- (5) A demonstration that continuation of active remediation would not result in a significant reduction in the concentration of contaminants. This demonstration shall show the duration and degree of success of existing remedial efforts to attain the standards. For the purpose of this Rule, a "significant reduction" is demonstrated by showing that the asymptotic slope of the contaminant concentrations over time is less than a ratio of 1:40 over a term of one year based on four consecutive quarters with sampling events spaced at least three months apart.
- (6) A natural attenuation corrective action plan for the remaining contamination in accordance with Paragraph (h) of this Rule.

(k) The Secretary shall not authorize termination of active remediation for any area that, at the time the request is made, has been identified by a State or local groundwater use planning process for resource development.

(l) The Secretary may authorize the termination of active remediation, or amend the corrective action plan after considering all the information in the request. In making the authorization, the Secretary shall consider geologic and hydrogeologic conditions, the nature and extent of the contamination, technical and economic feasibility, and public health impacts on all potential receptors should the contaminated plume reach them. The Secretary will review the request for completeness and may request any additional information necessary to make their authorization.

(m) In the evaluation of active remediation or natural attenuation corrective action plans, the Secretary shall consider the extent of any violations, the extent of any threat to human health, the extent of damage or potential adverse impact to the environment, technology available to accomplish restoration, the potential for degradation of the contaminants in the environment, geologic and hydrogeologic conditions, the time estimated to achieve groundwater quality restoration, technical and economic feasibility, and the public and economic benefits to be derived from groundwater quality restoration.

(n) Where continued corrective action would result in no significant reduction in contaminant concentrations as determined in Subparagraph (j)(5) of this Rule, the person may request that the Secretary designate the area of degraded groundwater RS. The Commission may also consider a request for reclassification of the groundwater to a GC classification as outlined in Rule .0319 of this Subchapter.

(o) If at any time the Secretary determines that a new technology is available that would remediate the contaminated groundwater to the standards specified in Rule .0202 of this Subchapter, the Secretary may require the person to evaluate the economic and technological feasibility of implementing the new technology in an active remediation corrective action plan. The Secretary's determination to utilize new technology at any site or for any particular contaminant or constituent of interest shall include a consideration of the factors in Rule .0111(c) of this Section.

(p) Where the standards are exceeded as a result of the application of pesticides or other agricultural chemicals, the Secretary shall request the Pesticide Board or the Department of Agriculture and Consumer Services to assist the Department in determining the cause of the violation. If the violation is determined to have resulted from the use of pesticides, the Secretary shall request the Pesticide Board to take appropriate regulatory action to control the use of the chemical or chemicals responsible for, or contributing to, such violations, or to discontinue their use.

(q) If a discharge or release is not governed by the rules in Section .0400 of this Subchapter and the increase in the concentration of a substance in excess of the standard resulted in whole or in part from a release from a commercial or noncommercial underground storage tank as defined in G.S. 143-215.94A, any person required to implement an approved corrective action plan pursuant to this Rule and seeking reimbursement for the Commercial or Noncommercial Leaking Petroleum Underground Storage Tank Cleanup Funds shall implement a corrective action plan meeting the requirements of Paragraph (g) or (h) of this Rule unless the person demonstrates to the Secretary that:

- (1) contamination resulting from the discharge cannot qualify for approval of a plan based on

the requirements of the Paragraphs (g) or (h) of this Rule; or

- (2) the cost of making such a demonstration would exceed the cost of implementing a corrective action plan submitted pursuant to Rule .0111(c) of this Section.

(r) If a discharge or release is not governed by the rules in Section .0400 of this Subchapter and the increase in the concentration of a substance in excess of the standard resulted in whole or in part from a release from a commercial or noncommercial underground storage tank as defined in G.S. 143-215.94A, the Secretary may require any person implementing or operating a previously approved corrective action plan pursuant to this Rule to:

- (1) develop and implement a corrective action plan meeting the requirements of Paragraphs (g) and (h) of this Rule; or
- (2) seek discontinuance of corrective action pursuant to Paragraph (j) of this Rule.

(s) Pursuant to this Rule, the approval of any corrective action plan, modification, or termination thereof, that permits the migration of a contaminant onto adjacent property, shall not affect any private right of action by any party that may be affected by that contaminant.

*History Note: Authority G.S. 143-215.1; 143-215.3; 143-215.94T; 143-215.94V; 143B-282;*

*Eff. August 1, 1989;*

*Amended Eff. October 1, 1993; September 1, 1992;*

*Temporary Amendment Eff. January 2, 1998; January 2, 1996;*

*Amended Eff. July 1, 2016; October 29, 1998;*

*Readopted Eff. June 1, 2022.*

#### **15A NCAC 02L .0107 COMPLIANCE BOUNDARY**

(a) For disposal systems individually permitted prior to December 30, 1983, the compliance boundary shall be established at a horizontal distance of 500 feet from the waste boundary or at the property boundary, whichever is closer to the source.

(b) For disposal systems individually permitted on or after December 30, 1983, a compliance boundary shall be established at a horizontal distance of 250 feet from the waste boundary, or 50 feet within the property boundary, whichever point is closer to the source.

(c) The compliance boundary shall be established at the time of permit issuance and shall remain in place for the duration of the permit.

(d) The compliance boundary and zone shall extend vertically from the surface through the water table to the maximum depth of saturation.

(e) The permitted activity shall not cause or contribute to an exceedance of the surface water standards established under 15A NCAC 02B .0200.

(f) Multiple contiguous properties under common ownership and permitted for use as a waste disposal area shall be treated as a single property with regard to determination of a compliance zone and setbacks to property lines as per Paragraphs (a) or (b) of this Rule.

(g) Where compliance zones for separately permitted waste disposal areas under the same ownership on the same property

intersect, the Director shall combine the compliance zones into one single compliance zone with a single compliance boundary.

(h) The permittee shall establish a monitoring program within the compliance zone per the requirements in Rule .0110 of this Section.

(i) Except as provided in Paragraph (m) of this Rule, no new water supply wells shall be constructed within the compliance zone of a disposal system individually permitted after January 1, 1993.

(j) Except as provided in Paragraph (m) of this Rule, if the land within an established compliance zone of a disposal system permitted after January 1, 1993 is transferred and that land is serviced by a community water system as regulated under 15A NCAC 18C, the source of which is located outside the compliance boundary, the deed shall contain notice of the permit, including the permit number, a description of the type of permit, and the name, address and telephone number of the permitting agency.

(k) Except as provided in Paragraph (m) of this Rule, if at the time a permit is issued after January 1, 1993, the permittee is not the owner of the land within the compliance zone, it shall be a condition of the permit issued or renewed that the landowner of the land within the compliance zone, if other than the permittee, execute and file in the Register of Deeds in the county in which the land is located, an easement running with the land that contains either a notice of the permit, including the permit number, a description of the type of permit, and the name, address and telephone number of the permitting agency; or a reference to a notice of the permit with book and page number of its recordation if such notice is required to be filed by statute. The Director shall, upon request by the landowner, file a document terminating the easement with the appropriate Register of Deeds once the following conditions have been met:

- (1) all required groundwater remediation has been completed;
- (2) groundwater monitoring is no longer required per Rule .0110(f) of this Section; and
- (3) monitoring wells have been abandoned in accordance with 15A NCAC 02C .0113.

(l) Any sale or transfer of property which affects a compliance boundary shall be reported to the Director within seven days of the final sale or transfer. For disposal systems which are not governed by Paragraphs (j) or (k) of this Rule, the compliance boundary affected by the sale or transfer of property shall be reestablished consistent with this Rule.

(m) For ground adsorption sewage treatment and disposal systems serving four or fewer single family dwellings or multiunit dwellings of four or fewer units regulated under 15A NCAC 02T .0600, the requirements of Paragraphs (i), (j), and (k) of this Rule shall not be applicable.

(n) For ground absorption sewage treatment and disposal systems which are regulated under 15A NCAC 02T .0600, the compliance boundary shall be established at the property boundary.

(o) Penalties authorized pursuant to G.S. 143-215.6A(a)(1) shall not be assessed for violations of the standards within a compliance zone unless the violations are of permit conditions or negligence in the management of the facility.

(p) The Director shall require that exceedances of the standards resulting from activities conducted by the permitted facility within the compliance zone be remedied through clean-up,

recovery, containment, facility design, or operational control if any of the following occur:

- (1) A violation of the standards occurs or is expected through professional judgment or predicted through modeling to occur in groundwater at or beyond the compliance boundary as a result of the permitted activities.
- (2) A violation of the surface water standards established under 15A NCAC 02B .0200 occurs or is expected through professional judgment or predicted through modeling to occur as a result of the permitted activities.
- (3) An imminent hazard as defined in G.S. 130A-2 exists.
- (4) An exceedance of the standards occurs in bedrock within the compliance zone as a result of the permitted activities, unless it can be demonstrated that the violation will not adversely affect any receptor.

*History Note: Authority G.S. 143-215.1; 143-215.3(a)(1); 143B-282;*  
*Eff. August 1, 1989;*  
*Amended Eff. October 1, 1993; November 2, 1992;*  
*Readopted Eff. June 1, 2022.*

#### **15A NCAC 02L .0108 REVIEW BOUNDARY**

A review boundary is established around any waste disposal area half way between the compliance boundary and the waste boundary. When the concentration of any substance equals or exceeds the standard at the review boundary as determined by monitoring, the permittee shall be required to take action in accordance with the provisions of Rule .0106(d) of this Section.

*History Note: Authority G.S. 143-215.1(b); 143-215.3(a)(1); 143B-282;*  
*Eff. August 1, 1989;*  
*Readopted Eff. June 1, 2022.*

#### **15A NCAC 02L .0109 DELEGATION**

- (a) The Director is delegated the authority to enter into consent special orders under G.S. 143-215.2 for violations of the standards except when a public meeting is required as provided in 15A NCAC 02H .1203.
- (b) The Director is delegated the authority to prepare a proposed special order to be issued by the Commission without the consent of the person affected and to notify the affected person of that proposed order and of the procedure set out in G.S. 150B-23 to contest the proposed special order.
- (c) The Director shall give public notice of proposed consent special orders as specified in 15A NCAC 02H .1203.

*History Note: Authority G.S. 143-215.2; 143-215.3(a)(1); 143-215.3(a)(4);*  
*Eff. August 1, 1989;*  
*Amended Eff. October 1, 1993; October 1, 1990;*  
*Readopted Eff. June 1, 2022.*

**15A NCAC 02L .0110 MONITORING**

(a) Except where exempted by statute or this Subchapter, the Director may require any person who causes, permits, or has control over any discharge of waste or cleanup program, to implement a monitoring program in such detail as required to evaluate the effects of the discharge upon the environment or waters of the State, including the effect of any actions taken to restore groundwater quality, as well as the efficiency of any treatment facility. The Director shall consider information including the geologic and hydrogeologic conditions, potential receptors, and risks to public health and the environment in determining the nature and extent of any required monitoring program. The monitoring program plan shall be prepared under the charge of a professional engineer or licensed geologist and bear the seal of the same if required under G.S. 89C or G.S. 89E.

(b) Monitoring systems within the monitoring program shall be constructed and operated in a manner that will not result in the contamination of waters of the State.

(c) The Director may require modification of a monitoring program or system or require additional monitoring of a contaminant or constituent of interest if new information indicates such modification or additional monitoring is necessary to protect public health or the environment.

(d) Monitoring systems within the monitoring program shall be able to:

- (1) Track the migration, degradation, and attenuation of contaminants and contaminant by-products from the source area through a point of compliance such as a compliance boundary (if applicable), within a contaminant plume, and in areas where the contaminant plume is expected through professional judgment or predicted through modeling to migrate.
- (2) Be used to determine the background groundwater quality that is not affected by site conditions, actions, or activities.
- (3) Detect contaminants and contaminant by-products prior to their reaching any potential receptor.
- (4) Detect if a groundwater contaminant plume is causing or contributing to exceedances of the surface water standards established under 15A NCAC 02B .0200.

(e) Monitoring shall be conducted and results reported in a manner and at a frequency specified by the Director based on information including the geologic and hydrogeologic conditions, potential receptors, and risks to public health and the environment.

(f) Monitoring programs shall remain in effect until it is demonstrated that the contaminant concentrations resulting from site activities or actions have been reduced to a level at or below the standards for a minimum of four consecutive quarters with monitoring events spaced at least three months apart. The Director may require an extension of monitoring if the Director determines that concentrations are fluctuating at or near the standards or the data trends suggest that concentrations are increasing. Once the Director is satisfied that the concentrations are at or below standards or that corrective action is no longer necessary to ensure

compliance with the Rules of this Subchapter, the Director shall furnish a letter stating that no further action is required. The Director shall also require a plan be submitted for maintaining or abandoning the monitoring wells in accordance with 15A NCAC 02C .0100.

*History Note: Authority G.S. 143-215.1(b); 143-215.3(a)(1); 143-215.65; 143-215.66; 143B-282;*

*Eff. August 1, 1989;*

*Amended Eff. October 1, 1993;*

*Readopted Eff. June 1, 2022.*

**15A NCAC 02L .0111 REPORTS**

(a) Any person subject to the requirements in Rule .0106 of this Section shall submit to the Director, plans or reports including those associated with initial response, site assessment, and corrective action. Reports shall be submitted in accordance with a schedule established by the Director. In establishing a schedule, the Director shall consider a proposal by the person submitting the plan or report.

(b) A site assessment conducted pursuant to the requirements of Paragraphs (c) or (e) in Rule .0106 of this Section shall include:

- (1) a description of the site including current and historical operations at the facility and all current and historical waste streams;
- (2) the source and cause of contamination;
- (3) any imminent hazards to public health and any actions taken to mitigate them;
- (4) a description of the initial response actions taken in accordance with Rule .0106(f) of this Section;
- (5) all potential receptors and expected exposure pathways;
- (6) the horizontal and vertical extent of soil and groundwater contamination and all significant factors affecting contaminant transport;
- (7) background threshold values for affected media;
- (8) geological and hydrogeological features influencing the movement, chemical, and physical character of the contaminants;
- (9) the nature and extent of any surface water or sediment contamination resulting from interactions with contaminated soil or groundwater;
- (10) a description of the sampling procedures followed, and methods of chemical analyses used;
- (11) all technical data utilized in support of any interpretations, conclusions, determinations, or evaluations made; and
- (12) the results of predictive calculations or modeling, including a copy of the calculations or model runs and all supporting technical data.

(c) Corrective action plans submitted pursuant to Paragraphs (c) or (e) in Rule .0106 of this Section for active remediation shall include:

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| <p>(1) a summary of the results of the site assessment submitted in accordance with Paragraph (b) of this Rule;</p> <p>(2) the technical basis for the requested corrective action;</p> <p>(3) an evaluation of risk to receptors within the contaminant plume and in areas where the plume is expected through professional judgment or predicted through modeling to migrate;</p> <p>(4) an evaluation of projected groundwater use within 1,500 feet of the predicted impacted area based on current State or local government planning efforts;</p> <p>(5) a summary of the available technology that could feasibly be used as a potential remedial strategy based on the specific site conditions and nature and extent of the contamination that includes the predicted time to return to compliance with the standards and the estimated costs to implement each potential strategy;</p> <p>(6) the proposed remedial technology that the person proposes to implement that includes:</p> <p style="padding-left: 20px;">(A) the rationale for selecting the proposed technology;</p> <p style="padding-left: 20px;">(B) plans and specifications, including engineering details;</p> <p style="padding-left: 20px;">(C) a schedule for implementation and operation of the technology;</p> <p style="padding-left: 20px;">(D) the predicted time to return to compliance with the standards;</p> <p style="padding-left: 20px;">(E) the estimated costs to implement and operate the technology;</p> <p style="padding-left: 20px;">(F) a monitoring plan to evaluate the effectiveness of the technology; and</p> <p style="padding-left: 20px;">(G) the results of any modeling or predictive calculations that shows the projected movement of the contaminant plume until the predicted time to return to compliance with the standards;</p> <p>(7) all technical data utilized in support of any interpretations, conclusions, determinations, or evaluations made;</p> <p>(8) a copy of the calculations or model runs and all supporting technical data; and</p> <p>(9) a demonstration that:</p> <p style="padding-left: 20px;">(A) all necessary access agreements needed to monitor groundwater quality have been or can be obtained; and</p> <p style="padding-left: 20px;">(B) the proposed corrective action plan would be consistent with all other environmental laws.</p> <p>(d) Corrective action plans submitted pursuant to Paragraphs (c) or (e) in Rule .0106 of this Section for natural attenuation shall include:</p> | <p>(1) a summary of the results of the site assessment submitted in accordance with Paragraph (b) of this Rule;</p> <p>(2) the technical basis for the requested corrective action;</p> <p>(3) an evaluation of risk to receptors within the contaminant plume and in areas where the plume is expected through professional judgment or predicted through modeling to migrate;</p> <p>(4) an evaluation of projected groundwater use within 1,500 feet of the predicted impacted area based on current State or local government planning efforts;</p> <p>(5) the predicted time to return to compliance with the standards;</p> <p>(6) the results of any modeling or predictive calculations that show the projected movement of the contaminant plume until the predicted time to return to compliance with the standards;</p> <p>(7) all technical data utilized in support of any interpretations, conclusions, determinations, or evaluations made;</p> <p>(8) a copy of the calculations or model runs and all supporting technical data;</p> <p>(9) a monitoring plan to evaluate the effectiveness of the natural attenuation; and</p> <p>(10) a demonstration that:</p> <p style="padding-left: 20px;">(A) all sources of contamination and free product have been removed or controlled pursuant to Rule .0106(f) of this Section;</p> <p style="padding-left: 20px;">(B) the contaminant has the capacity to degrade or attenuate under the site-specific conditions;</p> <p style="padding-left: 20px;">(C) the time and direction of contaminant travel can be predicted based on subsurface conditions and the contaminant's physical and chemical properties;</p> <p style="padding-left: 20px;">(D) contaminant migration will not result in any violation of applicable standards at any existing or potential receptor;</p> <p style="padding-left: 20px;">(E) contaminants have not and will not migrate onto adjacent properties, or that:</p> <p style="padding-left: 40px;">(i) such properties are served by an existing public water supply system dependent on surface waters or hydraulically isolated groundwater; or</p> <p style="padding-left: 40px;">(ii) the owners of such properties have consented in writing to the request;</p> <p>(F) if the contaminant plume is expected through professional judgment or predicted through modeling to</p> |
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intercept surface waters, the groundwater discharge will not possess contaminant concentrations that would result in violations of the surface water standards established under 15A NCAC 02B .0200;

- (G) all necessary access agreements needed to monitor groundwater quality have been or can be obtained;
- (H) public notice of the request has been provided in accordance with Rule .0114(b) and (c) of this Section; and
- (I) the proposed corrective action plan would be consistent with all other environmental laws.

(e) All reports and plans shall be prepared under the charge of a professional engineer, licensed soil scientist, or licensed geologist if required under G.S. 89C, G.S. 89E, or G.S. 89F.

*History Note:* Authority G.S. 143-215.1(b); 143-215.3(a)(1); 143-215.65; 143B-282;  
*Eff. August 1, 1989;*  
*Amended Eff. October 1, 1993;*  
*Readopted Eff. June 1, 2022.*

#### **15A NCAC 02L .0112 ANALYTICAL PROCEDURES**

Tests or analytical procedures to determine compliance or noncompliance with the standards established in Rule .0202 of this Subchapter shall be in accordance with 15A NCAC 02H .0805(a)(1).

*History Note:* Authority G.S. 143-215.3(a)(1); 143B-282;  
*Eff. August 1, 1989;*  
*Amended Eff. October 1, 1993;*  
*Readopted Eff. June 1, 2022.*

#### **15A NCAC 02L .0113 VARIANCE**

(a) The Commission, on its own initiative or pursuant to a request under G.S. 143-215.3(e), may grant variances to the rules of this Subchapter.

(b) Requests for variances are submitted by the applicant to the Commission. The application shall be submitted in writing to the chairman of the Commission in care of the Director.

(c) The application shall contain the following information:

- (1) Applications filed by counties or municipalities shall include a resolution of the County Board of Commissioners or the governing board of the municipality requesting the variance.
- (2) A description of the past, existing, or proposed activities or operations that have or would result in a discharge of contaminants to the groundwaters.
- (3) Description of the proposed area for which a variance is requested. A location map showing the orientation of the facility, potential for groundwater contaminant migration, as well as the area covered by the variance request, with reference to at least two geographic references

including numbered roads, named streams/rivers, etc. shall be included.

- (4) Supporting information to establish that the variance will not endanger the public health, including health and environmental effects from exposure to groundwater contaminants. Location of wells and other water supply sources including details of well construction, if known, within 1/2 mile of site shall be shown on a map.

- (5) Supporting information to establish that requirements of this Rule cannot be achieved by providing the best available technology economically reasonable. This information shall identify specific technology considered, the costs of implementing the technology, and the impact of the costs on the applicant.

- (6) Supporting information to establish that compliance would produce serious financial hardship on the applicant.

- (7) Supporting information that compliance would produce serious financial hardship without equal or greater public benefit.

- (8) A copy of any Special Order that was issued in connection with contaminants in the proposed area and supporting information that applicant has complied with the Special Order.

- (9) A list of the names and addresses of any property owners within the proposed area of the variance, as well as property owners adjacent to the site covered by the variance.

(d) Upon receipt of the application, the Director shall review it for completeness and request additional information if incomplete. When the application is complete, the Director shall give public notice of the application and schedule the matter for a public hearing in accordance with G.S. 143-215.4(b) and the procedures set out in Paragraph (e) of this Rule.

(e) Notice of Public Hearing:

- (1) Notice of public hearing on any variance application shall be circulated in the geographical areas of the proposed variance. At least 20 days prior to the date of the hearing, the Director shall:
  - (A) publish the notice one time in a newspaper having general circulation in said county;
  - (B) submit the notice to the North Carolina Department of Health and Human Services, Environmental Health Section and appropriate local health director;
  - (C) submit the notice to any other federal, state or local agency upon request;
  - (D) submit the notice to the local governmental unit or units having jurisdiction over the geographic area covered by the variance;
  - (E) submit the notice to any property owner within the proposed area of the

- variance, as well as any property owners adjacent to the site covered by the variance;
- (F) submit the notice to any person or group upon request; and
- (G) post the notice on the Department website.
- (2) The contents of public notice of any hearing shall include the following:
  - (A) name, address, and phone number of agency holding the public hearing;
  - (B) name and address of each applicant whose application will be considered at the meeting;
  - (C) a brief summary of the variance request;
  - (D) a geographic description of a proposed area for which a variance is requested;
  - (E) a brief description of activities or operations which have or will result in the discharge of contaminants to the waters of the State described in the variance application;
  - (F) a brief reference to the public notice issued for each variance application;
  - (G) information regarding the time and location for the hearing;
  - (H) the purpose of the hearing;
  - (I) the address and phone number of premises at which interested persons may obtain further information, request a copy of each application, and inspect and copy forms and related documents; and
  - (J) a brief description of the nature of the hearing including the rules and procedures to be followed. The notice shall also state that additional information is on file with the Director and may be inspected at any time during normal working hours. Copies of the information on file will be made available upon request and payment of cost or reproduction.

(f) All comments received within 30 days following the date of publication in the newspaper in Part (e)(1)(A) of this Rule shall be made part of the application file and shall be considered by the Commission prior to taking final action on the application.

(g) In determining whether to grant a variance, the Commission shall consider whether the applicant has complied with any Special Order or Special Order by Consent issued under G.S. 143-215.2.

(h) The applicant may file a petition for a contested case in accordance with Chapter 150B of the General Statutes. If the petition is not filed within 60 days, the decision on the variance shall be final and binding.

(i) A variance shall not operate as a defense to an action at law based upon a public or private nuisance theory or any other cause of action.

*History Note: Authority G.S. 143-215.3(a)(1); 143-215.3(a)(3); 143-215.3(a)(4); 143-215.3(e); 143-215.4; Eff. August 1, 1989; Amended Eff. October 1, 1993; Readopted Eff. June 1, 2022.*

#### **15A NCAC 02L .0114 NOTIFICATION REQUIREMENTS**

(a) Any person subject to the requirements of Rule .0106(c) or (e) of this Section shall submit to the local health director and the chief administrative officer of the jurisdictions in which the groundwater contamination has occurred, a copy of the site assessment report as required by Rule .0111(b) of this Section.

(b) Any person who submits a request under Rule .0106(g) or (h) of this Section shall notify the local health director and the chief administrative officer of the jurisdictions in which the contaminant plume occurs, and all property owners and occupants within or contiguous to the area underlain by the contaminant plume, and under the areas where it is predicted through modeling or expected through professional judgment to migrate, a summary of the request and reasons supporting it. Notification shall be made by certified mail concurrent with the submittal of the request to the Director. Individuals interested in the request may submit written comments to the Director within 30 days of the receipt of the notification. The Director shall issue a final decision after considering the written comments.

(c) Any person whose request under Rule .0106(g) or (h) of this Section is granted by the Director shall notify parties specified in Paragraph (b) of this Rule of the Director's decision and a summary of the actions to be taken. Notification shall be made by certified mail within 30 days of receipt of the Director's decision.

*History Note: Authority G.S. 143-214.1; 143-215.3(a)(1); 143B-282(a)(2)(c); Eff. October 1, 1993; Readopted Eff. June 1, 2022.*

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#### **15A NCAC 03I .0101 DEFINITIONS**

All definitions set out in G.S. 113, Subchapter IV and the following additional terms shall apply to this Chapter:

- (1) enforcement and management terms:
  - (a) "Commercial quota" means total quantity of fish allocated for harvest by commercial fishing operations.
  - (b) "Educational institution" means a college, university, or community college accredited by an accrediting agency recognized by the U.S. Department of Education; an Environmental Education Center certified by the N.C. Department of Environmental Quality Office of Environmental Education and Public Affairs; or a zoo or aquarium certified by the Association of Zoos and Aquariums.

- (c) "Internal Coastal Waters" or "Internal Waters" means all Coastal Fishing Waters except the Atlantic Ocean.
- (d) length of finfish:
  - (i) "Curved fork length" means a length determined by measuring along a line tracing the contour of the body from the tip of the upper jaw to the middle of the fork in the caudal (tail) fin.
  - (ii) "Fork length" means a length determined by measuring along a straight line the distance from the tip of the snout with the mouth closed to the middle of the fork in the caudal (tail) fin, except that fork length for billfish is measured from the tip of the lower jaw to the middle of the fork of the caudal (tail) fin.
  - (iii) "Pectoral fin curved fork length" means a length of a beheaded fish from the dorsal insertion of the pectoral fin to the fork of the tail measured along the contour of the body in a line that runs along the top of the pectoral fin and the top of the caudal keel.
  - (iv) "Total length" means a length determined by measuring along a straight line the distance from the tip of the snout with the mouth closed to the tip of the compressed caudal (tail) fin.
- (e) "Nongovernmental conservation organization" means an organization whose primary mission is the conservation of natural resources.
- (f) "Polluted" means any shellfish growing waters as defined in 15A NCAC 18A .0901:
  - (i) that are contaminated with fecal material, pathogenic microorganisms, poisonous or deleterious substances, or marine biotoxins that render the consumption of shellfish from those growing waters hazardous;
  - (ii) that have been determined through a sanitary survey as defined in 15A NCAC 18A .0901 to be adjacent to a sewage treatment plant outfall or other point source outfall with public health significance;
- (iii) that have been determined through a sanitary survey as defined in 15A NCAC 18A .0901 to be in or adjacent to a marina;
- (iv) that have been determined through a sanitary survey as defined in 15A NCAC 18A .0901 to be impacted by other potential sources of pollution that render the consumption of shellfish from those growing waters hazardous; or
- (v) where the Division of Marine Fisheries is unable to complete the monitoring necessary to determine the presence of contamination or potential pollution sources.
- (g) "Recreational possession limit" means restrictions on size, quantity, season, time period, area, means, and methods where take or possession is for a recreational purpose.
- (h) "Recreational quota" means total quantity of fish allocated for harvest for a recreational purpose.
- (i) "Regular closed oyster season" means March 31 through October 15, unless amended by the Fisheries Director through proclamation authority.
- (j) "Scientific institution" means one of the following entities:
  - (i) an educational institution as defined in this Item;
  - (ii) a state or federal agency charged with the management of marine or estuarine resources; or
  - (iii) a professional organization or secondary school working under the direction of, or in compliance with mandates from, the entities listed in Sub-items (j)(i) and (ii) of this Item.
- (2) fishing activities:
  - (a) "Aquaculture operation" means an operation that produces artificially propagated stocks of marine or estuarine resources, or other non-native species that may thrive if introduced into Coastal Fishing Waters, or obtains such stocks from permitted sources for the purpose of rearing on private bottom (with or without the superadjacent water

- column) or in a controlled environment. A controlled environment provides and maintains throughout the rearing process one or more of the following:
  - (i) food;
  - (ii) predator protection;
  - (iii) salinity;
  - (iv) temperature controls; or
  - (v) water circulation, utilizing technology not found in the natural environment.
- (b) "Attended" means being in a vessel, in the water or on the shore, and immediately available to work the gear and be within 100 yards of any gear in use by that person at all times. Attended does not include being in a building or structure.
- (c) "Blue crab shedding" means the process whereby a blue crab emerges soft from its former hard exoskeleton. A shedding operation is any operation that holds peeler crabs in a controlled environment. A controlled environment provides and maintains throughout the shedding process one or more of the following:
  - (i) food;
  - (ii) predator protection;
  - (iii) salinity;
  - (iv) temperature controls; or
  - (v) water circulation, utilizing technology not found in the natural environment. A shedding operation does not include transporting pink or red-line peeler crabs to a permitted shedding operation.
- (d) "Depuration" means mechanical purification or the removal of adulteration from live oysters, clams, or mussels by any artificially controlled means.
- (e) "Long haul operation" means fishing a seine towed between two vessels.
- (f) "Peeler crab" means a blue crab that has a soft shell developing under a hard shell and having a white, pink, or red-line or rim on the outer edge of the back fin or flipper.
- (g) "Possess" means any actual or constructive holding whether under claim of ownership or not.
- (h) "Recreational purpose" means a fishing activity that is not a commercial fishing operation as defined in G.S. 113-168.
- (i) "Shellfish marketing from leases and franchises" means the harvest of oysters, clams, scallops, or mussels from privately held shellfish bottoms and lawful sale of those shellfish to the public at large or to a licensed shellfish dealer.
- (j) "Shellfish planting effort on leases and franchises" means the process of obtaining authorized cultch materials, seed shellfish, and shellfish stocks from polluted waters and the placement of those materials on privately held shellfish bottoms for increased shellfish production.
- (k) "Shellfish production on leases and franchises" means:
  - (i) the culture of oysters, clams, scallops, or mussels on shellfish leases and franchises from a sublegal harvest size to a marketable size.
  - (ii) the transplanting (relay) of oysters, clams, scallops, or mussels from areas closed due to pollution to shellfish leases and franchises in open waters and the natural cleansing of those shellfish.
- (l) "Swipe net operations" means fishing a seine towed by one vessel.
- (m) "Transport" means to ship, carry, or cause to be carried or moved by public or private carrier by land, sea, or air.
- (n) "Use" means to employ, set, operate, or permit to be operated or employed.
- (3) gear:
  - (a) "Bunt net" means the last encircling net of a long haul or swipe net operation constructed of small mesh webbing. The bunt net is used to form a pen or pound from which the catch is dipped or bailed.
  - (b) "Channel net" means a net used to take shrimp that is anchored or attached to the bottom at both ends or with one end anchored or attached to the bottom and the other end attached to a vessel.
  - (c) "Commercial fishing equipment or gear" means all fishing equipment used in Coastal Fishing Waters except:
    - (i) cast nets;
    - (ii) collapsible crab traps, a trap used for taking crabs with the largest open dimension no larger than 18 inches and that by design is collapsed at all times when in the water,

- except when it is being retrieved from or lowered to the bottom;
  - (iii) dip nets or scoops having a handle not more than eight feet in length and a hoop or frame to which the net is attached not exceeding 60 inches along the perimeter;
  - (iv) gigs or other pointed implements that are propelled by hand, whether or not the implement remains in the hand;
  - (v) hand operated rakes no more than 12 inches wide and weighing no more than six pounds and hand operated tongs;
  - (vi) hook and line, and bait and line equipment other than multiple-hook or multiple-bait trotline;
  - (vii) landing nets used to assist in taking fish when the initial and primary method of taking is by the use of hook and line;
  - (viii) minnow traps when no more than two are in use;
  - (ix) seines less than 30 feet in length;
  - (x) spears, Hawaiian slings, or similar devices that propel pointed implements by mechanical means, including elastic tubing or bands, pressurized gas, or similar means.
- (d) "Corkline" means the support structure a net is attached to that is nearest to the water surface when in use. Corkline length is measured from the outer most mesh knot at one end of the corkline following along the line to the outer most mesh knot at the opposite end of the corkline.
- (e) "Dredge" means a device towed by engine power consisting of a frame, tooth bar or smooth bar, and catchbag used in the harvest of oysters, clams, crabs, scallops, or conchs.
- (f) "Fixed or stationary net" means a net anchored or staked to the bottom, or some structure attached to the bottom, at both ends of the net.
- (g) "Fyke net" means an entrapment net supported by a series of internal or external hoops or frames, with one or more lead or leaders that guide fish to the net mouth. The net has one or more internal funnel-shaped openings with tapered ends directed inward from the mouth, through which fish enter the enclosure. The portion of the net designed to hold or trap fish is completely enclosed in mesh or webbing, except for the openings for fish passage into or out of the net (funnel area).
- (h) "Gill net" means a net set vertically in the water to capture fish by entanglement of the gills in its mesh as a result of net design, construction, mesh length, webbing diameter, or method in which it is used.
- (i) "Headrope" means the support structure for the mesh or webbing of a trawl that is nearest to the water surface when in use. Headrope length is measured from the outer most mesh knot at one end of the headrope following along the line to the outer most mesh knot at the opposite end of the headrope.
- (j) "Hoop net" means an entrapment net supported by a series of internal or external hoops or frames. The net has one or more internal funnel-shaped openings with tapered ends directed inward from the mouth, through which fish enter the enclosure. The portion of the net designed to hold or trap the fish is completely enclosed in mesh or webbing, except for the openings for fish passage into or out of the net (funnel area).
- (k) "Lead" means a mesh or webbing structure consisting of nylon, monofilament, plastic, wire, or similar material set vertically in the water and held in place by stakes or anchors to guide fish into an enclosure. Lead length is measured from the outer most end of the lead along the top or bottom line, whichever is longer, to the opposite end of the lead.
- (l) "Mechanical methods for clamming" means dredges, hydraulic clam dredges, stick rakes, and other rakes when towed by engine power, patent tongs, kicking with propellers or deflector plates with or without trawls, and any other method that utilizes mechanical means to harvest clams.
- (m) "Mechanical methods for oystering" means dredges, patent tongs, stick rakes, and other rakes when towed by engine power, and any other method

- that utilizes mechanical means to harvest oysters.
- (n) "Mesh length" means the distance from the inside of one knot to the outside of the opposite knot, when the net is stretched hand-tight in a manner that closes the mesh opening.
- (o) "Pound net set" means a fish trap consisting of a holding pen, one or more enclosures, lead or leaders, and stakes or anchors used to support the trap. The holding pen, enclosures, and lead(s) are not conical, nor are they supported by hoops or frames.
- (p) "Purse gill net" means any gill net used to encircle fish when the net is closed by the use of a purse line through rings located along the top or bottom line or elsewhere on such net.
- (q) "Seine" means a net set vertically in the water and pulled by hand or power to capture fish by encirclement and confining fish within itself or against another net, the shore or bank as a result of net design, construction, mesh length, webbing diameter, or method in which it is used.
- (4) "Fish habitat areas" means the estuarine and marine areas that support juvenile and adult populations of fish species, as well as forage species utilized in the food chain. Fish habitats as used in this definition, are vital for portions of the entire life cycle, including the early growth and development of fish species. Fish habitats in all Coastal Fishing Waters, as determined through marine and estuarine survey sampling, include:
- (a) "Anadromous fish nursery areas" means those areas in the riverine and estuarine systems utilized by post-larval and later juvenile anadromous fish.
- (b) "Anadromous fish spawning areas" means those areas where evidence of spawning of anadromous fish has been documented in Division sampling records through direct observation of spawning, capture of running ripe females, or capture of eggs or early larvae.
- (c) "Coral" means:
- (i) fire corals and hydrocorals (Class Hydrozoa);
- (ii) stony corals and black corals (Class Anthozoa, Subclass Scleractinia); or
- (iii) Octocorals; Gorgonian corals (Class Anthozoa, Subclass Octocorallia), which include sea fans (*Gorgonia* sp.), sea whips (*Leptogorgia* sp. and *Lophogorgia* sp.), and sea pansies (*Renilla* sp.).
- (d) "Intertidal oyster bed" means a formation, regardless of size or shape, formed of shell and live oysters of varying density.
- (e) "Live rock" means living marine organisms or an assemblage thereof attached to a hard substrate, excluding mollusk shells, but including dead coral or rock. Living marine organisms associated with hard bottoms, banks, reefs, and live rock include:
- (i) Coralline algae (Division Rhodophyta);
- (ii) *Acetabularia* sp., mermaid's fan and cups (*Udotea* sp.), watercress (*Halimeda* sp.), green feather, green grape algae (*Caulerpa* sp.) (Division Chlorophyta);
- (iii) *Sargassum* sp., *Dictyopteris* sp., *Zonaria* sp. (Division Phaeophyta);
- (iv) sponges (Phylum Porifera);
- (v) hard and soft corals, sea anemones (Phylum Cnidaria), including fire corals (Class Hydrozoa), and Gorgonians, whip corals, sea pansies, anemones, *Solenastrea* (Class Anthozoa);
- (vi) Bryozoans (Phylum Bryozoa);
- (vii) tube worms (Phylum Annelida), fan worms (*Sabellidae*), feather duster and Christmas treeworms (*Serpulidae*), and sand castle worms (*Sabellaridae*);
- (viii) mussel banks (Phylum Mollusca: Gastropoda); and
- (ix) acorn barnacles (Arthropoda: Crustacea: *Semibalanus* sp.).
- (f) "Nursery areas" means areas that for reasons such as food, cover, bottom type, salinity, temperature, and other factors, young finfish and crustaceans spend the major portion of their initial growing season. Primary nursery areas are those areas in the estuarine system where initial post-larval development takes place. These are areas where populations are uniformly early juveniles. Secondary nursery areas are

- those areas in the estuarine system where later juvenile development takes place. Populations are composed of developing sub-adults of similar size that have migrated from an upstream primary nursery area to the secondary nursery area located in the middle portion of the estuarine system.
- (g) "Shellfish producing habitats" means historic or existing areas that shellfish, such as clams, oysters, scallops, mussels, and whelks use to reproduce and survive because of such favorable conditions as bottom type, salinity, currents, cover, and cultch. Included are those shellfish producing areas closed to shellfish harvest due to pollution.
- (h) "Strategic Habitat Areas" means locations of individual fish habitats or systems of habitats that provide exceptional habitat functions or that are particularly at risk due to imminent threats, vulnerability, or rarity.
- (i) "Submerged aquatic vegetation (SAV) habitat" means submerged lands that:
- (i) are vegetated with one or more species of submerged aquatic vegetation including bushy pondweed or southern naiad (*Najas guadalupensis*), coontail (*Ceratophyllum demersum*), eelgrass (*Zostera marina*), horned pondweed (*Zannichellia palustris*), naiads (*Najas* spp.), redhead grass (*Potamogeton perfoliatus*), sago pondweed (*Stuckenia pectinata*, formerly *Potamogeton pectinatus*), shoalgrass (*Halodule wrightii*), slender pondweed (*Potamogeton pusillus*), water stargrass (*Heteranthera dubia*), water starwort (*Callitriche heterophylla*), waterweeds (*Elodea* spp.), widgeongrass (*Ruppia maritima*), and wild celery (*Vallisneria americana*). These areas may be identified by the presence of above-ground leaves, below-ground rhizomes, or reproductive structures associated with one or more SAV species and include the sediment within these areas; or
  - (ii) have been vegetated by one or more of the species identified in Sub-item (4)(i)(i) of this Rule within the past 10 annual growing seasons and that meet the average physical requirements of water depth (six feet or less), average light availability (secchi depth of one foot or more), and limited wave exposure that characterize the environment suitable for growth of SAV. The past presence of SAV may be demonstrated by aerial photography, SAV survey, map, or other documentation. An extension of the past 10 annual growing seasons criteria may be considered when average environmental conditions are altered by drought, rainfall, or storm force winds.
- This habitat occurs in both subtidal and intertidal zones and may occur in isolated patches or cover extensive areas. In defining SAV habitat, the Marine Fisheries Commission recognizes the Aquatic Weed Control Act of 1991 (G.S. 113A-220 et. seq.) and does not intend the submerged aquatic vegetation definition, or this Rule or 15A NCAC 03K .0304 and .0404, to apply to or conflict with the non-development control activities authorized by that Act.
- (5) licenses, permits, leases and franchises, and record keeping:
- (a) "Assignment" means temporary transferal to another person of privileges under a license for which assignment is permitted. The person assigning the license delegates the privileges permitted under the license to be exercised by the assignee, but retains the power to revoke the assignment at any time, and is still the responsible party for the license.
  - (b) "Designee" means any person who is under the direct control of the permittee or who is employed by or under contract to the permittee for the purposes authorized by the permit.
  - (c) "For hire vessel", as defined by G.S. 113-174, means when the vessel is fishing in State waters or when the

- vessel originates from or returns to a North Carolina port.
- (d) "Franchise" means a franchise recognized pursuant to G.S. 113-206.
- (e) "Holder" means a person who has been lawfully issued in the person's name a license, permit, franchise, lease, or assignment.
- (f) "Land" means:
- (i) for commercial fishing operations, when fish reach the shore or a structure connected to the shore.
  - (ii) for purposes of trip tickets, when fish reach a licensed seafood dealer, or where the fisherman is the dealer, when fish reach the shore or a structure connected to the shore.
  - (iii) for recreational fishing operations, when fish are retained in possession by the fisherman.
- (g) "Licensee" means any person holding a valid license from the Department to take or deal in marine fisheries resources.
- (h) "Logbook" means paper forms provided by the Division and electronic data files generated from software provided by the Division for the reporting of fisheries statistics by persons engaged in commercial or recreational fishing or for-hire operators.
- (i) "Master" means captain or operator of a vessel or one who commands and has control, authority, or power over a vessel.
- (j) "New fish dealer" means any fish dealer making application for a fish dealer license who did not possess a valid dealer license for the previous license year in that name. For purposes of license issuance, adding new categories to an existing fish dealers license does not constitute a new dealer.
- (k) "Office of the Division" means physical locations of the Division conducting license and permit transactions in Wilmington, Washington, Morehead City, Roanoke Island, and Elizabeth City, North Carolina. Other businesses or entities designated by the Secretary to issue Recreational Commercial Gear Licenses or Coastal Recreational Fishing Licenses are not considered Offices of the Division.
- (l) "Responsible party" means the person who coordinates, supervises, or otherwise directs operations of a business entity, such as a corporate officer or executive level supervisor of business operations, and the person responsible for use of the issued license in compliance with applicable statutes and rules.
- (m) "Tournament organizer" means the person who coordinates, supervises, or otherwise directs a recreational fishing tournament and is the holder of the Recreational Fishing Tournament License.
- (n) "Transaction" means an act of doing business such that fish are sold, offered for sale, exchanged, bartered, distributed, or landed.
- (o) "Transfer" means permanent transferal to another person of privileges under a license for which transfer is permitted. The person transferring the license retains no rights or interest under the license transferred.
- (p) "Trip ticket" means paper forms provided by the Division and electronic data files generated from software provided by the Division for the reporting of fisheries statistics by licensed fish dealers.

*History Note: Authority G.S. 113-134; 113-174; 113-182; 143B-289.52; Eff. January 1, 1991; Amended Eff. March 1, 1995; March 1, 1994; October 1, 1993; July 1, 1993; Recodified from 15A NCAC 03I .0001 Eff. December 17, 1996; Amended Eff. April 1, 1999; August 1, 1998; April 1, 1997; Temporary Amendment Eff. May 1, 2000; August 1, 1999; July 1, 1999; Amended Eff. August 1, 2000; Temporary Amendment Eff. August 1, 2000; Amended Eff. May 1, 2015; April 1, 2014; April 1, 2011; April 1, 2009; October 1, 2008; December 1, 2007; December 1, 2006; September 1, 2005; April 1, 2003; April 1, 2001; Readopted Eff. June 1, 2022.*

**15A NCAC 03I .0104 INTRODUCE, TRANSFER, OR HOLD IMPORTED MARINE AND ESTUARINE ORGANISMS**

(a) To protect the marine and estuarine resources of North Carolina from unacceptable risks from predators, pests, parasites, and disease, it shall be unlawful, except for American eels imported from Maryland, Virginia, or South Carolina for use in an aquaculture operation, without first obtaining a Permit to

Introduce, Transfer, or Hold Imported Marine and Estuarine Organisms from the Fisheries Director or without obtaining live marine or estuarine organisms from a permittee to:

- (1) place into the Coastal Fishing Waters of the State live marine or estuarine organisms non-native to the State. For the purpose of this Rule, this action is an introduction.
- (2) place into the coastal fishing waters of the State live marine or estuarine organisms that are native but that originated outside the State's boundaries. For the purpose of this Rule, this action is a transfer.
- (3) hold or maintain any live marine or estuarine organisms, including non-native species that may thrive if introduced into Coastal Fishing Waters, imported into the State in a quarantine or isolation system for live bait or use in an aquaculture operation as defined in Rule .0101 of this Section.
- (4) sell for bait any live marine or estuarine organisms, including non-native species that may thrive if introduced into Coastal Fishing Waters, imported into the State.

(b) Any person desiring to obtain a Permit to Introduce, Transfer, or Hold Imported Marine and Estuarine Organisms shall submit a complete application to the Division of Marine Fisheries, 3441 Arendell Street, P.O. Box 769, Morehead City, NC 28557. The procedures and requirements for obtaining permits are found in 15A NCAC 03O .0500. For the Fisheries Director to determine the level of risk to any native marine or estuarine resource or the environment, the applicant shall also provide a certification from a:

- (1) pathologist that a sample of 60 organisms from proposed shipments are disease free or a certification from a governmental veterinary service that the organisms to be shipped were produced in an area or facility free of diseases posing a risk to North Carolina's marine or estuarine resources, or their environment, as determined by the Fisheries Director; and
- (2) biologist or veterinarian that macroscopic and microscopic examination indicates the shipment contains only those species, sizes, and quantities identified on the permit application.

(c) The Fisheries Director shall require disinfection, quarantine, or destruction of organisms and transfer materials as a condition of the permit, upon finding the importation poses a risk to North Carolina's marine or estuarine resources, or their environment.

(d) The Fisheries Director may hold public meetings prior to granting permits for activities specified in Paragraph (a) of this Rule to gather information concerning risks to native marine or estuarine resources or the environment.

*History Note: Authority G.S. 113-134; 113-170; 113-182; 143B-289.52; S.L. 2017-190; S.L. 2018-114;*

*Eff. January 1, 1991;*

*Amended Eff. November 1, 1991;*

*Recodified from 15A NCAC 3I .0004 Eff. December 17, 1996;*

*Amended Eff. April 1, 2009;*

*Amended Eff. (Pending legislative review pursuant to S.L. 2017-190 and S.L. 2019-198).*

## **15A NCAC 03I .0105 LEAVING DEVICES UNATTENDED**

(a) It shall be unlawful to leave stakes, anchors, nets, buoys, or floating devices in Coastal Fishing Waters if such devices are not being employed in commercial fishing operations, except as otherwise provided by rule or General Statute.

(b) It shall be unlawful to use or possess fishing equipment in Coastal Fishing Waters in violation of this Section or that contains edible species of fish unfit for human consumption.

(c) It shall be unlawful to leave pots in Coastal Fishing Waters for more than five consecutive days if such pots are not being employed in commercial fishing operations, except upon a timely and sufficient showing of hardship as set forth in Paragraph (d) of this Rule or as otherwise provided by General Statute. The Fisheries Director may, by proclamation, modify the five-day requirement if necessary due to hurricanes, tropical storms, other severe weather events recognized by the National Weather Service, or other variable conditions pursuant to 15A NCAC 03H .0103. Inspectors may tag pots with a device approved by the Fisheries Director to aid and assist in the investigation and identification of unattended pots. Any such device attached to a pot by agents of the Fisheries Director shall be removed by the individual using the pot within five days of attachment in order to demonstrate that the pot is being employed in commercial fishing operations.

(d) For the purpose of this Rule, a timely and sufficient showing of hardship in a commercial fishing operation shall be a statement in writing from the owner of the pot or the owner's immediate family, as defined in G.S. 113-168, submitted to the Fisheries Director that a mechanical breakdown of the pot owner's vessel currently registered with the Division of Marine Fisheries pursuant to G.S. 113-168.6, or the death, illness, or incapacity of the owner of the pot or the owner's immediate family prevented or will prevent employing such pots in commercial fishing operations for more than five consecutive days. Statements and supporting documentation shall be mailed to the Division of Marine Fisheries, 3441 Arendell Street, P.O. Box 769, Morehead City, NC 28557. Mailing a statement does not automatically exempt a fisherman from the requirements of this Rule. The statement shall specify the number and specific location of the pots, the date by which the pots will be employed in commercial fishing operations or removed from Coastal Fishing Waters, and:

- (1) in the case of a mechanical breakdown, the Commercial Fishing Vessel Registration number, owner's N.C. motor boat registration number of the disabled vessel, date disabled, and description of the arrangements being made to repair the vessel or a copy of the work order showing the name, address, and phone number of the repair facility; or
- (2) in the case of the death, illness, or incapacity of the owner of the pot or the owner's immediate family, the name of the owner or immediate family member and either the date of death or the date of the illness or incapacity. The Fisheries Director may require a doctor's

verification that the illness or incapacity occurred.

(e) It shall be unlawful to fail to employ in commercial fishing operations or remove from Coastal Fishing Waters all pots for which a hardship request is granted under this Rule within 14 days of the expiration of the hardship.

*History Note: Authority G.S. 113-134; 113-136; 113-137; 113-182; 143B-289.52; Eff. January 1, 1991; Amended Eff. March 1, 1996; Recodified from 15A NCAC 03I .0005 Eff. December 17, 1996; Amended Eff. April 1, 1997; Temporary Amendment Eff. July 1, 1999; Amended Eff. September 1, 2005; August 1, 2000; Readopted Eff. (Pending legislative review pursuant to S.L. 2019-198).*

### **15A NCAC 03I .0113 BIOLOGICAL SAMPLING**

It shall be unlawful for any licensee under Chapter 113, Subchapter IV, of the General Statutes to refuse to allow the Fisheries Director or the Fisheries Director's agents to obtain biological data, harvest information, or other statistical data necessary or useful to the conservation and management of marine and estuarine resources from fish in the licensee's possession. Such data shall include, but is not limited to, species identification, length, weight, age, sex, number, area of catch, harvest method, and quantity of catch.

*History Note: Authority G.S. 113-134; 113-170.3; 113-174.1; 113-182; 143B-289.52; Eff. October 1, 1992; Recodified from 15A NCAC 3I .0013 Eff. December 17, 1996; Readopted Eff. (Pending legislative review pursuant to S.L. 2019-198).*

### **15A NCAC 03I .0114 RECORDKEEPING REQUIREMENTS**

(a) It shall be unlawful for a licensed fish dealer:

- (1) to record false information on the North Carolina trip ticket or to fail to legibly record all items on the North Carolina trip ticket for each transaction and submit the trip ticket in accordance with G.S. 113-168.2, including the following:
  - (A) fisherman's name;
  - (B) fisherman's North Carolina license number;
  - (C) dealer's North Carolina license number;
  - (D) start date of trip, including year, month, and day;
  - (E) unload date of trip, including year, month, and day;
  - (F) North Carolina Division of Marine Fisheries Vessel Identification Number or indicate if no vessel was used;
  - (G) crew size;

- (H) gear fished;
- (I) waterbody fished;
- (J) species landed;
- (K) quantity of each species landed in pounds, numbers of fish, bushels, or other units of measurement;
- (L) disposition of species;
- (M) transaction number;
- (N) number of crab pots or peeler pots fished, if applicable;
- (O) state where species was taken if other than North Carolina;
- (P) lease number, if applicable;
- (Q) bottom type, if applicable; and
- (R) shellfish harvest area, if applicable.

- (2) to fail to provide to the Division a Trip Ticket Submittal/Transaction form indicating the number of transactions that occurred during the previous month;
- (3) to fail to make paper copies or electronic copies of trip tickets or N.C. Trip Ticket Program Dock Tickets available at the dealer location for inspection by Marine Fisheries inspectors;
- (4) to fail to submit trip tickets to the Division via electronic file transfer if that dealer reported an annual average of greater than 50,000 pounds of finfish for the previous three calendar years. Dealers subject to the electronic reporting requirement shall be notified by the Division via certified mail and within 120 days of receipt shall:
  - (A) initiate electronic file transfer of trip tickets; and
  - (B) continue to report by electronic file transfer until the dealer no longer holds a fish dealer license with finfish or consolidated categories;
- (5) to fail to use software or web-based utilities authorized by the Division when reporting electronically; and
- (6) to fail to keep all trip tickets and all supporting documentation for each transaction including receipts, checks, bills of lading, records, electronic files, and accounts for a period of not less than three years.

(b) It shall be unlawful for a seller licensed under G.S. 113, Article 14A or donor to fail to provide to the fish dealer, at the time of transaction, the following:

- (1) a current and valid license or permit to sell the type of fish being offered and if a vessel is used, the Commercial Fishing Vessel Registration; and
- (2) complete and accurate information on harvest method and area of catch and other information required by the Division, in accordance with G.S. 113-168.2 and G.S. 113-169.3.

(c) It shall be unlawful to transport fish without having ready at hand for inspection a bill of consignment, bill of lading, or other

shipping documentation provided by the shipping dealer showing the following items:

- (1) name of the consignee;
- (2) name of the shipper;
- (3) date of the shipment;
- (4) name of fish being shipped; and
- (5) quantity of each fish being shipped.

In the event the fisherman taking the fish is also a licensed fish dealer and ships from the point of landing, all shipping records shall be recorded at the point of landing. Fishermen who transport their fish directly to licensed fish dealers are exempt from this Paragraph.

(d) It shall be unlawful to export fish landed in the State in a commercial fishing operation without a North Carolina licensed fish dealer completing all the recordkeeping requirements in G.S. 113-168.2(i).

(e) It shall be unlawful to offer for sale fish purchased from a licensed fish dealer without having ready at hand for inspection by Marine Fisheries inspectors or other agents of the Fisheries Director written documentation of purchase showing the following items:

- (1) name of the licensed fish dealer;
- (2) name of the purchaser;
- (3) date of the purchase;
- (4) name of fish purchased; and
- (5) quantity of each fish purchased.

(f) It shall be unlawful for a holder of a Fish Dealer License to have fish in possession at a licensed location without written documentation from a licensed fish dealer or a completed North Carolina trip ticket to show the quantity and origin of all fish.

*History Note: Authority G.S. 113-134; 113-168.2; 113-168.3; 113-169.3; 113-170; 113-170.3; 113-170.4; 113-182; 143B-289.52;*

*Eff. March 1, 1994;*

*Recodified from 15A NCAC 3I .0014 Eff. December 17, 1996;*

*Temporary Amendment Eff. July 1, 1999;*

*Amended Eff. June 1, 2013; August 1, 2000;*

*Readopted Eff. (Pending legislative review pursuant to S.L. 2019-198).*

#### **15A NCAC 03I .0118 DISPOSAL OF EVIDENCE**

It shall be unlawful for any person to dispose of fish, parts of fish, fishing equipment or gear, or other matter preparatory to, during, or subsequent to the taking of fish after any communication or signal from an inspector, or after the approach of an inspector or an enforcement vessel.

*History Note: Authority G.S. 113-134; 113-182; 143B-289.52;*

*Eff. March 1, 1996;*

*Recodified from 15A NCAC 3I .0018 Eff. December 17, 1996;*

*Readopted Eff. (Pending legislative review pursuant to S.L. 2019-198).*

#### **15A NCAC 03J .0101 FIXED OR STATIONARY NETS**

It shall be unlawful to use or set fixed or stationary nets for any of the following:

- (1) in the channel of the Intracoastal Waterway;

- (2) to block more than two-thirds of a natural or manmade waterway, sound, river, bay, creek, inlet, or other body of water under the authority of the Marine Fisheries Commission;
- (3) in the middle third of a navigation channel marked by State or federal agencies; or
- (4) in a location where it may interfere with navigation.

*History Note: Authority G.S. 113-134; 113-181; 113-182; 143B-289.52;*

*Eff. January 1, 1991;*

*Readopted Eff. (Pending legislative review pursuant to S.L. 2019-198).*

#### **15A NCAC 03J .0105 PURSE SEINES**

(a) It shall be unlawful to use purse seines except for the taking of menhaden, Atlantic thread herring, gizzard shad, or pinfish.

(b) It shall be unlawful to use a purse seine in accordance with the following:

- (1) in the Atlantic Ocean as described in 15A NCAC 03R .0111.
- (2) except as provided in Paragraph (c) of this Rule, between January 16 and May 14 in:
  - (A) internal waters; and
  - (B) the Atlantic Ocean within one mile of shore.
- (3) between January 16 and March 31 in Core Sound.
- (4) from beyond one mile of shore in the Atlantic Ocean and transported to port between sunset on any Friday and sunrise of the following Monday from the Friday of the Memorial Day weekend through sunset on Labor Day.
- (5) from beyond one mile of shore in the Atlantic Ocean and transported to port between the hours of sunrise and sunset on the following holidays:
  - (A) Memorial Day;
  - (B) Fourth of July, when the Fourth of July falls on any calendar day Friday through Monday; and
  - (C) Labor Day.

(c) The Fisheries Director may, by proclamation, open the Atlantic Ocean within one mile of shore and the internal waters specified in Paragraph (d) of this Rule between April 1 and May 14, and may impose any of the following restrictions:

- (1) specify time;
- (2) specify area;
- (3) specify means and methods;
- (4) specify record keeping requirements;
- (5) specify season; and
- (6) specify quantity.

(d) The internal waters specified in Paragraph (c) of this Rule are as follows:

- (1) Pamlico Sound;
- (2) Pamlico River east of a line from Wades Point to Intracoastal Waterway Marker No. 1 at the mouth of Goose Creek;

- (3) Neuse River east of a line from Wilkinson Point to Cherry Point;
- (4) Adams Creek;
- (5) Core Sound and its tributaries;
- (6) Back Sound, the Straits, and North River;
- (7) Newport River;
- (8) North River; and
- (9) Bogue Sound.

(e) Menhaden, Atlantic thread herring, gizzard shad, or pinfish may be taken at any time with a purse seine from beyond one mile of shore in the Atlantic Ocean and transported to port except as specified by Session Law 2012-190 and Subparagraphs (b)(4) and (b)(5) of this Rule.

(f) It shall be unlawful for the responsible party to fail to carry out the following requirements when a fish spill from a purse seine occurs:

- (1) within two hours of the spill, notify the Division of Marine Fisheries Communications Center of the spill by phone at 800-682-2632 or 252-726-7021; and
- (2) report to the Fisheries Director of the North Carolina Division of Marine Fisheries in writing within 30 days of the completion of spill clean-up on the circumstances associated with each spill and costs of its clean-up.

*History Note: Authority G.S. 113-134; 113-182; 113-187; 113-221.1; 143B-289.52;*

*Eff. January 1, 1991;*

*Amended Eff. October 1, 2008;*

*Readopted Eff. (Pending legislative review pursuant to S.L. 2019-198).*

#### **15A NCAC 03J .0109 LONG HAUL AND SWIPE NET REQUIREMENTS**

It shall be unlawful to use a net in a long haul or swipe net fishing operation:

- (1) without a floating buoy that shall be international orange, no less than five inches in diameter, and no less than 11 inches in length attached a minimum of every 100 yards along the cork line;
- (2) without a flag that shall be square in shape, international orange in color, and at least 24 inches by 24 inches in size flying in the rigging so as to be visible when approaching the vessel from any direction; and
- (3) in the Internal Coastal Waters south and west of a line beginning on the west shore of Pamlico Sound at Bluff Point at a point 35° 19.5333' N – 76° 09.3333' W; running southeasterly to Ocracoke Island to a point 35° 08.0000' N – 75° 55.0000' W; without escape panels as follows:
  - (a) for long haul operations, two panels four feet deep and six feet long installed with the entire panel within 10 feet of the staff on the end of the bunt net from which the fish are being

bailed, with panels in the water while fish are harvested;

- (b) for swipe net operations, two panels three feet deep and five feet long installed with the entire panel within 10 feet of the staff on the end of the bunt net from which the fish are being bailed, with panels in the water while fish are harvested;
- (c) the upper edge of one panel installed within 12 to 24 inches of the float line and the lower edge of the other panel installed within 12 to 24 inches of the lead line; and
- (d) panels constructed of unobstructed trawl rings with a minimum inside diameter of one and nine-sixteenth inches, with the rings fastened together at a maximum of four points per ring.

*History Note: Authority G.S. 113-134; 113-182; 143B-289.52;*

*Eff. January 1991;*

*Amended Eff. August 1, 2004; April 1, 1999;*

*Readopted Eff. (Pending legislative review pursuant to S.L. 2019-198).*

#### **15A NCAC 03J .0110 SEINES**

It shall be unlawful to use seines 30 feet or longer for recreational purposes unless the net is marked by attaching to the corkline a floating buoy, any shade of hot pink in color. Buoys shall be of solid foam or other solid buoyant material no less than five inches in diameter and no less than five inches in length. The gear owner's last name and initials shall be engraved on the attached buoy or identified by attaching engraved metal or plastic tags to the buoy. If a vessel is used, the identification shall also include one of the following:

- (1) gear owner's current motor boat registration number; or
- (2) owner's U.S. vessel documentation name.

*History Note: Authority G.S. 113-134; 113-173; 113-182; 143B-289.52;*

*Temporary Adoption Eff. July 1, 1999;*

*Eff. August 1, 2000;*

*Readopted Eff. (Pending legislative review pursuant to S.L. 2019-198).*

#### **15A NCAC 03J .0301 POTS**

(a) It shall be unlawful to use pots except during time periods and in areas specified herein:

- (1) in Internal Waters from December 1 through May 31, except that:
  - (A) in the Northern Region designated in 15A NCAC 03R .0118(1) all pots shall be removed from Internal Waters from January 1 through January 31. Fish pots upstream of the U.S. 17 Bridge

- across Chowan River and upstream of a line across the mouth of Roanoke, Cashie, Middle, and Eastmost Rivers to the Highway 258 Bridge are exempt from this removal requirement.
- (B) in the Southern Region designated in 15A NCAC 03R .0118(2) all pots shall be removed from Internal Waters from March 1 through March 15.
- (2) in Internal Waters from June 1 through November 30 in the Northern Region designated in 15A NCAC 03R .0118(1):
  - (A) in areas described in 15A NCAC 03R .0107(a).
  - (B) to allow for the variable spatial distribution of crustacea and finfish, the Fisheries Director may, by proclamation, specify time periods for and designate the areas described in 15A NCAC 03R .0107(b) or any part thereof, for the use of pots.
- (3) in Internal Waters from May 1 through November 30 in the Southern Region designated in 15A NCAC 03R .0118(2), the Fisheries Director may, by proclamation, specify time periods and areas for the use of pots.
- (4) in the Atlantic Ocean from May 1 through November 30 the Fisheries Director may, by proclamation, specify time periods and areas for the use of pots.
- (b) It shall be unlawful to use pots:
  - (1) in any navigation channel marked by State or Federal agencies; or
  - (2) in any turning basin maintained and marked by the North Carolina Ferry Division.
- (c) It shall be unlawful to use pots in a commercial fishing operation unless each pot is marked by attaching a floating buoy of any color except any shade of yellow or any shade of hot pink, or any combination of colors that include any shade of yellow or any shade of hot pink. Buoys shall be of solid foam or other solid buoyant material no less than five inches in diameter and no less than five inches in length. The gear owner's last name and initials shall be engraved on the attached buoy or identified by attaching engraved metal or plastic tags to the buoy. If a vessel is used, the identification shall also include one of the following:
  - (1) gear owner's current motor boat registration number; or
  - (2) gear owner's U.S. vessel documentation name.
- (d) Pots attached to shore or a pier shall be exempt from Subparagraphs (a)(2) and (a)(3) of this Rule.
- (e) It shall be unlawful to use shrimp pots with mesh lengths smaller than one and one-fourth inches stretch or five-eighths-inch bar.
- (f) It shall be unlawful to use pots to take eels with mesh lengths smaller than one-half inch by one-half inch.
- (g) Except for unbaited pots or pots baited with a male crab, it shall be unlawful to use crab pots in Coastal Fishing Waters unless

each pot contains no less than three unobstructed escape rings that are at least two and five-sixteenth inches inside diameter and:

- (1) for pots with a divider:
  - (A) two escape rings shall be located on opposite panels of the upper chamber of the pot; and
  - (B) at least one escape ring shall be located within one full mesh of the corner and one full mesh of the bottom of the divider in the upper chamber of the pot.
- (2) for pots without a divider:
  - (A) two escape rings shall be located on opposite panels of the pot; and
  - (B) at least one escape ring shall be located within one full mesh of the corner and one full mesh of the bottom of the pot.

For the purpose of this Rule, a "divider" shall mean a panel that separates the crab pot into upper and lower sections.

(h) The Fisheries Director may, by proclamation, impose on a commercial fishing operation and for recreational purposes any of the following restrictions for pots:

- (1) specify time;
- (2) specify area;
- (3) specify means and methods;
- (4) specify record keeping and reporting requirements;
- (5) specify season, including a closed season for removal of all pots from Internal Waters;
- (6) specify species; and
- (7) specify quantity.

(i) It shall be unlawful to use more than 150 crab pots per vessel in Newport River.

(j) It shall be unlawful to remove crab pots from the water or remove crabs from crab pots between one hour after sunset and one hour before sunrise.

(k) It shall be unlawful to use pots to take crabs unless the line connecting the pot to the buoy is non-floating.

(l) It shall be unlawful to use pots with leads or leaders to take shrimp. For the purpose of this Rule, "leads" or "leaders" shall mean any fixed or stationary net or device used to direct fish into any gear used to capture fish. Any device with leads or leaders used to capture fish shall not be a pot.

*History Note: Authority G.S. 113-134; 113-173; 113-182; 113-221.1; 143B-289.52;*

*Eff. January 1, 1991;*

*Amended Eff. August 1, 1998; May 1, 1997; March 1, 1996; March 1, 1994; October 1, 1992; September 1, 1991;*

*Temporary Amendment Eff. July 1, 1999;*

*Amended Eff. August 1, 2000;*

*Temporary Amendment Eff. September 1, 2000;*

*Amended Eff. May 1, 2015; April 1, 2014; September 1, 2005; August 1, 2004; August 1, 2002;*

*Readopted Eff. (Pending legislative review pursuant to S.L. 2019-198).*

**15A NCAC 03J .0302 RECREATIONAL USE OF POTS**

(a) It shall be unlawful for a Recreational Commercial Gear License holder to use pots authorized by 15A NCAC 03O .0302 unless each pot is marked by attaching a floating buoy, any shade of hot pink in color. Buoys shall be of solid foam or other solid buoyant material no less than five inches in diameter and no less than five inches in length. The gear owner's last name and initials shall be identified on the attached buoy using an engraved buoy or by attaching engraved metal or plastic tags to the buoy. If a vessel is used, the identification shall also include one of the following:

- (1) gear owner's current motor boat registration number; or
- (2) owner's U.S. vessel documentation name.

(b) It shall be unlawful for a person to use more than one crab pot attached to the shore along privately owned land or to a privately owned pier without possessing a valid Recreational Commercial Gear License.

*History Note: Authority G.S. 113-134; 113-173; 113-182; 143B-289.52; Eff. January 1, 1991; Temporary Amendment Eff. July 1, 1999; Amended Eff. April 1, 2011; August 1, 2000; Readopted Eff. (Pending legislative review pursuant to S.L. 2019-198).*

**15A NCAC 03J .0305 TROTLINES (MULTIPLE HOOK OR MULTIPLE BAIT)**

(a) It shall be unlawful to use multiple hook or multiple bait trotlines for recreational purposes unless each multiple hook or multiple bait trotline is marked by attaching to them at each end a floating buoy, any shade of hot pink in color. Buoys shall be of solid foam or other solid buoyant material no less than five inches in diameter and no less than five inches in length. The gear owner's last name and initials shall be engraved on the attached buoy or identified by attaching engraved metal or plastic tags to the buoy. If a vessel is used, the identification shall also include one of the following:

- (1) gear owner's current motor boat registration number; or
- (2) gear owner's U.S. vessel documentation name.

(b) It shall be unlawful to use multiple hook or multiple bait trotlines in a commercial fishing operation unless each multiple hook or multiple bait trotline is marked by attaching to them at each end a floating buoy of any color except any shade of yellow or any shade of hot pink, or any combination of colors that include any shade of yellow or any shade of hot pink. Buoys shall be of solid foam or other solid buoyant material no less than five inches in diameter and no less than five inches in length. The gear owner's last name and initials shall be engraved on the attached buoy or identified by attaching engraved metal or plastic tags to the buoy. If a vessel is used, the identification shall also include one of the following:

- (1) gear owner's current motor boat registration number; or
- (2) gear owner's U.S. vessel documentation name.

*History Note: Authority G.S. 113-134; 113-173; 113-182; 143B-289.52; Temporary Adoption Eff. July 1, 1999; Eff. August 1, 2000; Readopted Eff. (Pending legislative review pursuant to S.L. 2019-198).*

**15A NCAC 03J .0501 DEFINITIONS AND STANDARDS FOR POUND NETS AND POUND NET SETS**

(a) The following definitions shall apply to this Section:

- (1) "Deployed pound net" means setting of any part of a pound net except for a location identification stake or, for a pound net used in the Atlantic Ocean, a location identification buoy placed at each end of a proposed new location.
- (2) "Flounder pound net" means a pound net set that produces a catch consisting of 50 percent or more flounder by weight of the entire landed catch, excluding blue crabs or a pound net set with all pounds (holding pen) constructed of four inch stretch mesh or greater.
- (3) "Operational pound net set" means a pound net set as defined in 15A NCAC 03I .0101 and deployed according to rules and permit conditions with net attached to stakes or anchors for the lead and pound, including only a single pound in a multi-pound set, and a non-restricted opening leading into the pound such that the set is able to catch and hold fish.
- (4) "Permit period" means from the date of issuance of a new or renewal Pound Net Set Permit to the expiration date.
- (5) "Pound Net Set Permit" means a Division of Marine Fisheries authorization to set and fish a pound net set in a commercial fishing operation in a specified location in a specified fishery.
- (6) "Shrimp pound net" means a pound net set with all pounds (holding pen) constructed of stretch mesh equal to or greater than one and one-fourth inches and less than or equal to two inches.

(b) It shall be unlawful for a pound net used in a commercial fishing operation to:

- (1) be deployed on a site without first obtaining a Pound Net Set Permit from the Fisheries Director.
- (2) fail to be operational for a minimum of 30 consecutive days during the Pound Net Set Permit period, except the Fisheries Director may, by proclamation, waive this requirement if a season for the fishery for which the pound net set is permitted is ended earlier due to a quota being met or for compliance with the N.C. Southern Flounder Fishery Management Plan.

(c) It shall be unlawful for a pound net set in a commercial fishing operation in coastal fishing waters to fail to:

- (1) have the permittee's identification legibly printed on a sign no less than six inches square, securely attached to a stake at the permitted ends of each set at all times. For pound net sets in the Atlantic Ocean using anchors instead of stakes, the set shall be identified with a yellow buoy that shall be of solid foam or other solid buoyant material no less than five inches in diameter and no less than 11 inches in length. The permittee's identification shall be legibly printed on the buoy. The identification on signs or buoys shall include the Pound Net Set Permit number and the permittee's last name and initials.
- (2) have yellow light reflective tape or yellow light reflective devices on each pound. The yellow light reflective tape or yellow light reflective devices shall be affixed to a stake of at least three inches in diameter on any outside corner of each pound, shall cover a vertical distance of not less than 12 inches, and shall be visible from all directions.
- (3) have a marked navigational opening at least 25 feet wide at the end of every third pound. The opening shall be marked with yellow light reflective tape or yellow light reflective devices on each side of the opening. The yellow light reflective tape or yellow light reflective devices shall be affixed to a stake of at least three inches in diameter, shall cover a vertical distance of not less than 12 inches, and shall be visible from all directions.

If a permittee notified of a violation under this Paragraph fails or refuses to take corrective action sufficient to remedy the violation within 10 days of receiving notice of the violation, the Fisheries Director shall revoke the permit.

(d) It shall be unlawful to use a Recreational Commercial Gear License (RCGL) shrimp pound net as defined in 15A NCAC 030 .0302(a)(8) in coastal fishing waters unless the shrimp pound net is:

- (1) marked by attaching to the offshore lead, a floating buoy, any shade of hot pink in color. Buoys shall be of solid foam or other solid buoyant material no less than five inches in diameter and no less than five inches in length. The gear owner's last name and initials shall be engraved on the attached buoy or identified by attaching engraved metal or plastic tags to the buoy. If a vessel is used, the identification shall also include one of the following:
  - (A) gear owner's current motor boat registration number; or
  - (B) gear owner's U.S. vessel documentation name.
- (2) set a minimum of 100 yards from a RCGL shrimp pound net set or 300 yards from a commercial permitted shrimp pound net set.

(e) Escape Panels:

- (1) The Fisheries Director may, by proclamation, require escape panels in pound net sets and may impose any of the following requirements on the use of escape panels:
    - (A) specify size, number, and location;
    - (B) specify mesh length, but not more than six inches;
    - (C) specify time or season; and
    - (D) specify areas.
  - (2) It shall be unlawful to use flounder pound net sets without four unobstructed escape panels in each pound. The escape panels shall be fastened to the bottom and corner ropes on each wall on the side and back of the pound opposite the heart. The escape panels shall be a minimum mesh size of five and one-half inches, hung on the diamond, and shall be at least six meshes high and eight meshes long.
- (f) The Fisheries Director shall by proclamation establish time periods between December 1 through February 1 and areas where it shall be unlawful to fail to remove all nets from pound net sets in commercial fishing operations in internal coastal waters.
- (g) It shall be unlawful within 30 days of abandonment of a permitted pound net set to fail to remove all stakes and associated gear from coastal fishing waters. The responsible party for abandoned pound net gear may be charged the costs incurred by the Division when the Division undertakes removal of the abandoned pound net gear.

*History Note: Authority G.S. 113-134; 113-169.1; 113-181; 113-182; 113-221.1; 143B-289.52;*  
*Eff. April 1, 2009;*  
*Readopted Eff. (Pending legislative review pursuant to S.L. 2019-198).*

#### **15A NCAC 03J .0502 POUND NET SET PERMIT APPLICATION AND PROCESSING**

(a) All initial, renewal, or transfer applications for Pound Net Set Permits, and the operation of such pound net sets, shall comply with the requirements governing all permits as provided in 15A NCAC 030 .0502. The procedures and requirements for obtaining permits are set forth in 15A NCAC 030 .0501.

(b) Applicants for Pound Net Set permits shall meet the following eligibility requirements as determined by the Fisheries Director:

- (1) the applicant is an individual and not a corporation, partnership, organization, or other entity;
- (2) the applicant has in the past complied with fisheries rules and laws and does not have any licenses under suspension or revocation as set forth in 15A NCAC 030 .0114 or any pound net set permits under suspension or revocation as set forth in 15A NCAC 030 .0504. In addition, a history of habitual fisheries violations evidenced by eight or more convictions as specified in 15A NCAC 030 .0114, G.S. 14-223, Chapter 75A, or G.S. 76-40 in 10 years shall make an individual ineligible.

- (3) the applicant has in the past complied with all permit conditions, rules, and laws related to pound nets.
- (4) the applicant holds proper valid licenses and permits necessary to fish the type of net indicated in the application.

(c) Applications for Pound Net Set permits shall include the following:

- (1) a base map provided by the Division of Marine Fisheries indicating the proposed set location including an inset vicinity map showing the location of the proposed set with detail sufficient to permit on-site identification and location.
- (2) declaration of the type of pound net that will be deployed at the site. One of the following pound net fisheries shall be specified:
  - (A) flounder pound net set;
  - (B) bait pound net set;
  - (C) shrimp pound net set;
  - (D) blue crab pound net set; or
  - (E) other finfish pound net set.

(d) For proposed new locations, the Fisheries Director shall issue a public notice of intent to consider issuance of a Pound Net Set Permit allowing for public comment for 20 days, and after the comment period, may hold public meetings to take comments on the proposed pound net set. If the Director does not approve or deny the application within 90 days of receipt of a complete and verified application, the application shall be deemed denied. The applicant shall be notified of denial in writing. Approval shall be conditional based upon the applicant's continuing compliance with eligibility requirements set out in Paragraph (e) of this Rule and specific conditions contained on the Pound Net Set Permit. The applicant may contest the denial of a Pound Net Set Permit application by filing a petition for a contested case under G.S. 150B-23.

(e) In order for a site to be deemed suitable for a pound net set, the proposed set location shall meet the following criteria as determined by the Fisheries Director:

- (1) the proposed pound net set, either alone or when considered cumulatively with other existing pound net sets in the area, will not interfere with navigation or with existing, traditional uses of the area other than navigation, and will not violate 15A NCAC 03J .0101 and .0102;
- (2) the proposed pound net set will not interfere with the rights of any riparian or littoral landowner, including the construction or use of piers;
- (3) the proposed pound net set will not, by its proximate location, interfere with existing pound net sets in the area. Flounder or other finfish pound net sets will be a minimum of 1,000 yards, as measured in a perpendicular direction, from any point on a line following the permitted location of existing pound net sets; except

- (A) in Chowan River as referenced in 15A NCAC 03J .0203; and
- (B) for renewal of pound net sets permitted prior to January 1, 2003;
- (4) the proposed shrimp or blue crab pound net set will be a minimum of 300 yards, as measured in a perpendicular direction, from any point on a line following the permitted location of existing pound net sets;
- (5) the proposed pound net set is not located in Core Sound in areas designated in 15A NCAC 03R .0113 except that only those Pound Net Set permits valid within the specified area as of March 1, 1994, may be renewed or transferred subject to the requirements of this Rule; and
- (6) issuance of the proposed Pound Net Set Permit is in compliance with management measures adopted in fishery management plans.

*History Note: Authority G.S. 113-134; 113-169.1; 113-181; 113-182; 113-182.1; 143B-289.52; Eff. April 1, 2009; Readopted Eff. June 1, 2022.*

#### **15A NCAC 03J .0503 POUND NET SET PERMIT RENEWAL**

An application for renewal of an existing Pound Net Set Permit shall be filed not less than 30 days prior to the date of expiration of the existing permit and shall not be processed unless filed by the permittee. The Fisheries Director shall review the renewal application under the criteria for issuance of a new Pound Net Set Permit, as set forth in the rules of this Section. The Fisheries Director may hold public meetings and may conduct such investigations necessary to determine if the permit should be renewed.

*History Note: Authority G.S. 113-134; 113-169.1; 113-181; 113-182; 143B-289.52; Eff. April 1, 2009; Readopted Eff. June 1, 2022.*

#### **15A NCAC 03J .0504 POUND NET SET PERMIT TRANSFER**

(a) It shall be unlawful to transfer a Pound Net Set Permit without a completed application for transfer being submitted to the Division of Marine Fisheries not less than 45 days before the date of the transfer. The application shall be made by the proposed new permittee in writing and shall be accompanied by a copy of the current permittee's permit and an application for a Pound Net Set Permit in the new permittee's name. The Fisheries Director may hold a public meeting and verify the location of the pound net set and that it is in compliance with all laws and rules to determine if the permit should be transferred. The transferred permit expires on the same date as the initial permit.

(b) Upon death of the permittee, the permit may be transferred to the Administrator/Executor of the estate of the permittee if transferred within six months of the Administrator/Executor's qualification in accordance with Chapter 28A of the North Carolina General Statutes. The Administrator/Executor shall

provide a copy of the deceased permittee's death certificate, a copy of letters of administration/letters testamentary, and a list of eligible immediate family members as defined in G.S. 113-168 to the Morehead City Office of the Division. Once transferred to the Administrator/Executor, the Administrator/Executor may transfer the permit or permits to eligible immediate family members of the deceased permittee.

(c) No transfer is effective until approved and processed by the Division in accordance with 15A NCAC 03O .0501.

*History Note: Authority G.S. 113-134; 113-169.1; 113-181; 113-182; 143B-289.52;*  
*Eff. April 1, 2009;*  
*Readopted Eff. June 1, 2022.*

**15A NCAC 03J .0505 POUND NET SET PERMIT CONDITIONS**

(a) It shall be unlawful for a permittee to:

- (1) fail to notify the Division of Marine Fisheries Communications Center by phone at 800-682-2632 or 252-726-7021 within 72 hours of:
  - (A) an operational pound net set. Notification shall include the name of permittee, type of net, Pound Net Set Permit number, county where located, a specific location site, and how many pounds are in the set; and
  - (B) a change to the type of net being set at the permitted site.
- (2) make false notifications.
- (3) fail to render the pound net set inoperable during any closed season for the type of fishery for which the pound net is permitted.

Failure to comply with this Paragraph shall be grounds for the Fisheries Director to revoke any Pound Net Set Permits held by the permittee and for denial of any future applications for Pound Net Set Permits.

(b) Pound net sets shall be subject to inspection at all times.

(c) Daily reporting may be a condition of the permit for a pound net set for fisheries under a quota.

(d) It shall be unlawful to fail to remove all pound net stakes and associated gear within 30 days after expiration of the permit or notice by the Fisheries Director that an existing Pound Net Set Permit has been revoked or denied.

*History Note: Authority G.S. 113-134; 113-169.1; 113-181; 113-182; 143B-289.52;*  
*Eff. April 1, 2009;*  
*Readopted Eff. June 1, 2022.*

**15A NCAC 03K .0101 PROHIBITED ACTIVITIES IN POLLUTED SHELLFISH AREAS**

(a) It shall be unlawful to possess, sell, or take oysters, clams, or mussels from areas that have been designated as polluted by proclamation by the Fisheries Director except as provided in Rules .0103, .0104, .0107, and .0401 of this Subchapter. The Fisheries Director shall issue shellfish polluted area proclamations if criteria for approved shellfish harvest areas in accordance with 15A NCAC 18A .0900 have not been met. The

Fisheries Director may reopen any such closed area by proclamation if criteria for approved shellfish harvest areas in accordance with 15A NCAC 18A .0900 have been met. Copies of these proclamations and maps of these areas are available upon request at the Division of Marine Fisheries, 3441 Arendell Street, P.O. Box 769, Morehead City, NC 28557; 800-682-2632 or 252-726-7021.

(b) The Fisheries Director may, by proclamation, close areas to the taking of oysters, clams, scallops, and mussels to protect the shellfish populations for management purposes or for protection of public health related to the public health programs that fall under the authority of the Marine Fisheries Commission not specified in Paragraph (a) of this Rule.

(c) It shall be unlawful to possess or sell oysters, clams, or mussels taken from polluted waters outside North Carolina, except as provided in 15A NCAC 03I .0104.

*History Note: Authority G.S. 113-134; 113-168.5; 113-169.2; 113-182; 113-221.1; 143B-289.52;*  
*Eff. January 1, 1991;*  
*Amended Eff. July 1, 1993;*  
*Temporary Amendment Eff. July 1, 1999;*  
*Amended Eff. August 1, 2000;*  
*Temporary Amendment Eff. October 1, 2001;*  
*Amended Eff. October 1, 2008; April 1, 2003;*  
*Readopted Eff. (Pending legislative review pursuant to S.L. 2019-198).*

**15A NCAC 03K .0102 RAKES PROHIBITED**

It shall be unlawful to use a rake more than 12 inches wide or weighing more than six pounds to take:

- (1) oysters or scallops; or
- (2) clams in any live oyster bed, or in any established bed of submerged aquatic vegetation as defined in 15A NCAC 03I .0101 or salt water cordgrass (*Spartina alterniflora*) that may exist together or separately.

*History Note: Authority G.S. 113-134; 113-182; 143B-289.52;*  
*Eff. January 1, 1991;*  
*Amended Eff. October 1, 2008; February 1, 2008;*  
*Readopted Eff. (Pending legislative review pursuant to S.L. 2019-198).*

**15A NCAC 03K .0103 SHELLFISH MANAGEMENT AREAS**

(a) For the purpose of this Rule, "Shellfish Management Area" shall mean an area that has environmental conditions suitable for shellfish growth and survival that is designated to establish a localized regulatory strategy to improve the propagation of shellfish and has at least one of the following:

- (1) planted cultch;
- (2) existing shell; or
- (3) existing live shellfish.

(b) The Fisheries Director may, by proclamation, designate and modify Shellfish Management Areas based on biological impacts or variable spatial distribution, including shifted material.

(c) It shall be unlawful to use a trawl net, long haul seine, or swipe net in any designated Shellfish Management Area.

(d) It shall be unlawful to take shellfish from any Shellfish Management Area that has been closed in accordance with Paragraph (b) of this Rule, except the Fisheries Director may, by proclamation, open specific areas to allow the taking of shellfish and may impose any of the following requirements based on biological impacts or user conflicts:

- (1) specify time;
- (2) specify area;
- (3) specify means and methods except as set forth in Paragraph (c) of this Rule;
- (4) specify season;
- (5) specify size;
- (6) specify quantity; and
- (7) specify marking requirements.

*History Note: Authority G.S. 113-134; 113-182; 113-204; 113.221.1; 143B-289.52;*

*Eff. January 1, 1991;*

*Amended Eff. March 1, 1994;*

*Temporary Amendment Eff. October 1, 2001;*

*Amended Eff. October 1, 2008; February 1, 2008; April 1, 2003;*

*Readopted Eff. (Pending legislative review pursuant to S.L. 2019-198).*

**15A NCAC 03K .0104 PERMITS FOR RELAYING SHELLFISH FROM POLLUTED AREAS**

(a) It shall be unlawful to take shellfish from polluted public waters or franchises for planting on shellfish leases and franchises except as authorized by G.S. 113-203. Shellfish lease and franchise holders shall first obtain a relay permit from the Fisheries Director setting forth the time, area, and method by which such shellfish may be taken. The procedures and requirements for obtaining permits are found in 15A NCAC 03O .0500.

(b) The application for a relay permit shall be received by the Division of Marine Fisheries at least 15 days prior to the start of relaying activities.

(c) All relaying activities, including removal, transport, and planting, shall be monitored and observed by the Division.

(d) The season for relaying shellfish may occur within a specified six week period between the date of the statewide closure of oyster season and June 30, as determined by the Fisheries Director based on the following factors:

- (1) the status of shellfish resources available for harvest from public bottom;
- (2) surface water temperatures that are below 50° F (10° C), when shellfish relay shall not occur;
- (3) market factors affecting sale of shellfish from public bottom; and
- (4) availability of Division of Marine Fisheries staff to monitor and observe the shellfish relaying activity.

(e) The Fisheries Director, shall close by proclamation any shellfish lease or franchise for which the owner has obtained a permit to relay shellfish from polluted public waters or franchises. The leases and franchises shall remain closed until the Fisheries Director issues a proclamation to reopen the leases and franchises

to harvest. The reopening of the leases and franchises shall not occur any sooner than 21 days after the end of the relay season described in Paragraph (d) of this Rule.

*History Note: Authority G.S. 113-134; 113-182; 113-203; 113-221.1; 143B-289.52;*

*Eff. January 1, 1991;*

*Amended Eff. March 1, 1996; September 1, 1991;*

*Temporary Amendment Eff. October 1, 2001;*

*Amended Eff. April 1, 2003;*

*Readopted Eff. (Pending legislative review pursuant to S.L. 2019-198).*

**15A NCAC 03K .0105 RECREATIONAL HARVEST OF SHELLFISH**

(a) It shall be unlawful to take oysters or clams from public bottom on Sundays, and scallops from public bottom on Saturdays and Sundays except:

- (1) during open seasons; and
- (2) for recreational purposes.

(b) It shall be unlawful to possess, for recreational purposes, more than:

- (1) 10 conchs or whelks per person per day, not to exceed 20 conchs or whelks per vessel per day;
- (2) 100 mussels per person per day, not to exceed 200 mussels per vessel per day; and
- (3) 100 clams per person per day, not to exceed 200 clams per vessel per day.

*History Note: Authority G.S. 113-134; 113-169.2; 113-182; 143B-289.52;*

*Eff. January 1, 1991;*

*Amended Eff. March 1, 1994; February 1, 1992; September 1, 1991;*

*Temporary Amendment Eff. October 9, 1995 for a period of 180 days or until the permanent rule becomes effective, whichever is sooner;*

*Amended Eff. May 1, 1997; March 1, 1996;*

*Temporary Amendment Eff. July 1, 1999;*

*Amended Eff. October 1, 2008; August 1, 2000;*

*Readopted Eff. June 1, 2022.*

**15A NCAC 03K .0106 TAKING OR UNLOADING OYSTERS AND CLAMS ON SUNDAY OR AT NIGHT**

(a) It shall be unlawful to take oysters or clams between the hours of sunset and sunrise on any day.

(b) It shall be unlawful to unload oysters or clams from any vessel or remove any vessel containing oysters or clams from the water on Sundays or between sunset and sunrise on any day except that in New Hanover, Pender, and Brunswick counties, oysters and clams may be unloaded until two hours after sunset.

(c) Oysters and clams taken on Sundays from public bottom under the provisions of Rule .0105 of this Section or from shellfish leases and franchises pursuant to G.S. 113-208 shall be exempt from Paragraph (b) of this Rule.

*History Note: Authority G.S. 113-134; 113-182; 143B-289.52;*

*Eff. January 1, 1991;*

*Temporary Amendment Eff. July 1, 1999;  
Amended Eff. October 1, 2008; August 1, 2000;  
Readopted Eff. June 1, 2022.*

**15A NCAC 03K .0107 DEPURATION OF CLAMS AND OYSTERS**

(a) It shall be unlawful to take clams or oysters from polluted public waters or franchises of the State for the purpose of depuration except when the harvest will utilize clams or oysters that would otherwise be destroyed in maintenance dredging operations. All harvest and transport activities within the State of North Carolina related to depuration shall be under the supervision of the Division of Marine Fisheries.

(b) The Fisheries Director, may, by proclamation, impose any of the following restrictions on the harvest of clams or oysters for depuration:

- (1) specify species;
- (2) specify areas, except harvest shall not be allowed from designated buffer zones adjacent to sewage outfall facilities;
- (3) specify harvest days;
- (4) specify time;
- (5) specify size;
- (6) specify quantity;
- (7) specify harvest methods; and
- (8) specify record keeping requirements.

(c) Depuration permits:

- (1) it shall be unlawful for individuals to harvest clams or oysters from polluted waters for the purpose of depuration unless they have obtained a Depuration Permit or are listed as designees on a Depuration Permit from the Division setting forth the method of harvest to be employed. Permits shall be issued to licensed North Carolina clam or oyster dealers only. Permittees and designees harvesting under Depuration Permits shall have a current Shellfish License or Shellfish Endorsement on a Standard or Retired Standard Commercial Fishing License. The procedures and requirements for obtaining permits are found in 15A NCAC 03O .0500.
- (2) in addition to information required in 15A NCAC 03O .0501, the permit application shall provide the name, address, location, and telephone number of the depuration operation where the shellfish will be depurated.
- (3) clam or oyster dealers desiring to obtain clams or oysters from polluted waters for the purpose of depuration shall apply for a depuration permit at least 15 days prior to initiation of operation.

(d) Transport of clams or oysters for depuration:

- (1) clams or oysters harvested from polluted waters for depuration in a depuration operation located within the State of North Carolina shall be transported under the supervision of the Division.

- (2) clams or oysters harvested from polluted waters for depuration in a depuration operation outside the State of North Carolina shall not be transported within the State of North Carolina except under the supervision of the Division.

(e) It shall be unlawful to ship clams or oysters harvested for depuration to depuration facilities located in a state other than North Carolina unless the facility is in compliance with the applicable rules and laws of the shellfish control agency of that state.

*History Note: Authority G.S. 113-134; 113-182; 113-201; 113-221.1; 143B-289.52;*

*Eff. January 1, 1991;*

*Temporary Amendment Eff. October 1, 2001;*

*Amended Eff. October 1, 2008; April 1, 2003;*

*Readopted Eff. (Pending legislative review pursuant to S.L. 2019-198).*

**15A NCAC 03K .0108 DREDGES AND MECHANICAL METHODS PROHIBITED**

(a) It shall be unlawful to use mechanical methods, except mechanical methods for clamming and mechanical methods for oystering as defined in 15A NCAC 03I .0101, to take shellfish.

(b) It shall be unlawful to use mechanical methods for oystering or clamming to take shellfish not subject to the restrictions in Rules .0201, .0204, .0302, .0304, .0404, .0501, and .0503 of this Subchapter:

- (1) within any established bed of submerged aquatic vegetation as defined in 15A NCAC 03I .0101 or salt water cordgrass (*Spartina alterniflora*) that may exist together or separately;
- (2) in areas designated in 15A NCAC 03R .0108, except on shellfish leases and franchises with a Permit to Use Mechanical Methods for Shellfish on Shellfish Leases and Franchises;
- (3) in areas designated in Rule .0204 of this Subchapter and 15A NCAC 03R .0103; and
- (4) except following restrictions for the use of mechanical methods specified pursuant to 15A NCAC 03J .0303 and Rules .0201, .0302, .0404, .0501, and .0503 of this Subchapter.

*History Note: Authority G.S. 113-134; 113-182; 113-201; 143B-289.52;*

*Eff. October 1, 2008;*

*Readopted Eff. (Pending legislative review pursuant to S.L. 2019-198).*

**15A NCAC 03K .0109 SHELLFISH HARVEST TAGS**

Consistent with the requirements of this Rule, it shall be unlawful to possess or sell oysters, clams, or mussels taken in a commercial fishing operation without a harvest tag affixed to each container of oysters, clams, or mussels. Tags shall be affixed by the harvester and remain in place while being transported to a certified shellfish dealer. Harvest tags shall remain attached to the container until the certified shellfish dealer breaks open the container for washing, grading, packing, other processing, or the

container is shipped. Once the initial container is broken open or is emptied the harvest tag shall be kept on file, in chronological order, by the certified shellfish dealer for 90 days. It shall be unlawful for the tag to fail to meet the following criteria:

- (1) harvest tags shall be identified as harvest tags. They shall be durable for at least 90 days, waterproof, and a minimum of two and five-eighths inches by five and one-fourth inches in size.
- (2) harvest tags shall be securely fastened to each container in which shellstock is transported. A harvest tag shall remain securely fastened to each container at a certified shellfish dealer until replaced by a dealer tag once the container is broken open for processing or is shipped. Requirements for dealer tags are described in 15A NCAC 18A .0425. Harvesters who are also certified shellfish dealers may use only their dealer tag if it contains the required harvest and dealer information. The required information shall be included on all lots of shellfish subdivided or combined into market grades or market quantities by a harvester or a certified shellfish dealer.
- (3) bulk harvest tags may be used when shellfish are harvested from one growing area on a single day by an individual harvester. Multiple containers may be utilized on a wrapped pallet, in a single boat, vehicle, conveyance, or other container, and tagged with a single harvest tag containing the information required in this Rule. The bulk tag shall also include a statement that "All shellstock containers in this lot have the same harvest date and area of harvest.", and include the number of individual containers in the unit or an estimate of the total weight, volume, or count.
- (4) tags shall contain legible information arranged in the specific order as follows:
  - (a) the harvester's name, address, and Shellfish License or Standard or Retired Standard Commercial Fishing License with shellfish endorsement number;
  - (b) the date of harvest;
  - (c) the most precise identification of the harvest location as is practicable (e.g., Long Bay, Rose Bay), including the State's two initials "N.C." and the growing area designation;
  - (d) the shellfish lease or franchise number, if applicable;
  - (e) type and quantity of shellfish;
  - (f) the following statement in bold, capitalized font: "THIS TAG IS REQUIRED TO BE ATTACHED UNTIL CONTAINER IS EMPTY AND THEREAFTER KEPT ON

- (g) FILE, IN CHRONOLOGICAL ORDER, FOR 90 DAYS."; and the time of the start of harvest. The time of the start of harvest shall be the time when the first shellfish is initially removed from the water.

*History Note:* Authority G.S. 113-134; 113-168.5; 113-169.2; 113-182; 143B-289.52;  
*Eff.* October 1, 2008;  
*Readopted Eff.* (Pending legislative review pursuant to S.L. 2019-198).

**15A NCAC 03K .0111 PERMITS TO USE MECHANICAL METHODS FOR SHELLFISH ON SHELLFISH LEASES OR FRANCHISES**

*History Note:* Authority G.S. 113-134; 113-169.1; 113-182; 143B-289.52;  
*Eff.* May 1, 2015;  
*Repealed Eff.* (Pending legislative review of 15A NCAC 03O .0211).

**15A NCAC 03K .0201 OYSTER HARVEST MANAGEMENT**

- (a) It shall be unlawful to take or possess oysters from public bottom except from October 15 through March 31.
- (b) The Fisheries Director may, by proclamation, impose any of the following restrictions on the taking of oysters:
  - (1) specify time;
  - (2) specify area;
  - (3) specify means and methods;
  - (4) specify season within the period set forth in Paragraph (a) of this Rule;
  - (5) specify size, but the minimum size limit specified shall not be less than three inches, unless a smaller minimum size limit is necessary to prevent loss of oysters due to predators, pests, or infectious oyster diseases. In no case shall the minimum size limit be less than two and one-half inches; and
  - (6) specify quantity, but the quantity shall not exceed possession of more than 20 standard U.S. bushels in a commercial fishing operation per day.

*History Note:* Authority G.S. 113-134; 113-182; 113-201; 113-221.1; 143B-289.52;  
*Eff.* January 1, 1991;  
*Amended Eff.* May 1, 2017; October 1, 2008; March 1, 1996; September 1, 1991;  
*Readopted Eff.* June 1, 2022.

**15A NCAC 03K .0202 CULLING REQUIREMENTS FOR OYSTERS**

- (a) It shall be unlawful to possess oysters that have accumulated dead shell, accumulated oyster cultch material, a shell length less than that specified by proclamation issued under the authority of Rule .0201 of this Section, or any combination thereof that

exceeds a five-percent tolerance limit by volume. Oysters shall be culled where harvested and all oysters of less than legal size, accumulated dead shell, and cultch material shall be immediately returned to the bottom from which it was taken. In determining whether the tolerance limit has been exceeded, Marine Fisheries Inspectors shall be authorized and empowered to grade all, or any portion, or any combination of portions of the entire quantity being graded, and in cases of violations, may seize and return to public bottom or otherwise dispose of the oysters as authorized by law the entire quantity being graded or any portion thereof.

(b) This Rule shall not apply to oysters imported from out-of-state solely for shucking by shucking and packing plants permitted by the Division of Marine Fisheries.

*History Note:* Authority G.S. 113-134; 113-136; 113-137; 113-182; 143B-289.52;  
*Eff. January 1, 1991;*  
*Amended Eff. March 1, 1996; September 1, 1991;*  
*Temporary Amendment Eff. July 1, 1999;*  
*Amended Eff. May 1, 2017; August 1, 2000;*  
*Readopted Eff. (Pending legislative review pursuant to S.L. 2019-198).*

**15A NCAC 03K .0204 MECHANICAL METHODS FOR OYSTERING PROHIBITED**

It shall be unlawful to use any mechanical methods for oystering as defined in 15A NCAC 03I .0101 to take oysters:

- (1) in the Mechanical Methods Prohibited areas designated in 15A NCAC 03R .0108, except on shellfish leases and franchises by a Permit to Use Mechanical Methods for Shellfish on Shellfish Leases or Franchises; and
- (2) on any posted bottom upon which oysters or shells have been planted by the State, unless such bottom has been opened to the public and mechanical methods for oystering are allowed.

*History Note:* Authority G.S. 113-134; 113-182; 113-204; 143B-289.52;  
*Eff. January 1, 1991;*  
*Amended Eff. August 1, 2004; May 1, 1997;*  
*Readopted Eff. (Pending legislative review pursuant to S.L. 2019-198).*

**15A NCAC 03K .0205 MARKETING OYSTERS TAKEN FROM A SHELLFISH LEASE OR FRANCHISE**

- (a) It shall be unlawful to take, possess, buy, or sell oysters from a shellfish lease or franchise during the open season unless such oysters have been culled in accordance with Rule .0202 of this Section.
- (b) All commercial oyster harvesting operations shall operate in accordance with any proclamations issued under the authority of Rule .0110 of this Subchapter.
- (c) It shall be unlawful for a shellfish lease or franchise holder or the holder's designees to take or possess oysters from public bottom while possessing aboard a vessel oysters taken from a lease or franchise.
- (d) It shall be unlawful for a shellfish lease or franchise holder or the holder's designees to fail to obtain an Aquaculture Operation

Permit if the lease or franchise has material extending more than 18 inches above the leased bottom or uses equipment including cages, bags, or predator nets to cultivate shellfish.

*History Note:* Authority G.S. 113-134; 113-182; 113-201; 113-202; 143B-289.52;  
*Eff. January 1, 1991;*  
*Amended Eff. September 1, 1991;*  
*Temporary Amendment Eff. October 1, 2001;*  
*Amended Eff. April 1, 2003;*  
*Readopted Eff. (Pending legislative review pursuant to S.L. 2019-198).*

**15A NCAC 03K .0207 OYSTER SIZE AND HARVEST LIMIT EXEMPTIONS**

Possession and sale of oysters by a hatchery or aquaculture operation and purchase and possession of oysters from a hatchery or aquaculture operation shall be exempt from bag and size limit restrictions as set forth in Rules .0201 and .0202 of this Section. It shall be unlawful to possess, sell, purchase, or transport such oysters unless they are in compliance with all conditions of the Aquaculture Operation Permit as set forth in 15A NCAC 03O .0503.

*History Note:* Authority G.S. 113-134; 113-182; 113-201; 143B-289.52;  
*Temporary Adoption Eff. October 1, 2001;*  
*Eff. April 1, 2003;*  
*Readopted Eff. (Pending legislative review pursuant to S.L. 2019-198).*

**15A NCAC 03K .0208 SEED OYSTER MANAGEMENT AREAS**

- (a) For the purpose of this Rule and 15A NCAC 03R .0116, "Seed Oyster Management Area" shall mean a shellfish producing habitat area located in open harvest waters that has environmental conditions unsuitable for shellfish growth and survival that is designated to establish a localized regulatory strategy to allow the transfer of oysters to shellfish leases or franchises that have more suitable environmental conditions for further grow-out.
- (b) The Fisheries Director may, by proclamation, modify or close Seed Oyster Management Areas designated in 15A NCAC 03R .0116 for the protection of public health related to the public health programs under the authority of the Marine Fisheries Commission.
- (c) It shall be unlawful to take oysters from Seed Oyster Management Areas designated in 15A NCAC 03R .0116 for planting on shellfish leases or franchises without first obtaining a Permit to Transplant Oysters from Seed Oyster Management Areas from the Fisheries Director. The procedures and requirements for obtaining permits are set forth in 15A NCAC 03O .0501.
- (d) It shall be unlawful to use a trawl net, long haul seine, or swipe net in any designated Seed Oyster Management Area.

*History Note:* Authority G.S. 113-134; 113-182; 113-203; 113-221.1; 143B-289.52;  
*Eff. October 1, 2008;*

*Readopted Eff. (Pending legislative review pursuant to S.L. 2019-198).*

**15A NCAC 03K .0209 OYSTER SANCTUARIES**

(a) For the purpose of this Rule and 15A NCAC 03R .0117, "Oyster Sanctuary" shall mean a type of artificial reef and shellfish producing habitat constructed for the purpose of oyster restoration that is managed to sustain populations of oyster broodstock. An Oyster Sanctuary is constructed to maximize habitat complexity and designed to meet its intended function for a minimum of 30 years.

(b) The Fisheries Director may, by proclamation, close Oyster Sanctuary areas designated in 15A NCAC 03R .0117 to the use of specific fishing gears based on biological impacts or user conflicts.

(c) The Fisheries Director may, by proclamation, designate and modify Oyster Sanctuaries based on biological impacts or variable spatial distribution, including shifted material.

(d) It shall be unlawful to use mechanical methods in, or take shellfish from, Oyster Sanctuaries designated in 15A NCAC 03R .0117 or in accordance with Paragraph (c) of this Rule.

(e) It shall be unlawful to use a trawl net, long haul seine, or swipe net in any designated Oyster Sanctuary.

*History Note: Authority G.S. 113-134; 113-182; 113-201; 113-204; 143B-289.52;*

*Eff. October 1, 2008;*

*Readopted Eff. (Pending legislative review pursuant to S.L. 2019-198).*

**15A NCAC 03K .0301 SIZE AND HARVEST LIMITS OF CLAMS**

(a) It shall be unlawful to take, land, or possess aboard a vessel more than 6,250 hard clams per commercial fishing operation from public bottom in internal waters. It shall be unlawful to take, possess, sell, or purchase any clams (except Rangia or freshwater clams) less than one inch thick except in accordance with Rule .0305 of this Section. Clams shall be culled where harvested and all clams of less than legal size with their shell, shall be immediately returned to the bottom from which they were taken. In determining whether the size and harvest limits have been exceeded, Marine Fisheries Inspectors shall be authorized and empowered to grade all, or any portion, or any combination of portions of the entire quantity being graded, and in cases of violations, may seize and return to public bottom or otherwise dispose of the clams as authorized by law the entire quantity being graded or any portion thereof.

(b) Size and harvest limits established in Paragraph (a) of this Rule and the season and area limitations established in Rule .0302 of this Section may or may not apply for:

- (1) harvest limits for temporary openings consistent with the requirements of 15A NCAC 18A .0900 and the North Carolina Hard Clam Fishery Management Plan;
- (2) maintenance dredging operations, when clams would otherwise be destroyed, upon approval by the Division of Marine Fisheries and consistent with the North Carolina Hard Clam Fishery Management Plan; or

- (3) relaying of clams from polluted waters to private shellfish bottom as permitted by Rule .0104 of this Subchapter.

*History Note: Authority G.S. 113-134; 113-136; 113-137; 113-182; 143B-289.52;*

*Eff. January 1, 1991;*

*Amended Eff. March 1, 1994;*

*Readopted Eff. (Pending legislative review pursuant to S.L. 2019-198).*

**15A NCAC 03K .0302 MECHANICAL HARVEST OF CLAMS FROM PUBLIC BOTTOM**

(a) It shall be unlawful to take, buy, sell, or possess any clams taken by mechanical methods for clamming as defined in 15A NCAC 03I .0101 from public bottom unless the season is open.

(b) The Fisheries Director may, by proclamation, open and close the season for the taking of clams by mechanical methods from public bottom at any time in the Atlantic Ocean and only from December 1 through March 31 in Internal Waters.

(c) The Fisheries Director may, by proclamation, open to the taking of clams by mechanical methods from public bottom during open seasons only areas that were opened at any time from January 1979 through September 1988 in:

- (1) Newport, North, White Oak, and New rivers;
- (2) Core and Bogue sounds;
- (3) the Intracoastal Waterway north of "BC" Marker at Topsail Beach; and
- (4) the Atlantic Ocean.

Other areas opened for purposes as set out in Rule .0301(b) of this Section shall open only for those purposes. A list of areas as described in this Paragraph is available upon request at the Division of Marine Fisheries, 3441 Arendell Street, P.O. Box 769, Morehead City, NC 28557.

(d) The Fisheries Director may, by proclamation, impose any of the following additional restrictions for the taking of clams by mechanical methods from public bottom during open seasons:

- (1) specify time;
- (2) specify means and methods;
- (3) specify size; and
- (4) specify quantity.

*History Note: Authority G.S. 113-134; 113-182; 113-221.1; 143B-289.52;*

*Eff. January 1, 1991;*

*Temporary Amendment Eff. October 1, 2001;*

*Amended Eff. May 1, 2017; April 1, 2003;*

*Readopted Eff. June 1, 2022.*

**15A NCAC 03K .0304 PROHIBITED TAKING OF CLAMS**

(a) It shall be unlawful to take clams by mechanical methods for clamming as defined in 15A NCAC 03I .0101, except as provided in Rule .0302 of this Section. Regardless of the areas that may be opened, it shall be unlawful to take clams by hand tongs in any established bed of submerged aquatic vegetation as defined in 15A NCAC 03I .0101 or salt water cordgrass (*Spartina alterniflora*) that may exist together or separately.

(b) It shall be unlawful to possess clam trawls or cages aboard a vessel at any time, or have kick or deflector plates otherwise used in the mechanical harvest of clams affixed to a vessel at any time, except during the time period specified for a mechanical clam harvest season in Internal Waters in accordance with Rule .0302(a) of this Section. A period of 14 days before and after the season as specified by proclamation shall be allowed for the installation and removal of kick or deflector plates and clam trawls or cages. Vessels with permits for activities provided for in Rules .0104, .0107, and .0401 of this Subchapter shall be exempt from this Rule during the times those activities are permitted.

*History Note:* Authority G.S. 113-134; 113-182; 143B-289.52;

*Eff.* January 1, 1991;

*Amended Eff.* October 1, 2008; February 1, 2008; May 1, 1997; July 1, 1993;

*Readopted Eff.* (Pending legislative review pursuant to S.L. 2019-198).

#### **15A NCAC 03K .0305 CLAM SIZE AND HARVEST LIMIT EXEMPTIONS**

Possession and sale of clams by a hatchery or aquaculture operation and purchase and possession of clams from a hatchery or aquaculture operation shall be exempt from bag and size limit restrictions as set forth in Rule .0301 of this Section. It shall be unlawful to possess, sell, purchase, or transport such clams unless they are in compliance with all conditions of the Aquaculture Operation Permit as set forth in 15A NCAC 03O .0503.

*History Note:* Authority G.S. 113-134; 113-182; 113-201; 143B-289.52;

*Eff.* January 1, 1991;

*Amended Eff.* September 1, 1991;

*Readopted Eff.* (Pending legislative review pursuant to S.L. 2019-198).

#### **15A NCAC 03K .0401 POLLUTED AREA PERMIT REQUIREMENTS**

It shall be unlawful to take Rangia clams or their shells by any method from polluted waters without first obtaining a Permit to Harvest Rangia Clams from Polluted Areas from the Fisheries Director. The permit application shall include a list of all designees operating under the permit. The permit shall designate the area, means and methods, and times in which Rangia clams may be taken. The permit applicant shall designate the licensed fish dealer where the Rangia clams are to be landed and the method for disposing of Rangia clam meats. The procedures and requirements for obtaining permits are found in 15A NCAC 03O .0500.

*History Note:* Authority G.S. 113-134; 113-182; 113-201; 113-202; 143B-289.52;

*Eff.* January 1, 1991;

*Amended Eff.* August 1, 2004;

*Readopted Eff.* (Pending legislative review pursuant to S.L. 2019-198).

#### **15A NCAC 03K .0505 SEA SCALLOPS SIZE LIMIT AND TOLERANCE**

It shall be unlawful to land or possess more than 10 percent by number sea scallops with a shell height of less than three and one-half inches. In determining whether the 10 percent tolerance limit has been exceeded, Marine Fisheries Inspectors shall be authorized and empowered to grade all, or any portion, or any combination of portions of the entire quantity being graded, and in cases of violations, may seize and return to public bottom or otherwise dispose of the sea scallops as authorized by law the entire quantity being graded or any portion thereof.

*History Note:* Authority G.S. 113-134; 113-136; 113-137; 113-182; 143B-289.52;

*Eff.* January 1, 1991;

*Readopted Eff.* (Pending legislative review pursuant to S.L. 2019-198).

#### **15A NCAC 03K .0507 MARKETING SCALLOPS TAKEN FROM A SHELLFISH LEASE OR FRANCHISE**

(a) All commercial scallop harvesting operations shall operate in accordance with any proclamations issued under the authority of Rule .0110 of this Subchapter.

(b) It shall be unlawful for a shellfish lease or franchise holder or the holder's designees to take or possess scallops from public bottom while possessing aboard a vessel scallops taken from a lease or franchise.

(c) It shall be unlawful for a shellfish lease or franchise holder or the holder's designees to fail to obtain an Aquaculture Operation Permit if the lease or franchise has material extending more than 18 inches above the leased bottom or uses equipment including cages, bags, or predator nets to cultivate shellfish.

*History Note:* Authority G.S. 113-134; 113-182; 113-201; 143B-289.52;

*Eff.* May 1, 2015;

*Readopted Eff.* April 1, 2019;

*Amended Eff.* (Pending legislative review pursuant to S.L. 2019-198).

#### **15A NCAC 03L .0101 SHRIMP HARVEST RESTRICTIONS**

(a) It shall be unlawful to take shrimp until the Fisheries Director, by proclamation, opens the season.

(b) The Fisheries Director may, by proclamation, impose any of the following restrictions on the taking of shrimp:

- (1) specify time;
- (2) specify area;
- (3) specify means and methods;
- (4) specify season;
- (5) specify size; and
- (6) specify quantity.

*History Note:* Authority G.S. 113-134; 113-182; 113-221.1; 143B-289.52;

*Eff.* January 1, 1991;

*Amended Eff.* May 1, 2015;

*Readopted Eff.* June 1, 2022.

**15A NCAC 03L .0102 WEEKEND SHRIMPING PROHIBITED**

It shall be unlawful to take shrimp by any method from 9:00 p.m. on Friday through 5:00 p.m. on Sunday, except:

- (1) in the Atlantic Ocean;
- (2) with the use of fixed nets, channel nets, hand seines, shrimp pots, or cast nets; or
- (3) for a holder of a Permit for Weekend Trawling for Live Shrimp in accordance with 15A NCAC 03O .0503.

*History Note:* Authority G.S. 113-134; 113-182; 143B-289.52;

*Eff.* January 1, 1991;

*Amended Eff.* May 1, 2017; August 1, 2004; March 1, 1994;

*Readopted Eff.* (Pending legislative review pursuant to S.L. 2019-198).

**15A NCAC 03L .0103 PROHIBITED NETS, MESH LENGTHS, AND AREAS**

(a) It shall be unlawful to take shrimp with nets with mesh lengths less than the following:

- (1) trawl nets: one and one-half inches;
- (2) fixed nets, channel nets, float nets, butterfly nets, and hand seines: one and one-fourth inches; and
- (3) cast nets: no restriction.

(b) It shall be unlawful to take shrimp with a net constructed in such a manner as to contain an inner or outer liner of any mesh length. Net material used as chafing gear shall be no less than four inches mesh length, except that chafing gear with smaller mesh may be used only on the bottom one-half of the tailbag. Such chafing gear shall not be tied in a manner that forms an additional tailbag.

(c) It shall be unlawful to take shrimp with trawls that have a combined headrope of greater than 90 feet in Internal Waters in the following areas:

- (1) north of the 35° 46.3000' N latitude line;
- (2) Core Sound south of a line beginning at a point 34° 59.7942' N - 76° 14.6514' W on Camp Point; running easterly to a point 34° 58.7853' N - 76° 09.8922' W on Core Banks; to the South Carolina State Line;
- (3) Pamlico River upstream of a line from a point 35° 18.5882' N - 76° 28.9625' W at Pamlico Point; running northerly to a point 35° 22.3741' N - 76° 28.6905' W at Willow Point; and
- (4) Neuse River southwest of a line from a point 34° 58.2000' N - 76° 40.5167' W at Winthrop Point on the eastern shore of the entrance to Adams Creek; running northerly to a point 35° 01.0744' N - 76° 42.1550' W at Windmill Point at the entrance of Greens Creek at Oriental.

(d) It shall be unlawful to take shrimp with trawls that have a combined headrope of greater than 220 feet in Internal Waters in the following areas:

- (1) Pamlico Sound south of the 35° 46.3000' N latitude line and north of a line beginning at a point 34° 59.7942' N - 76° 14.6514' W on Camp

Point; running easterly to a point 34° 58.7853' N - 76° 09.8922' W on Core Banks;

- (2) Pamlico River downstream of a line from a point 35° 18.5882' N - 76° 28.9625' W at Pamlico Point; running northerly to a point 35° 22.3741' N - 76° 28.6905' W at Willow Point; and

- (3) Neuse River northeast of a line from a point 34° 58.2000' N - 76° 40.5167' W at Winthrop Point on the eastern shore of the entrance to Adams Creek; running northerly to a point 35° 01.0744' N - 76° 42.1550' W at Windmill Point at the entrance of Greens Creek at Oriental.

(e) It shall be unlawful to use a shrimp trawl in the areas described in 15A NCAC 03R .0114.

(f) It shall be unlawful to use channel nets except as provided in 15A NCAC 03J .0106.

(g) It shall be unlawful to use shrimp pots except as provided in 15A NCAC 03J .0301.

(h) It shall be unlawful to use a shrimp trawl that does not conform with the federal rule requirements for Turtle Excluder Devices (TED) as specified in 50 CFR Part 222.102 Definitions, 50 CFR Part 223.205 (a) and Part 223.206 (d) Gear Requirements for Trawlers, and 50 CFR Part 223.207 Approved TEDs. These federal rules are incorporated by reference including subsequent amendments and editions. Copies of these rules are available via the Code of Federal Regulations posted on the Internet at <https://www.ecfr.gov/cgi-bin/ECFR> and at the Division of Marine Fisheries, 3441 Arendell Street, P.O. Box 769, Morehead City, NC 28557 at no cost.

*History Note:* Authority G.S. 113-134; 113-182; 143B-289.52;

*Eff.* January 1, 1991;

*Amended Eff.* May 1, 2015; April 1, 2009; July 1, 2006;

*Readopted Eff.* (Pending legislative review pursuant to S.L. 2019-198).

**15A NCAC 03L .0105 RECREATIONAL SHRIMP LIMITS**

It shall be unlawful to:

- (1) possess from areas open to the harvest of shrimp more than 48 quarts, heads on or 30 quarts, heads off, of shrimp per person per day or if a vessel is used, per vessel per day for recreational purposes except as provided in 15A NCAC 03O .0303(e) and (f).

- (2) take or possess more than four quarts, heads on or two and one-half quarts, heads off, of shrimp per person per day with a cast net from areas closed to the commercial taking of shrimp.

*History Note:* Authority G.S. 113-134; 113-182; 143B-289.52;

*Eff.* April 1, 2009;

*Amended Eff.* May 1, 2015; June 1, 2013;

*Readopted Eff.* (Pending legislative review pursuant to S.L. 2019-198).

**15A NCAC 03L .0201 CRAB HARVEST RESTRICTIONS**

(a) It shall be unlawful to possess blue crabs taken from Crab Harvest Management Areas designated in 15A NCAC 03R .0118(1) from January 1 through January 31, except dealers shall have seven days after the beginning of the closure to sell, offer for sale, or transport blue crabs that were taken from this area prior to the closure.

(b) It shall be unlawful to possess blue crabs taken from Crab Harvest Management Areas designated in 15A NCAC 03R .0118(2) from March 1 through March 15, except dealers shall have seven days after the beginning of the closure to sell, offer for sale, or transport blue crabs that were taken from this area prior to the closure.

(c) It shall be unlawful to possess more than five percent by number of the following hard blue crabs in any combination in any container:

- (1) male hard blue crabs less than five inches from tip of spike to tip of spike;
- (2) immature female hard blue crabs;
- (3) mature female hard blue crabs less than five inches from tip of spike to tip of spike; and
- (4) mature female hard blue crabs with a dark (brown or black) sponge from April 1 through April 30 statewide. For the purpose of this Rule, a "mature female hard blue crab with a dark sponge" shall mean a mature female hard crab that has extruded her eggs on the abdomen or abdominal flap and the eggs have developed a coloration ranging from any shade of brown through black.

(d) It shall be unlawful to possess blue crabs described in Subparagraphs (c)(1) through (c)(3) of this Rule unless individual crabs are sorted and placed into separate containers for each of the following categories:

- (1) soft crabs;
- (2) pink and red-line peeler crabs;
- (3) white line peeler crabs; and
- (4) from March 1 through October 31, male crabs to be used as peeler crab bait.

All blue crabs not sorted into containers as specified shall be deemed hard blue crabs for the purpose of establishing the five percent tolerance described in Paragraph (c) of this Rule.

(e) It shall be unlawful to possess more than five percent by number of white-line peeler crabs in a container of pink and red-line peeler crabs.

(f) It shall be unlawful to:

- (1) sell white-line peeler crabs;
- (2) possess white-line peeler crabs unless they are to be used in the harvester's permitted blue crab shedding operation; or
- (3) possess male white-line peeler crabs from June 1 through September 1.

(g) It shall be unlawful to possess more than 50 blue crabs per person per day, not to exceed 100 blue crabs per vessel per day for recreational purposes.

(h) In order to comply with management measures adopted in the N.C. Blue Crab Fishery Management Plan, the Fisheries Director may, by proclamation, close the harvest of blue crabs and may

further restrict commercial and recreational blue crab harvest by imposing any of the following requirements on the taking of blue crabs:

- (1) specify areas;
- (2) specify seasons;
- (3) specify time periods;
- (4) specify means and methods;
- (5) specify culling tolerance; and
- (6) specify limits on harvest based on size, quantity, sex, reproductive stage, or peeler stage.

(i) It shall be unlawful to fail to immediately return hard blue crabs not meeting the requirements of this Rule to the waters from which they were taken.

*History Note: Authority G.S. 113-134; 113-182; 113-182.1; 113-221.1; 143B-289.52;*

*Eff. January 1, 1991;*

*Amended Eff. April 1, 1997; July 1, 1993;*

*Temporary Amendment Eff. July 1, 1999;*

*Amended Eff. April 1, 2014; September 1, 2005; August 1, 2000; Readopted Eff. (Pending legislative review pursuant to S.L. 2019-198).*

**15A NCAC 03L .0202 CRAB TRAWLING**

(a) It shall be unlawful to take or possess aboard a vessel crabs taken by trawl in internal waters except in areas and during such times as the Fisheries Director may specify by proclamation.

(b) It shall be unlawful to use a trawl to take crabs that does not meet mesh length requirements, except as provided in 15A NCAC 03J .0104. The minimum mesh length to take hard crabs with a trawl shall be three inches, except:

- (1) the minimum mesh length shall be four inches in the area of western Pamlico Sound west of a line beginning at a point 35° 48.3693' N - 75° 43.7232' W on Roanoke Marshes Point; running easterly to a point 35° 48.3000' N - 75° 37.1167' W near Beacon "1" at the southern end of Roanoke Island; running southerly to a point 35° 30.7500' N - 75° 40.5667' W near the "S" Beacon at Long Shoal; running southwesterly to a point 35° 12.6167' N - 76° 04.3833' W near the "BL" Beacon on Bluff Shoal; running westerly to a point 35° 08.1000' N - 76° 17.5000' W near the "BI" Beacon at Brant Island Shoal; running southwesterly to a point 35° 04 .6167' N - 76° 27.8000' W on Point of Marsh; and
- (2) the Fisheries Director may, by proclamation, specify areas other than the area described in Subparagraph (b)(1) of this Rule for trawl mesh length use and increase the minimum trawl mesh length to no more than four inches to take hard crabs.

(c) It shall be unlawful to use a trawl with a mesh length less than two inches or with a combined total headrope length exceeding 25 feet to take soft or peeler crabs, except as provided in 15A NCAC 03J .0104.

*History Note:* Authority G.S. 113-134; 113-182; 113-221.1; 143B-289.52;  
*Eff. February 1, 1991;*  
*Amended Eff. April 1, 2014; September 1, 2005; August 1, 2004; March 1, 1994; September 1, 1991;*  
*Readopted Eff. (Pending legislative review pursuant to S.L. 2019-198).*

**15A NCAC 03L .0203 CRAB DREDGING**

It shall be unlawful to take crabs with dredges except incidental to lawful oyster dredging operations provided the weight of the crabs shall not exceed the lesser of:

- (1) 10 percent of the total weight of the combined oyster and crab catch; or
- (2) 100 pounds.

The Fisheries Director may, by proclamation authority established in 15A NCAC 03L .0201, further restrict the use of dredges to take blue crabs.

*History Note:* Authority G.S. 113-134; 113-182; 113-221.1; 143B-289.52;  
*Eff. January 1, 1991;*  
*Amended Eff. April 1, 2014; May 1, 1997;*  
*Readopted Eff. (Pending legislative review pursuant to S.L. 2019-198).*

**15A NCAC 03L .0204 CRAB POTS**

(a) It shall be unlawful to take crabs with pots except as provided in 15A NCAC 03J .0301 and .0302. The Fisheries Director may, by proclamation authority established in 15A NCAC 03L .0201, further restrict the use of pots to take blue crabs.

(b) The Fisheries Director may, by proclamation, require the use of terrapin excluder devices in each funnel entrance in crab pots and impose the following restrictions concerning terrapin excluder devices:

- (1) specify areas;
- (2) specify time periods; and
- (3) specify means and methods.

*History Note:* Authority G.S. 113-134; 113-182; 113-221.1; 143B-289.52;  
*Eff. January 1, 1991;*  
*Amended Eff. April 1, 2014;*  
*Readopted Eff. (Pending legislative review pursuant to S.L. 2019-198).*

**15A NCAC 03L .0205 CRAB SPAWNING SANCTUARIES**

(a) It shall be unlawful to set or use trawls, pots, or mechanical methods for shellfish or take crabs with the use of commercial fishing equipment in crab spawning sanctuaries:

- (1) from March 1 through August 31 for the crab spawning sanctuaries described in 15A NCAC 03R .0110(1); and
- (2) from March 1 through October 31 for the crab spawning sanctuaries described in 15A NCAC 03R .0110(2).

(b) The Fisheries Director may, by proclamation, designate additional areas as crab spawning sanctuaries and may impose the following restrictions in any crab spawning sanctuary:

- (1) specify areas;
- (2) specify time periods;
- (3) specify means and methods; and
- (4) specify limits on harvest based on size, quantity, sex, reproductive stage, or peeler stage.

*History Note:* Authority G.S. 113-134; 113-182; 113-182.1; 113-221.1; 143B-289.52;  
*Eff. January 1, 1991;*  
*Amended Eff. May 1, 1997;*  
*Temporary Amendment Eff. October 2, 1999;*  
*Amended Eff. April 1, 2014; April 1, 2001;*  
*Readopted Eff. (Pending legislative review pursuant to S.L. 2019-198).*

**15A NCAC 03M .0201 STRIPED BASS REQUIREMENTS; GENERAL**

(a) For the purpose of this Section, "striped bass" shall mean striped bass (*Morone saxatilis*) and its hybrids taken in Coastal and Joint Fishing Waters or imported from other states.

(b) It shall be unlawful to possess striped bass that are less than 18 inches long (total length) imported from other states.

(c) It shall be unlawful to import, buy, sell, transport, offer to buy or sell, or possess striped bass except during any:

- (1) open striped bass season established for Internal Waters;
- (2) open striped bass season established for the Atlantic Ocean; or
- (3) open striped bass season of another state while in possession of the following:
  - (A) a bill of lading as described in 15A NCAC 03I .0114; and
  - (B) a numbered, state-issued tag from the state of origin affixed through the mouth and gill cover. This tag must remain affixed until processed for consumption by the consumer.

(d) The management areas for estuarine striped bass fisheries in coastal North Carolina are designated in 15A NCAC 03R .0201.

*History Note:* Authority G.S. 113-134; 113-182; 143B-289.52;  
*Eff. January 1, 1991;*  
*Amended Eff. March 1, 1994; September 1, 1991;*  
*Temporary Amendment Eff. May 1, 2000;*  
*Amended Eff. June 1, 2013; October 1, 2008; October 1, 2004; April 1, 2001;*  
*Readopted Eff. (Pending legislative review pursuant to S.L. 2019-198).*

**15A NCAC 03M .0202 STRIPED BASS SEASON, SIZE, AND HARVEST LIMIT: INTERNAL WATERS**

(a) It shall be unlawful to possess striped bass from the Coastal Fishing Waters of the Cape Fear River and its tributaries.

(b) It shall be unlawful to possess striped bass from the Roanoke River Management Area, as designated in 15A NCAC 03R .0201, in a commercial fishing operation.

(c) The Fisheries Director may, by proclamation, impose any of the following restrictions on the taking of striped bass in a commercial fishing operation or for recreational purposes in Internal Waters during the period from October 1 through April 30:

- (1) specify fishing days and times;
- (2) specify area;
- (3) specify means and methods;
- (4) specify size, but the minimum size specified shall not be less than 18 inches total length; and
- (5) specify quantity, except possession for recreational purposes shall not exceed:
  - (A) more than three fish in any one day in the Albemarle Sound Management Area, as designated in 15A NCAC 03R .0201; and
  - (B) more than two fish in any one day in the Joint and Coastal Fishing Waters of the Central Southern Management Area, as designated in 15A NCAC 03R .0201.

Fish that do not meet the minimum size limit specified by proclamation shall immediately be returned to the waters from which taken regardless of condition.

*History Note:* Authority G.S. 113-134; 113-182; 113-221.1; 143B-289.52;  
*Eff. January 1, 1991;*  
*Amended Eff. March 1, 1996; November 1, 1991;*  
*Temporary Amendment Eff. September 1, 1996;*  
*Amended Eff. April 1, 1997;*  
*Temporary Amendment Eff. July 1, 1999;*  
*Amended Eff. June 1, 2013; July 1, 2008; August 1, 2000;*  
*Readopted Eff. (Pending legislative review pursuant to S.L. 2019-198).*

**15A NCAC 03M .0204 STRIPED BASS SEASON, SIZE, AND HARVEST LIMIT: ATLANTIC OCEAN**

It shall be unlawful to possess striped bass taken from the Atlantic Ocean other than the size limit as established by the Atlantic States Marine Fisheries Commission Interstate Fishery Management Plan for Atlantic Striped Bass. The Fisheries Director shall issue proclamations necessary to bring North Carolina's size limit in compliance with the Interstate Fishery Management Plan.

*History Note:* Authority G.S. 113-134; 113-182; 113-182.1; 113-221.1; 143B-289.52;  
*Eff. January 1, 1991;*  
*Amended Eff. March 1, 1996;*  
*Temporary Amendment Eff. October 1, 1996;*  
*Amended Eff. October 1, 2008; July 1, 1998;*  
*Readopted Eff. June 1, 2022.*

**15A NCAC 03M .0205 STRIPED BASS; PROHIBITED TRAWLING**

(a) It shall be unlawful to possess striped bass on a vessel with a trawl net on that vessel in Internal Waters except during transit from ocean fishing grounds to port during any open striped bass trawl season in the Atlantic Ocean established by proclamation. Striped bass so possessed shall meet the minimum size limit set by proclamation issued under the authority of Rules .0204 or .0512 of this Subchapter.

(b) It shall be unlawful to possess striped bass on a vessel in the Atlantic Ocean with a trawl net on that vessel except during any open striped bass trawl season in the Atlantic Ocean established by proclamation issued under the authority of Rules .0204 or .0512 of this Subchapter.

*History Note:* Authority G.S. 113-134; 113-182; 143B-289.52;  
*Eff. January 1, 1991;*  
*Amended Eff. December 1, 2007;*  
*Readopted Eff. (Pending legislative review pursuant to S.L. 2019-198).*

**15A NCAC 03M .0503 FLOUNDER**

(a) It shall be unlawful to possess flounder less than 14 inches total length taken from the Atlantic Ocean in a commercial fishing operation.

(b) From October 1 through April 30, it shall be unlawful to use a trawl in the Atlantic Ocean within three miles of the ocean beach from the North Carolina/Virginia state line (36° 33.000'N) to Cape Lookout (34° 36.000'N) unless each trawl has a mesh length of five and one-half inches or larger diamond mesh (stretched) or six inches or larger square mesh (stretched) applied throughout the body, extensions, and the cod end (tailbag) of the net except as provided in Paragraphs (g) and (h) of this Rule.

(c) License to Land Flounder from the Atlantic Ocean:

- (1) it shall be unlawful to land more than 100 pounds per trip of flounder taken from the Atlantic Ocean unless the owner of the vessel, or in the case of Land or Sell Licenses, the responsible party, has been issued a License to Land Flounder from the Atlantic Ocean and the vessel in use is the vessel specified on the License to Land Flounder from the Atlantic Ocean.
- (2) it shall be unlawful for a fish dealer to purchase or offload more than 100 pounds of flounder taken from the Atlantic Ocean by a vessel whose owner, or in the case of Land or Sell Licenses, the responsible party, has not first procured a valid North Carolina License to Land Flounder from the Atlantic Ocean and the vessel in use is the vessel specified on the License to Land Flounder from the Atlantic Ocean.
- (3) it shall be unlawful for any person to land flounder from the Atlantic Ocean under a License to Land Flounder from the Atlantic Ocean unless that person is the holder of the license or the master designated on the license.

- (4) it shall be unlawful for any individual to land flounder from the Atlantic Ocean without having ready at hand for inspection a valid License to Land Flounder from the Atlantic Ocean, except as specified in Subparagraph (1) of this Paragraph.
- (d) All fish dealer transactions in flounder landed from the Atlantic Ocean shall be conducted in accordance with the Atlantic Ocean Flounder Dealer Permits in 15A NCAC 03O .0503 and permit requirements in 15A NCAC 03O .0500.
- (e) It shall be unlawful to transfer flounder taken from the Atlantic Ocean from one vessel to another.
- (f) Tailbag liners of any mesh size, the multiple use of two or more cod ends, or other netting material that in any way could restrict the legal size mesh shall not be used or possessed on the deck of a vessel in the Atlantic Ocean from October 1 through April 30 from the North Carolina/Virginia state line (36° 33.000' N) to Cape Lookout (34° 36.0000'N).
- (g) Trawls with a cod end mesh size smaller than described in Paragraph (b) of this Rule may be used or possessed on the deck of a vessel provided not more than 100 pounds of flounder per trip from May 1 through October 31 or more than 200 pounds from November 1 through April 30 is possessed aboard or landed from that vessel.
- (h) Flynets are exempt from the flounder trawl mesh requirements if they meet the following requirements:
- (1) the net has large mesh in the wings that measure eight inches to 64 inches;
  - (2) the first body section (belly) of the net has 35 or more meshes that are at least eight inches; and
  - (3) the mesh decreases in size throughout the body of the net to as small as two inches or smaller towards the terminus of the net.
- (i) Commercial Season:
- (1) the North Carolina season for landing ocean-caught flounder shall open January 1 each year. If 80 percent of the quota allocated to North Carolina in accordance with the joint Mid-Atlantic Fishery Management Council/Atlantic States Marine Fisheries Commission Fishery Management Plan for Summer Flounder is projected to be taken, the Fisheries Director shall, by proclamation, close North Carolina ports to landing of flounder taken from the ocean.
  - (2) the season for landing flounder taken in the Atlantic Ocean shall reopen November 1 if any of the quota allocated to North Carolina in accordance with the joint Mid-Atlantic Fishery Management Council/Atlantic States Marine Fisheries Commission Fishery Management Plan for Summer Flounder remains. If after reopening, 100 percent of the quota allocated to North Carolina in accordance with the joint Mid-Atlantic Fishery Management Council/Atlantic States Marine Fisheries Commission Fishery Management Plan for Summer Flounder is projected to be taken prior to the end of the calendar year, the Fisheries

Director shall, by proclamation, close North Carolina ports to landing of flounder taken from the ocean.

- (3) during any closed season prior to November 1, vessels may land up to 100 pounds of flounder per trip taken from the Atlantic Ocean.

(j) The Fisheries Director may, by proclamation, establish trip limits for the taking of flounder from the Atlantic Ocean to assure that the individual state quota allocated to North Carolina in the joint Mid-Atlantic Fishery Management Council/Atlantic States Marine Fisheries Commission Fishery Management Plan for Summer Flounder is not exceeded.

(k) The Fisheries Director may, by proclamation, based on variability in environmental and local stock conditions, take any of the following actions in the flounder fishery:

- (1) specify time;
- (2) specify area;
- (3) specify means and methods;
- (4) specify season;
- (5) specify size;
- (6) specify quantity; and
- (7) require submission of statistical and biological data.

(l) Possession and sale of flounder by a hatchery or flounder aquaculture operation and purchase and possession of flounder from a hatchery or flounder aquaculture operation shall be exempt from season and size limit restrictions set under Paragraph (k) of this Rule. It shall be unlawful to possess, sell, purchase, or transport such flounder unless they are in compliance with all conditions of the Aquaculture Operation Permit.

*History Note: Authority G.S. 113-134; 113-169.5; 113-182; 113-221.1; 143B-289.52;*

*Eff. January 1, 1991;*

*Amended Eff. March 1, 1996; February 1, 1992;*

*Temporary Amendment Eff. November 1, 1995 for a period of 180 days or until the permanent rule becomes effective, whichever is sooner;*

*Temporary Amendment Eff. December 23, 1996;*

*Amended Eff. April 1, 1997;*

*Temporary Amendment Eff. June 1, 1998; August 18, 1997;*

*Amended Eff. April 1, 1999;*

*Temporary Amendment Eff. May 1, 2000; July 1, 1999;*

*Amended Eff. April 1, 2001; August 1, 2000;*

*Temporary Amendment Eff. September 1, 2004;*

*Temporary Amendment Expired June 12, 2005;*

*Amended Eff. September 1, 2005;*

*Readopted Eff. (Pending legislative review pursuant to S.L. 2019-198).*

#### **15A NCAC 03N .0104 PROHIBITED GEAR, PRIMARY NURSERY AREAS**

It shall be unlawful to use any trawl net, long haul seine, swipe net, dredge, mechanical methods for clamming, or mechanical methods for oystering for the purpose of taking any marine fishes in any of the primary nursery areas described in 15A NCAC 03R .0103.

*History Note:* Authority G.S. 113-134; 113-182; 143B-289.52;  
*Eff. January 1, 1991;*  
*Amended Eff. September 1, 1991;*  
*Recodified from 15A NCAC 3N .0004 Eff. May 1, 1997;*  
*Amended Eff. May 1, 1997;*  
*Readopted Eff. (Pending legislative review pursuant to S.L. 2019-198).*

**15A NCAC 03N .0105 PROHIBITED GEAR, SECONDARY NURSERY AREAS**

(a) It shall be unlawful to use trawl nets for any purpose in any of the permanent secondary nursery areas designated in 15A NCAC 03R .0104.  
 (b) It shall be unlawful to use trawl nets for any purpose in any of the special secondary nursery areas designated in 15A NCAC 03R .0105, except that the Fisheries Director, may, by proclamation, open any of the special secondary nursery areas, or any portion thereof, designated in 15A NCAC 03R .0105 to shrimp or crab trawling from August 16 through May 14 subject to the provisions of 15A NCAC 03L .0100 and .0200.

*History Note:* Authority G.S. 113-134; 113-182; 113-221.1; 143B-289.52;  
*Eff. January 1, 1991;*  
*Amended Eff. September 1, 1991;*  
*Recodified from 15A NCAC 03N .0005 Eff. May 1, 1997;*  
*Amended Eff. August 1, 2004; May 1, 1997;*  
*Readopted Eff. (Pending legislative review pursuant to S.L. 2019-198).*

**15A NCAC 03O .0101 PROCEDURES AND REQUIREMENTS TO OBTAIN LICENSES, ENDORSEMENTS, AND COMMERCIAL FISHING VESSEL REGISTRATIONS**

(a) Division of Marine Fisheries licenses are available at offices of the Division or by mail from the Morehead City Office of the Division, unless otherwise specified. In addition, Recreational Commercial Gear Licenses are available at license agents of the Wildlife Resources Commission in accordance with G.S. 113-270.1.  
 (b) For the purpose of this Rule, the procedures and requirements for the licensee shall also apply to the responsible party, the person holding power of attorney, the tournament organizer, and the vessel master.  
 (c) To obtain Division of Marine Fisheries licenses, endorsements, and Commercial Fishing Vessel Registrations, a licensee shall provide a completed application to an office of the Division by mail or in person. Applications submitted without complete and required information shall not be processed until all required information has been submitted. Incomplete applications shall be returned to the applicant with deficiency in the application so noted. The following shall be required for the application:

- (1) full name, physical address, mailing address, date of birth, and signature of the licensee. If the licensee is not appearing before a license agent or a representative of the Division, the licensee's signature shall be notarized.

- (2) a statement from the licensee that the information and supporting documentation submitted with the application is true and correct.
  - (3) current and valid picture identification of the licensee. Acceptable forms of picture identification are state driver's license, state identification card issued by the Division of Motor Vehicles, military identification card, resident alien card (green card), or passport; or if purchased by mail, a copy thereof.
  - (4) certification that the applicant does not have four or more marine or estuarine resource convictions during the previous three years.
  - (5) current articles of incorporation and a current list of corporate officers when purchasing a license or Commercial Fishing Vessel Registration in a corporate name. In the case of incorporation of an individual fishing vessel, the name of the vessel master shall also be specified. The licensee shall notify the Morehead City Office of the Division within five days of changing the vessel master.
  - (6) a current copy of a written partnership agreement shall be provided when purchasing a license, endorsement, or Commercial Fishing Vessel Registration in a partnership name, if a partnership is established.
  - (7) valid documentation papers or current motor boat registration, or copy thereof when purchasing a Commercial Fishing Vessel Registration. If an application for transfer of documentation is pending, a copy of the pending application and a notarized bill of sale may be submitted.
  - (8) affirmation of liability insurance and that the operator is knowledgeable of United States Coast Guard (USCG) safety requirements for the vessels used in the operation in accordance with G.S. 113-168.6 when purchasing a Commercial Fishing Vessel Registration with a for-hire endorsement.
- (d) In addition to the requirements of Paragraph (c) of this Rule, proof of residency for non-residents shall be documented by the licensee with certification of the state of residency. Proof of residency for residents of North Carolina shall be documented by the licensee as follows:
- (1) Standard or Retired Standard Commercial Fishing Licenses: A notarized certification from the applicant that the applicant is a resident of the State of North Carolina as defined by G.S. 113-130(4) and:
    - (A) a notarized certification from the applicant that a North Carolina State Income Tax Return was filed for the previous calendar or tax year as a North Carolina resident;
    - (B) a notarized certification that the applicant was not required to file a

- North Carolina State Income Tax Return for the previous calendar or tax year; or
    - (C) military identification or military dependent identification, and permanent change of station orders or assignment orders substantiating the military individual's active duty assignment at a military facility in North Carolina.
  - (2) All other types of licenses:
    - (A) North Carolina voter registration card;
    - (B) current North Carolina Driver's License;
    - (C) current North Carolina Certificate of Domicile;
    - (D) current North Carolina Identification Card issued by the North Carolina Division of Motor Vehicles; or
    - (E) military identification or military dependent identification, and permanent change of station orders or assignment orders substantiating the military individual's active duty assignment at a military facility in North Carolina.
  - (e) In addition to the requirements in Paragraphs (c) and (d) of this Rule, the following shall be required:
    - (1) Blanket For-Hire Captain's CRFL: a valid certification from the USCG that allows carrying six or fewer passengers or a certification from the USCG that allows carrying more than six passengers.
    - (2) Blanket For-Hire Vessel CRFL or Non-Blanket For-Hire Vessel License:
      - (A) valid documentation papers or current motor boat registration, or copies thereof for the vessel engaged as for-hire; or
      - (B) a copy of the pending application and a notarized bill of sale if an application for transfer of documentation is pending.
    - (3) Fish Dealer License:
      - (A) the physical address of the established location where business is conducted and, if different, the address where records are kept; and
      - (B) a valid Permit and Certificate of Compliance from the Division of Marine Fisheries Shellfish Sanitation and Recreational Water Quality Section, if purchasing a Fish Dealer License with clam or oyster categories or a consolidated license.
    - (4) Land or Sell License:
      - (A) valid documentation papers or current motor boat registration, or copy thereof; or
      - (B) a copy of the pending application and a notarized bill of sale if an application for transfer of documentation is pending.
- The fees for a Land or Sell License shall be based on the vessel's homeport as it appears on the USCG documentation papers or the state in which the vessel is registered, in accordance with G.S. 113-169.5.
- (5) Ocean Fishing Pier License:
    - (A) the information required in G.S. 113-169.4; and
    - (B) linear length of the pier. A Marine Fisheries inspector's signature is required to verify the linear length of the pier before the license can be issued.
  - (6) Recreational Fishing Tournament License to Sell Fish: name and date or dates of the tournament.
  - (7) Spotter Plane License:
    - (A) the information required in G.S. 113-171.1;
    - (B) the current aircraft registration; and
    - (C) a list of operators.
  - (f) For a License to Land Flounder from the Atlantic Ocean, in addition to the requirements in Paragraphs (c) and (d) of this Rule, the following shall be applicable:
    - (1) for the purpose of this Paragraph, "license year" means the period beginning July 1 of a year through June 30 of the following year.
    - (2) to qualify for a License to Land Flounder from the Atlantic Ocean, the applicant shall:
      - (A) have landed in North Carolina at least 1,000 pounds of flounder from a single vessel each year from the Atlantic Ocean during any two of the 1992-93, 1993-94, 1994-95 license years for which the person had a vessel that was licensed to land in North Carolina;
      - (B) have been licensed under G.S. 113-152 or 113-153 during any two of the 1992-93, 1993-94, or 1994-95 license years; and
      - (C) hold a valid Standard or Retired Standard Commercial Fishing License or valid Land or Sell License.
    - (3) it shall be unlawful for a person to hold more Licenses to Land Flounder from the Atlantic Ocean than the number of vessels that the person owns that individually met the eligibility requirements of Parts (f)(2)(A) and (f)(2)(B) of this Rule.
    - (4) the License to Land Flounder from the Atlantic Ocean is only valid when used on the vessel specified at the time of license issuance.
    - (5) at the time of issuance, the applicant for the License to Land Flounder from the Atlantic Ocean shall specify the name of the vessel

master for each License to Land Flounder from the Atlantic Ocean issued.

- (6) the holder of the License to Land Flounder from the Atlantic Ocean shall notify the Morehead City Office of the Division of Marine Fisheries within five days of change as to the vessel master identified on the license.

- (7) Licenses to Land Flounder from the Atlantic Ocean are issued for the current license year.

(g) For a Recreational Fishing Tournament License to Sell Fish, in addition to the requirements in Paragraphs (c) and (d) of this Rule, the following shall be applicable:

- (1) it shall be unlawful for anyone other than the holder of the Recreational Fishing Tournament License to Sell Fish to sell fish taken during a recreational fishing tournament.
- (2) fish to be sold under the Recreational Fishing Tournament License to Sell Fish shall be sold only to licensed fish dealers and shall comply with all applicable rules of the Marine Fisheries Commission or provisions of proclamations issued by the Fisheries Director as authorized by the Marine Fisheries Commission.
- (3) it shall be unlawful for a licensed recreational fishing tournament organizer to fail to accurately and legibly complete a North Carolina Recreational Fishing Tournament Disposition of Proceeds from the Sale of Fish Form provided by the Division of Marine Fisheries and submit the form to the Division within 30 days after the last day of the tournament.

(h) It shall be unlawful for a license, endorsement, or Commercial Fishing Vessel Registration holder to fail to notify the Division of Marine Fisheries within 30 days of a change of name or address, in accordance with G.S. 113-169.2.

*History Note:* Authority G.S. 113-134; 113-168; 113-168.1-6; 113-169.2-5; 113-171.1; 113-174.3; 113-182; 143B-289.52;

*Eff. January 1, 1991;*

*Amended Eff. July 1, 1997; March 1, 1994;*

*Temporary Amendment Eff. July 1, 1999;*

*Amended Eff. August 1, 2000;*

*Temporary Amendment Eff. April 1, 2001;*

*Amended Eff. May 1, 2015; July 1, 2008; December 1, 2006;*

*August 1, 2004; August 1, 2002;*

*Readopted Eff. (Pending legislative review pursuant to S.L. 2019-198).*

**15A NCAC 030 .0102 PROCEDURES AND REQUIREMENTS TO RENEW LICENSES, ENDORSEMENTS, AND COMMERCIAL FISHING VESSEL REGISTRATIONS**

(a) For the purpose of this Rule, the procedures and requirements for the licensee shall also apply to the responsible party, the person holding power of attorney, the tournament organizer, and the vessel master.

(b) To renew Division of Marine Fisheries licenses, endorsements, and Commercial Fishing Vessel Registrations,

except Recreational Commercial Gear Licenses, a renewal application shall be submitted by the licensee. Applications submitted without complete and required information shall not be processed until all required information has been submitted. Incomplete applications shall be returned to the licensee with deficiency in the application so noted. The following is required for the renewal application:

- (1) full name, physical address, mailing address, date of birth, and signature of the licensee.
- (2) a statement from the licensee that the information and supporting documentation submitted with the application is true and correct.
- (3) current and valid picture identification of the licensee. Acceptable forms of picture identification are state driver's license, state identification card issued by the Division of Motor Vehicles, military identification card, resident alien card (green card), or passport; or if purchased by mail, a copy thereof.
- (4) the information required in Rule .0101(c)(4) through (c)(8) of this Section, if changed since last issuance of the license, endorsement, or Commercial Fishing Vessel Registration.
- (5) the information required in Rule .0101(e)(1) of this Section, if the linear length of the Ocean Fishing Pier has changed.
- (6) a valid Permit and Certificate of Compliance from the Division's Shellfish Sanitation and Recreational Water Quality Section, if renewing a Fish Dealer License with clam or oyster categories or a consolidated license.
- (7) certification that all information on the application is true and accurate. Notarization of the signature on renewal applications shall not be required.

The Division may require current copies of documentation for licenses, endorsements, and Commercial Fishing Vessel Registrations upon renewal when necessary to verify inconsistent information or the information cannot be verified by independent sources.

*History Note:* Authority G.S. 113-134; 113-168; 113-168.1-6; 113-169.2-5; 113-171.1; 113-174.3; 113-182; 143B-289.52;

*Eff. January 1, 1991;*

*Amended Eff. March 1, 1994;*

*Temporary Amendment Eff. July 1, 1999;*

*Amended Eff. December 1, 2006; August 1, 2000;*

*Readopted Eff. (Pending legislative review pursuant to S.L. 2019-198).*

**15A NCAC 030 .0103 AUXILIARY VESSELS**

(a) It shall be unlawful to fail to comply with Commercial Fishing Vessel Registration requirements set forth in G.S. 113-168.6 to operate a vessel used in conjunction with a commercial fishing operation.

(b) An individual in command of a vessel that is auxiliary to a vessel with a Commercial Fishing Vessel Registration with an individual aboard who holds a Standard Commercial Fishing

License or a Retired Standard Commercial Fishing License engaged in a commercial fishing operation using a pound net, long haul, or beach seine is exempt from the provisions of G.S. 113-168.2 (a1).

*History Note:* Authority G.S. 113-134; 113-168.1; 113-168.2; 113-168.5; 113-168.6; 113-182; 143B-289.52;  
*Eff. January 1, 1991;*  
*Temporary Amendment Eff. July 1, 1999;*  
*Amended Eff. August 1, 2000;*  
*Readopted Eff. June 1, 2022.*

**15A NCAC 030 .0104 COMMERCIAL UNLOADING OF FISH**

It shall be unlawful to unload fish from a vessel in North Carolina that has been engaged in a commercial fishing operation outside State waters without possessing a valid:

- (1) Standard or Retired Standard Commercial Fishing License with applicable endorsement;
- (2) Shellfish License for North Carolina Residents without a Standard Commercial Fishing License; or
- (3) Land or Sell License.

*History Note:* Authority G.S. 113-134; 113-168.1; 113-168.2; 113-168.4; 113-169.5; 113-182; 143B-289.52;  
*Eff. January 1, 1991;*  
*Temporary Amendment Eff. July 1, 1999;*  
*Amended Eff. August 1, 2000;*  
*Readopted Eff. (Pending legislative review pursuant to S.L. 2019-198).*

**15A NCAC 030 .0105 REQUIREMENTS FOR MUSSEL DEALERS**

Persons dealing in mussels who are subject to licensing requirements under the provisions of G.S. 113-169.3 shall be required to purchase only the license applicable to clam dealers and shall be required to hold a valid Permit and Certificate of Compliance from the Division of Marine Fisheries Shellfish Sanitation and Recreational Water Quality Section, as described in Rule .0101 of this Section.

*History Note:* Authority G.S. 113-134; 113-169.3; 113-182; 143B-289.52;  
*Eff. January 1, 1991;*  
*Temporary Amendment Eff. July 1, 1999;*  
*Amended Eff. August 1, 2004; August 1, 2000;*  
*Readopted Eff. June 1, 2022.*

**15A NCAC 030 .0107 LICENSE REPLACEMENT AND FEES**

- (a) A licensee shall receive a replacement for a commercial license, endorsement, Commercial Fishing Vessel Registration decal, or Recreational Commercial Gear License upon payment to the Division of Marine Fisheries a fee of ten dollars (\$10.00) or a fee equal to the initial cost of the license, endorsement, or Commercial Fishing Vessel Registration, whichever is less.
- (b) A licensee shall receive a replacement Coastal Recreational Fishing License or a for-hire license as defined in G.S. 113-174.3

upon payment to the Division of Marine Fisheries a fee of five dollars (\$5.00).

*History Note:* Authority G.S. 113-134; 113-168.1; 113-168.6; 113-169.4; 113-173; 113-174.1; 113-174.2; 113-174.3; 113-182; 143B-289.52;  
*Eff. January 1, 1991;*  
*Temporary Amendment Eff. July 1, 1999;*  
*Amended Eff. December 1, 2006; August 1, 2000;*  
*Readopted Eff. June 1, 2022.*

**15A NCAC 030 .0109 ASSIGNMENT OF STANDARD COMMERCIAL FISHING LICENSE**

(a) For the purpose of this Rule, "licensee" shall mean the person issued a Standard Commercial Fishing License and "assignee" shall mean the individual to whom the licensee assigns a Standard Commercial Fishing License in accordance with the requirements of this Rule.

(b) The Division of Marine Fisheries shall provide assignment forms to the licensee upon request. Only Division assignment forms shall be used to obtain an assignment. On the assignment form, the licensee shall designate what, if any, endorsements are included in the assignment. Endorsements shall not be assigned independent of the Standard Commercial Fishing License. It shall be unlawful for the licensee or the assignee to fail to submit within five days the completed assignment form to any office of the Division in person or by mail to the Morehead City Office. The Morehead City Office is located at 3441 Arendell Street, Morehead City, North Carolina, 28557. If the completed assignment form is not received by the Division within five days from the date it was signed, the assignment shall be null and void. Incomplete forms shall be returned to the licensee with deficiency in the form so noted. An assignment is in effect from the date specified on the assignment form and when:

- (1) the assignment form is complete with all required information;
- (2) signatures of the current license holder and the assignee are notarized; and
- (3) the assignee has in the assignee's possession the current licensee's original actual Standard Commercial Fishing License, including applicable endorsements in accordance with G.S. 113-169.2.

(c) For an extension of time for assignments, a new assignment form shall be completed in accordance with Subparagraphs (b)(1) through (b)(3) of this Rule.

(d) Assignments shall terminate:

- (1) when the date specified on the assignment form is reached;
- (2) if the licensee or assignee are determined ineligible for a license or assignment;
- (3) if the Division receives a notarized statement from the current license holder stating a revised date for an earlier assignment termination;
- (4) upon the licensee or assignee's death; or
- (5) when the Standard Commercial Fishing License expires.

(e) It shall be unlawful for an individual assigned a Standard Commercial Fishing License when involved in a commercial

fishing operation to fail to have the original actual Standard Commercial Fishing License, any assigned endorsements, and a copy of the assignment form in the individual's possession ready at hand for inspection in accordance with G.S. 113-168.1.

(f) All landings occurring during the time of the assignment shall be credited to the licensee, not the assignee.

(g) It shall be unlawful to be assigned more than a single Standard Commercial Fishing License at any one time. It shall be unlawful to assign a Standard Commercial Fishing License to more than one individual at any one time. Assignments shall only be made by the licensee and shall not be further assigned by assignees. Masters identified on the Standard Commercial Fishing Licenses of corporations consisting of an individual fishing vessel shall not assign such licenses.

(h) It shall be unlawful for a person to accept assignment of a Standard Commercial Fishing License for which they are ineligible.

(i) It shall be unlawful for any assignee of a Standard Commercial Fishing License not to return the assignment and the Standard Commercial Fishing License with any assigned endorsements to the licensee within five days of notice that the assignment has been terminated or a demand by the licensee to return the license.

*History Note:* Authority G.S. 113-134; 113-135; 113-168.1; 113-168.2; 113-168.5; 113-169.2; 113-182; 113-187; 143B-289.52;

*Eff. January 1, 1991;*

*Temporary Amendment Eff. October 2, 1999; July 1, 1999;*

*Amended Eff. August 1, 2000;*

*Readopted Eff. (Pending legislative review pursuant to S.L. 2019-198).*

#### **15A NCAC 030 .0110 LICENSE REFUNDS**

All license fees are non-refundable except if licenses are issued by the Division of Marine Fisheries in error.

*History Note:* Authority G.S. 113-134; 113-182; 143B-289.52; 147-84;

*Eff. March 1, 1995;*

*Temporary Amendment Eff. July 1, 1999;*

*Amended Eff. August 1, 2000;*

*Readopted Eff. June 1, 2022.*

#### **15A NCAC 030 .0111 SURRENDER OF LICENSES**

(a) It shall be unlawful for any licensee to refuse to surrender to an agent of the Secretary all licenses, license receipts, endorsements, commercial fishing vessel registration or decals, and other forms and records relating to the license following service of notice of suspension or revocation of licenses in accordance with G.S. 113-171 and Rule .0114 of this Section.

(b) It shall be unlawful for any person in custody or possession of any licenses, license receipt, endorsements, commercial fishing vessel registration or decals, and other documentation required to be surrendered to refuse to surrender same to an agent of the Secretary making such demand.

(c) A license issued by the Division in error shall be required to be surrendered immediately upon service of a notice by an agent of the Fisheries Director to surrender the license.

*History Note:* Authority G.S. 113-134; 113-171; 113-182; 143B-289.52; S.L. 2010-145, s. 1;

*Temporary Adoption Eff. July 1, 1999;*

*Eff. August 1, 2000;*

*Amended Eff. October 1, 2012;*

*Readopted Eff. (Pending legislative review pursuant to S.L. 2019-198).*

#### **15A NCAC 030 .0113 OCEAN FISHING PIER REPORTING REQUIREMENTS**

It shall be unlawful for the responsible party of the Ocean Fishing Pier License to fail to provide to the Division of Marine Fisheries by the 10th of each month a daily count of anglers fishing from the licensed pier from the previous month, including a daily count of zero for days when anglers did not fish. The information shall be submitted on a paper form provided by the Division or via electronic mail to the electronic mail address provided at the time of license issuance.

*History Note:* Authority G.S. 113-134; 113-169.4; 113-170.3; 113-174.1; 113-182; 143B-289.52;

*Eff. April 1, 2011;*

*Amended Eff. May 1, 2015;*

*Readopted Eff. (Pending legislative review pursuant to S.L. 2019-198).*

#### **15A NCAC 030 .0203 SHELLFISH LEASE APPLICATION PROCESSING**

(a) After acceptance of a completed shellfish lease application as set forth in Rule .0202 of this Section, the proposed shellfish lease area shall be inspected by agents of the Division of Marine Fisheries. Proposed shellfish lease areas inconsistent with applicable standards contained or referenced in Rule .0201 of this Section shall result in the return of the application for amendment to remove the inconsistencies. If the boundaries of the proposed shellfish lease area are modified, the stakes identifying such areas shall be relocated accordingly by the applicant or applicants. The failure of the applicant or applicants to amend the application or modify the shellfish lease area identification, when required, within 30 days of notification shall result in denial of the application.

(b) If the initial or amended shellfish lease application is deemed consistent with all applicable requirements, the Secretary or the Secretary's designee shall notify the applicant and publish notices of intention to lease in accordance with the standards in G.S. 113-202(f).

(c) The Secretary shall consider the shellfish lease application, the Division's proposed lease area analysis, and public comments, and may in the Secretary's discretion lease or decline to lease the proposed lease area or any part thereof. Special conditions may be imposed so that shellfish leases may be issued that would otherwise be denied. Should an applicant decide not to accept any special condition imposed on the shellfish lease by the Secretary, the application shall be considered denied.

(d) After approval of a shellfish lease by the Secretary, the applicant or applicants shall mark the lease in accordance with Rule .0204 of this Section within 30 days of approval.

(e) Proposed shellfish bottom lease areas remain public bottom until a lease contract has been executed by the Secretary.

(f) Proposed shellfish water column lease areas superjacent to bottom leases and franchises remain public water until a lease contract has been executed by the Secretary.

*History Note: Authority G.S. 113-134; 113-182; 113-201; 113-202; 113-202.1; 113-202.2; 113-206; 143B-289.52;*

*Eff. January 1, 1991;*

*Amended Eff. October 1, 2008; March 1, 1994; September 1, 1991;*

*Readopted Eff. June 1, 2022.*

**15A NCAC 030 .0205 SHELLFISH LEASE RENEWAL**

(a) Shellfish lease renewal applications shall be provided to lease holders by the Division of Marine Fisheries as follows:

- (1) for a shellfish bottom lease, a renewal application shall be provided in January of the year of expiration.
- (2) for a shellfish water column lease, a renewal application shall be provided at least 90 days prior to the expiration date.

(b) A shellfish lease renewal application shall be accompanied by a Shellfish Lease Management Plan that meets the requirements of Rule .0202 of this Section. The non-refundable filing fee set forth in G.S. 113-202(j) shall accompany each renewal application for a shellfish bottom lease.

(c) To be eligible to renew a shellfish lease, persons holding any acres under a shellfish lease or franchise shall meet the requirements established in Rules .0201 and .0204 of this Section and 15A NCAC 030 .0503(a).

(d) If it is determined, after due notice to the shellfish lease holder and after opportunity for the lease holder to be heard, that the lease holder has not complied with the requirements of this Section or that the lease as issued is inconsistent with this Section, the Secretary may decline to renew, at the end of the current terms, any lease. The shellfish lease holder may appeal the Secretary's decision by filing a petition for a contested case under G.S. 150B-23.

(e) Pursuant to G.S. 113-202(a)(6), the Secretary is not authorized to approve renewal of a shellfish lease in an area designated as polluted by a proclamation issued by the Fisheries Director. Excluded from this requirement are shellfish leases located in conditionally approved waters that have been temporarily closed when the conditions of the written management plan are not met as described in 15A NCAC 18A .0905. Shellfish leases partially closed due to pollution shall be amended to exclude the area closed to shellfish harvest prior to renewal.

(f) If the Secretary declines to renew a shellfish lease that has been determined to be inconsistent with the standards of this Section, the Secretary, with the agreement of the lease holder, may issue a renewal lease for all or part of the area previously leased to the lease holder that contains conditions necessary to conform the renewal lease to the requirements of this Section for new leases.

*History Note: Authority G.S. 113-134; 113-182; 113-201; 113-202; 113-202.1; 113-202.2; 113-206; 143B-289.52;*

*Eff. January 1, 1991;*

*Amended Eff. September 1, 2005; May 1, 1997; March 1, 1995; March 1, 1994; October 1, 1992; September 1, 1991;*

*Readopted Eff. June 1, 2022.*

**15A NCAC 030 .0206 SHELLFISH LEASE APPLICATION: REQUEST FOR REVIEW**

(a) Any member of the public shall be allowed an opportunity to comment on any shellfish lease application during the public comment period and subsequent public hearing at which the lease application is being considered by the Secretary as set forth in G.S. 113-202.

(b) Procedures for how an applicant or a person other than the applicant who is aggrieved may proceed with a contested case based on dissatisfaction of the Secretary's decision on a shellfish lease application are provided in G.S. 113-202(g). Additionally, a person other than the applicant who is aggrieved may submit a request for a determination of the appropriateness of a contested case hearing. The request and any supporting documentation for the basis of the aggrieved person seeking to commence a contested case shall be submitted within 30 days after the disputed decision is made to the Shellfish Cultivation Lease Review Committee and addressed to the Marine Fisheries Commission Office, Division of Marine Fisheries, 3441 Arendell Street, P.O. Box 769, Morehead City, NC 28557. The request shall be submitted on a form provided by the Division.

(c) The Shellfish Cultivation Lease Review Committee shall notify the aggrieved person of the date of the public meeting for the Committee to consider the request no later than seven calendar days before the date of the public meeting.

*History Note: Authority G.S. 113-134; 113-182; 113-201; 113-202; 143B-289.52; 143B-289.57;*

*Eff. January 1, 1991;*

*Amended Eff. March 1, 1994; September 1, 1991;*

*Readopted Eff. June 1, 2022.*

**15A NCAC 030 .0207 SHELLFISH LEASE AND FRANCHISE PRODUCTION REPORTS**

(a) The holder or holders of a shellfish lease or franchise shall provide an annual production report to the Division of Marine Fisheries by March 31 of each year showing the amounts of material planted, purchased, and harvested; where and when the material was obtained; and when the material was planted in accordance with Rules .0201 and .0202 of this Section. The report shall include documentation of purchased seed in accordance with Rule .0201 of this Section.

(b) The Division shall provide reporting forms annually to each shellfish lease or franchise holder to be used for the annual production report.

(c) Failure by the holder or holders of the shellfish lease or franchise to submit the required annual production report or filing an incomplete report or a report containing false information constitutes grounds for termination as set forth in Rule .0208 of this Section.

*History Note: Authority G.S. 113-134; 113-182; 113-201; 113-202; 113-202.1; 113-202.2; 113-206; 143B-289.52;*

*Eff. January 1, 1991;*

*Amended Eff. September 1, 1991;*

*Readopted Eff. June 1, 2022.*

**15A NCAC 030 .0208 TERMINATION PROCEDURES FOR SHELLFISH LEASES AND FRANCHISES**

(a) Procedures for termination of shellfish leases and franchises are provided in G.S. 113-202.

(b) Consistent with G.S. 113-202(11) and G.S. 113-201(b), a shellfish lease or franchise holder that failed to meet the requirements in G.S. 113-202, G.S. 113-202.1, G.S. 113-202.2, or the rules of this Section that govern a determination of failure to utilize the lease on a continuing basis for the commercial production of shellfish may be granted a single extension period of no more than two years per contract period upon a showing of hardship by written notice to the Fisheries Director or the Fisheries Director's designee received prior to the expiration of the lease term that documents one of the following occurrences caused or will cause the lease or franchise holder to fail to meet lease requirements:

- (1) death, illness, or incapacity of the shellfish lease or franchise holder or the holder's immediate family as defined in G.S. 113-168 that prevented or will prevent the lease or franchise holder from working the lease;
- (2) damage to the shellfish lease or franchise from hurricanes, tropical storms, or other severe weather events recognized by the National Weather Service;
- (3) shellfish mortality caused by disease, natural predators, or parasites; or
- (4) damage to the shellfish lease or franchise from a manmade disaster that triggers a state emergency declaration or federal emergency declaration.

(c) In the case of hardship as described in Paragraph (b) of this Rule, the notice shall state the shellfish lease or franchise number. In the case of hardship as described in Subparagraph (b)(1) of this Rule, the notice shall also state the name of the shellfish lease or franchise holder or immediate family member and either the date of death or the date of the illness or incapacity. The Fisheries Director may require a doctor's verification that the illness or incapacity occurred. In the case of hardship as described in Subparagraphs (b)(2) through (b)(4) of this Rule, the notice shall also include documentation of damage to the shellfish lease or franchise. Written notice and supporting documentation shall be addressed to the Director of the Division of Marine Fisheries, 3441 Arendell Street, P.O. Box 769, Morehead City, NC 28557.

*History Note: Authority G.S. 113-134; 113-182; 113-201; 113-202; 113-202.1; 113-202.2; 113-205; 113-206; 143B-289.52;*

*Eff. January 1, 1991;*

*Amended Eff. May 1, 1997; March 1, 1995; March 1, 1994; October 1, 1992; September 1, 1991;*

*Temporary Amendment Eff. January 1, 2002; October 1, 2001;*

*Amended Eff. May 1, 2017; April 1, 2003;*

*Readopted Eff. June 1, 2022.*

**15A NCAC 030 .0210 STANDARDS AND REQUIREMENTS FOR FRANCHISES**

(a) Shellfish Management Plans, prepared in accordance with the standards in Rule .0202 of this Section, shall be provided to the

Division of Marine Fisheries within 30 days following formal recognition of a valid chain of title and at ten-year intervals thereafter.

(b) The Shellfish Management Plan requirements in Paragraph (a) of this Rule and all other requirements and conditions of this Section affecting management of franchises shall apply to all valid franchises.

(c) Commercial production requirements for franchises shall be identical to that required for shellfish bottom leases in accordance with Rules .0201 and .0207 of this Section averaged over the most recent three-year period after January 1 following the second anniversary of the dates of recognition of claims as valid franchises and continuing throughout the term of Shellfish Management Plans required in Paragraph (a) of this Rule.

*History Note: Authority G.S. 113-134; 113-182; 113-201; 113-202; 113-202.2; 113-205; 113-206; 143B-289.52;*

*Eff. January 1, 1991;*

*Amended Eff. October 1, 2008; September 1, 1991;*

*Readopted Eff. June 1, 2022.*

**15A NCAC 030 .0211 FISHING GEAR REQUIREMENTS FOR SHELLFISH LEASES AND FRANCHISES**

(a) It shall be unlawful to use any trawl net, long haul seine, swipe net, dredge, or mechanical method for shellfish on any shellfish lease or franchise except:

- (1) for a holder of a Permit to Use Mechanical Methods for Shellfish on Shellfish Leases or Franchises; or
- (2) for the purpose of placing and retrieving cages, bags, or other aquaculture gear within any shellfish lease or franchise.

(b) Permits to Use Mechanical Methods for Shellfish on Shellfish Leases or Franchises shall be issued by the Division of Marine Fisheries in compliance with 15A NCAC 030 .0500.

*History Note: Authority G.S. 113-134; 113-182; 113-201; 113-206; 143B-289.52;*

*Eff. October 1, 1992;*

*Amended Eff. August 1, 1998;*

*Readopted Eff. (Pending legislative review pursuant to S.L. 2019-198).*

**15A NCAC 030 .0301 ELIGIBILITY FOR RECREATIONAL COMMERCIAL GEAR LICENSES**

Recreational Commercial Gear Licenses shall only be issued to individuals.

*History Note: Authority G.S. 113-134; 113-173; 113-182; 143B-289.52;*

*Temporary Adoption Eff. August 9, 1994, for a period of 180 days or until the permanent rule becomes effective, whichever is sooner;*

*Eff. February 1, 1995;*

*Temporary Amendment Eff. July 1, 1999;*

*Amended Eff. August 1, 2000;*

*Readopted Eff. (Pending legislative review pursuant to S.L. 2019-198).*

**15A NCAC 030 .0302 AUTHORIZED GEAR FOR RECREATIONAL COMMERCIAL GEAR LICENSES**

(a) The following are the only commercial fishing gear authorized (including restrictions) for use under a valid Recreational Commercial Gear License:

- (1) one seine 30 feet or over in length but not greater than 100 feet with a mesh length less than two and one-half inches when deployed or retrieved without the use of a vessel or any other mechanical methods. A vessel may be used only to transport the seine;
- (2) one shrimp trawl with a headrope not exceeding 26 feet in length per vessel;
- (3) with or without a vessel, five eel, fish, shrimp, or crab pots in any combination, except only two pots of the five may be eel pots. Peeler pots are not authorized for recreational purposes;
- (4) one multiple hook or multiple bait trotline up to 100 feet in length;
- (5) gill nets:
  - (A) not more than 100 yards of gill nets with a mesh length equal to or greater than two and one-half inches except as provided in Part (C) of this Subparagraph. Attendance shall be required at all times;
  - (B) not more than 100 yards of gill nets with a mesh length equal to or greater than five and one-half inches except as provided in Part (C) of this Subparagraph. Attendance shall be required when used from one hour after sunrise through one hour before sunset in Internal Waters east and north of the Highway 58 Bridge at Emerald Isle and in the Atlantic Ocean east and north of 77° 04.0000' W. Attendance shall be required at all times in Internal Waters west and south of the Highway 58 Bridge at Emerald Isle and in the Atlantic Ocean west and south of 77° 04.0000' W;
  - (C) not more than 100 yards of gill net may be used at any one time, except that when two or more Recreational Commercial Gear License holders are on board a vessel, a maximum of 200 yards may be used from a vessel; and
  - (D) it shall be unlawful to possess on board a vessel more than 100 yards of gill nets with a mesh length less than five and one-half inches and more than 100 yards of gill nets with a mesh length equal to or greater than five and one-half inches identified as recreational commercial fishing equipment when only one Recreational Commercial Gear License holder is on board a vessel. It

shall be unlawful to possess on board a vessel more than 200 yards of gill nets with a mesh length less than five and one-half inches and more than 200 yards of gill nets with a mesh length equal to or greater than five and one-half inches identified as recreational commercial fishing equipment when two or more Recreational Commercial Gear License holders are on board a vessel;

- (6) one hand-operated device generating pulsating electrical current for the taking of catfish in the area described in 15A NCAC 03J .0304;
- (7) skimmer trawls not exceeding 26 feet in total combined width; and
- (8) one pound net used to take shrimp with each lead 10 feet or less in length and with a minimum lead net mesh of one and one-half inches, and enclosures constructed of net mesh of one and one-fourth inches or greater and with all dimensions being 36 inches or less. Attendance shall be required at all times and all gear shall be removed from the water when not being fished. Gear is to be marked and set as specified in 15A NCAC 03J .0501.

(b) It shall be unlawful to use more than the quantity of authorized gear specified in Paragraph (a) of this Rule, regardless of the number of individuals on board a vessel possessing a valid Recreational Commercial Gear License.

(c) It shall be unlawful for an individual to violate the restrictions of or use gear other than that authorized by Paragraph (a) of this Rule.

(d) Unless otherwise provided, this Rule does not exempt Recreational Commercial Gear License holders from the provisions of other applicable rules of the Marine Fisheries Commission or provisions of proclamations issued by the Fisheries Director as authorized by the Marine Fisheries Commission.

*History Note: Authority G.S. 113-134; 113-173; 113-182; 143B-289.52;*

*Temporary Adoption Eff. August 9, 1994, for a period of 180 days or until the permanent rule becomes effective, whichever is sooner;*

*Eff. February 1, 1995;*

*Temporary Amendment Eff. August 1, 1999; July 1, 1999;*

*Amended Eff. August 1, 2000;*

*Temporary Amendment Eff. August 1, 2000;*

*Amended Eff. April 1, 2009; July 1, 2006; November 1, 2005; August 1, 2002;*

*Readopted Eff. (Pending legislative review pursuant to S.L. 2019-198).*

**15A NCAC 030 .0303 POSSESSION LIMITS FOR RECREATIONAL COMMERCIAL GEAR LICENSES**

(a) It shall be unlawful to possess more than a single recreational possession limit when only one individual on board a vessel possesses a valid Recreational Commercial Gear License,

regardless of the number of Recreational Commercial Gear Licenses an individual holds, and recreational commercial fishing equipment as described in Rule .0302(a) of this Section is used, regardless of the number of individuals on board a vessel.

(b) It shall be unlawful to possess individual recreational possession limits in excess of the number of individuals on board a vessel holding a valid Recreational Commercial Gear License except as provided in Paragraph (f) of this Rule.

(c) It shall be unlawful for any individual who holds both a Recreational Commercial Gear License and a Standard or Retired Standard Commercial Fishing License and who is in possession of identified recreational commercial fishing equipment as described in Rule .0302(a) of this Section to exceed the single recreational possession limit.

(d) It shall be unlawful for individuals on board a vessel collectively holding only one Recreational Commercial Gear License and any Standard Commercial Fishing License or Retired Standard Commercial Fishing License and who are in possession of any identified recreational commercial fishing equipment as described in Rule .0302(a) of this Section to exceed the single recreational possession limit.

(e) It shall be unlawful to possess more than 48 quarts, heads on, or 30 quarts, heads off, of shrimp when only one individual on board a vessel possesses a valid Recreational Commercial Gear License, regardless of the number of Recreational Commercial Gear Licenses an individual holds, and recreational commercial fishing equipment as described in Rule .0302(a) of this Section is used.

(f) It shall be unlawful to possess more than 96 quarts, heads on, or 60 quarts, heads off, of shrimp if more than one individual on board a vessel possesses a valid Recreational Commercial Gear License and recreational commercial fishing equipment as described in Rule .0302(a) of this Section is used.

*History Note: Authority G.S. 113-134; 113-170.4; 113-173; 113-182; 143B-289.52;*

*Temporary Adoption Eff. August 9, 1994, for a period of 180 days or until the permanent rule becomes effective, whichever is sooner;*

*Eff. February 1, 1995;*

*Temporary Amendment Eff. June 7, 1998;*

*Amended Eff. April 1, 1999;*

*Temporary Amendment Eff. July 1, 1999;*

*Amended Eff. July 1, 2006; August 1, 2000;*

*Readopted Eff. (Pending legislative review pursuant to S.L. 2019-198).*

#### **15A NCAC 030 .0401 STANDARD COMMERCIAL FISHING LICENSE ELIGIBILITY BOARD**

(a) The Chair of the Marine Fisheries Commission, the Secretary of the Department of Environmental Quality, and the Fisheries Director may each name a designee and an alternate designee to serve on the Standard Commercial Fishing License Eligibility Board as their representative in their absence.

(b) The Standard Commercial Fishing License Eligibility Board shall not review an application for eligibility without a quorum of the Eligibility Board members or designees being present. Two or more members of the Standard Commercial Fishing License Eligibility Board or their designees constitute a quorum.

*History Note: Authority G.S. 113-134; 113-182; 143B-289.52; S.L. 1998-225, s. 4.24;*

*Temporary Adoption Eff. April 1, 1999;*

*Eff. August 1, 2000;*

*Readopted Eff. June 1, 2022.*

#### **15A NCAC 030 .0402 STANDARD COMMERCIAL FISHING LICENSE ELIGIBILITY APPLICATION PROCESS**

(a) Application forms for determination of eligibility for the Standard Commercial Fishing License Eligibility Pool are available at all offices of the Division of Marine Fisheries and online at <https://deq.nc.gov/about/divisions/marine-fisheries/licenses-permits-and-leases/commercial-fishing-licenses/eligibility-pool> and shall be submitted to any Office of the Division for processing.

(b) Only one application per individual for determination of eligibility for the Standard Commercial Fishing License Eligibility Pool shall be accepted or may be pending at any one time. An applicant may have only one entry in the Standard Commercial Fishing License Eligibility Pool at any one time.

(c) Individuals who currently hold or are eligible to purchase a Standard or Retired Standard Commercial Fishing License shall not be eligible to apply for additional Standard Commercial Fishing Licenses through the Standard Commercial Fishing License Eligibility Pool.

(d) If an applicant has died or becomes ineligible and is subsequently selected from the Standard Commercial Fishing License Eligibility Pool, that license eligibility shall automatically revert to the Eligibility Pool.

(e) Persons claiming retirement from commercial fishing or transferring their Standard Commercial Fishing License shall not be eligible to apply for a Standard Commercial Fishing License through the Standard Commercial Fishing License Eligibility Pool for two years from the date of the last transfer, except as provided in Rule .0404(3) of this Section.

(f) Applicants shall notify the Division within 30 days of a change of address.

*History Note: Authority G.S. 113-134; 113-182; 143B-289.52; S.L. 1998-225, s. 4.24;*

*Temporary Adoption Eff. April 1, 1999;*

*Eff. August 1, 2000;*

*Amended Eff. October 1, 2008; February 1, 2008;*

*Readopted Eff. June 1, 2022.*

#### **15A NCAC 030 .0403 STANDARD COMMERCIAL FISHING LICENSE ELIGIBILITY BOARD REVIEW**

(a) After determination of eligibility by the Standard Commercial Fishing License Eligibility Board, applicants will be notified in writing as to the applicant meeting or not meeting required eligibility criteria for the Standard Commercial Fishing License Eligibility Pool.

(b) The Marine Fisheries Commission shall determine the number of licenses available from the Standard Commercial Fishing License Eligibility Pool at its first regularly scheduled meeting following July 1 of each year.

(c) The Standard Commercial Fishing License Eligibility Board shall meet to review applications as often as deemed necessary by the Chair of the Eligibility Board.

*History Note: Authority G.S. 113-134; 113-182; 143B-289.52; S.L. 1998-225, s. 4.24;*

*Temporary Adoption Eff. April 1, 1999;*

*Eff. August 1, 2000;*

*Amended Eff. February 1, 2008;*

*Readopted Eff. June 1, 2022.*

**15A NCAC 030 .0404 STANDARD COMMERCIAL FISHING LICENSE ELIGIBILITY CRITERIA**

In determining eligibility of an applicant for the Standard Commercial Fishing License Eligibility Pool, the Standard Commercial Fishing License Eligibility Board shall apply the following criteria:

- (1) involvement in commercial fishing:
  - (a) significant involvement in the commercial fishing industry for three of the last five years;
  - (b) significant involvement in commercial fishing or in the commercial fishing industry prior to the last five years;
  - (c) in the case of an applicant who is under 16 years of age, significant involvement in commercial fishing for two out of the last five years with a parent, legal guardian, grandparent, or other adult; or
  - (d) significant involvement of the applicant's family in commercial fishing. For the purpose of this Sub-Item, family shall include mother, father, brothers, sisters, spouse, children, grandparents, or legal guardian.

For the purposes of this Rule, "significant involvement" shall mean persons or corporations who are engaged in the actual taking of fish for sale, from the waters of the State, or other states, jurisdictions, or federal waters, or any licensed dealer or the dealer's employees who purchase fish at the point of landing. Significant involvement does not include activities such as those who transport fish from the point of landing, those who sell or make commercial or recreational fishing gear, those who operate bait and tackle shops unless they are engaged in the actual taking of bait for sale, or those who work in fish markets or crab picking operations;

- (2) compliance with applicable laws, regulations, and rules:
  - (a) the applicant shall not have any licenses, endorsements, or Commercial Fishing Vessel Registrations issued by the Division of Marine Fisheries or the right to hold

them under suspension or revocation at the time of application or during the eligibility review;

- (b) if selected for the Standard Commercial Fishing License Eligibility Pool, the applicant shall become ineligible for the Standard Commercial Fishing License Eligibility Pool if any licenses, endorsements, or Commercial Fishing Vessel Registrations or the right to hold them issued by the Division are suspended or revoked;
- (c) four convictions within the last three years or the number of convictions that would cause suspension or revocation of licenses, endorsements, or Commercial Fishing Vessel Registrations as set forth in Rule .0114 of this Subchapter within the last three years shall result in the application being denied. An applicant for the Standard Commercial Fishing License Eligibility Pool shall provide certification that the applicant does not have four or more marine or estuarine resource convictions during the previous three years, as set forth in Rule .0101 of this Subchapter; and
- (d) a record of habitual violations evidenced by eight or more convictions in the last 10 years shall result in the application being denied.

For purposes of eligibility for the Standard Commercial Fishing License Eligibility Pool, the term convictions shall include any conviction for violation of any provision of Chapter 113 of the North Carolina General Statutes and any rule implementing or authorized by such statutes, any conviction for violation of G.S. 76-40 and any rule implementing or authorized by such statute, any conviction of Chapter 75A of the North Carolina General Statutes and any rule implementing or authorized by such statutes, any conviction for violation of any provision of Article 7 of Chapter 143B of the North Carolina General Statutes and any rule implementing or authorized by such statutes, any conviction of resist, obstruct, or delay involving a Marine Fisheries Inspector or Wildlife Protector under G.S. 14-223, and any conviction involving assaultive behavior toward a Marine Fisheries Inspector or other governmental official of the Department of Environmental Quality or the Wildlife Resources Commission;

- (3) the applicant shall not have transferred a Standard Commercial Fishing License granted

- by the Standard Commercial Fishing License Eligibility Board; and
- (4) an applicant for the Standard Commercial Fishing License Eligibility Pool shall meet all other statutory eligibility requirements for a Standard Commercial Fishing License.

*History Note: Authority G.S. 113-134; 113-168.1; 113-168.2; 113-182; 143B-289.52; S.L. 1998-225, s. 4.24; Temporary Adoption Eff. April 1, 1999; Eff. August 1, 2000; Amended Eff. October 1, 2008; February 1, 2008; Readopted Eff. June 1, 2022.*

**15A NCAC 030 .0405 STANDARD COMMERCIAL FISHING LICENSE ELIGIBILITY POOL APPLICATION DOCUMENTATION**

(a) The Standard Commercial Fishing License Eligibility Pool application form required by Rule .0402 of this Section to be submitted to the Division of Marine Fisheries shall include the following items for the applicant:

- (1) participant identification number;
- (2) full name;
- (3) if applying as a business:
  - (A) business name;
  - (B) state of incorporation;
  - (C) charter state;
  - (D) full name of business owner;
  - (E) full names of business agents, if applicable; and
  - (F) type of business entity, either corporation, partnership, sole proprietorship, or limited liability company;
- (4) type of picture identification used to verify the applicant's identity, either state driver's license, state identification card issued by the Division of Motor Vehicles, military identification card, resident alien card, or passport, and identification number and identification expiration date;
- (5) date of birth;
- (6) state of primary residence;
- (7) e-mail address, if applicable;
- (8) physical address;
- (9) mailing address;
- (10) home phone number, business phone number, fax number, and cellular phone number, if applicable; and
- (11) race, gender, height, weight, eye color, and hair color.

If applying as a business, the business agent's information is required for Subparagraphs (a)(2) and (a)(4) through (a)(11) of this Rule.

(b) Documentation for applications for determination of eligibility for the Standard Commercial Fishing License Eligibility Pool shall include:

- (1) statements from individuals verifying the applicant's involvement in commercial fishing

- (2) or the commercial fishing industry, which shall contain the individual's name, address, and telephone number, and the individual's signature shall be notarized;
- (2) proof of income derived from commercial fishing or the commercial fishing industry. Proof of this income shall be tax records; and
- (3) the extent to which the applicant has complied with federal and state laws, regulations, and rules relating to coastal fishing and protection of the environment. Federal compliance will be verified by a notarized statement from the applicant that the applicant has complied with federal laws, as set forth in Rule .0101 of this Subchapter.

- (c) All documents required by this Rule shall be notarized.
- (d) Applications shall be legible and complete or they will be returned.
- (e) It shall be unlawful to submit false statements on applications or supporting documents. If eligibility is based on false information provided by the applicant, this eligibility shall be automatically revoked.

*History Note: Authority G.S. 113-134; 113-182; 143B-289.52; S.L. 1998-225, s. 4.24; Temporary Adoption Eff. April 1, 1999; Eff. August 1, 2000; Readopted Eff. (Pending legislative review pursuant to S.L. 2019-198).*

**15A NCAC 030 .0406 STANDARD COMMERCIAL FISHING LICENSE ELIGIBILITY POOL CERTIFICATION**

Annual certification to maintain an eligible application in the Standard Commercial Fishing License Eligibility Pool shall be as follows:

- (1) the applicant shall certify that the information on the applicant's original application is correct and that the applicant desires to remain in the Standard Commercial Fishing License Eligibility Pool. A certification form shall be provided and mailed to the applicant at the last known address by the Division of Marine Fisheries;
- (2) the certification form with any changes, such as address, phone number, or updated fisheries involvement information since the last application or certification, shall be notarized and submitted to the Division within 12 months of the initial application and annually thereafter; and
- (3) failure to return certification that an application is correct or with changes within 30 days from when the Division mailed the form to the applicant shall result in the application being removed from the Standard Commercial Fishing License Eligibility Pool. An applicant that has been removed from the Standard

Commercial Fishing License Eligibility Pool shall receive a notice from the Division.

*History Note: Authority G.S. 113-134; 113-182; 143B-289.52; S.L. 1998-225, s. 4.24; Temporary Adoption Eff. April 1, 1999; Eff. August 1, 2000; Readopted Eff. June 1, 2022.*

**15A NCAC 03O .0502 GENERAL PERMIT CONDITIONS**

(a) It shall be unlawful to violate any permit condition.  
(b) The following conditions shall apply to all permits issued by the Fisheries Director:

- (1) it shall be unlawful to:
  - (A) operate under the permit except in areas, at times, and under conditions specified on the permit.
  - (B) operate under a permit without having the permit or copy thereof in possession of the permittee or the permittee's designees at all times of operation and the permit or copy thereof shall be ready at hand for inspection, except for a Pound Net Set Permit.
  - (C) operate under a permit without having a current picture identification in possession and ready at hand for inspection.
  - (D) refuse to allow inspection and sampling of a permitted activity by an agent of the Division of Marine Fisheries.
  - (E) fail to provide complete and accurate information requested by the Division in connection with the permitted activity.
  - (F) provide false information in the application for initial issuance, renewal, or transfer of a permit.
  - (G) hold a permit issued by the Fisheries Director if not eligible to hold any license required as a condition for that permit as stated in Rule .0501 of this Section.
  - (H) fail to provide reports within the timeframe required by the specific permit conditions.
  - (I) fail to keep such records and accounts as required by the rules in this Chapter for determination of conservation policy, equitable and efficient administration and enforcement, or promotion of commercial or recreational fisheries.
  - (J) assign or transfer permits issued by the Fisheries Director, except for a Pound

Net Set Permit as authorized by 15A NCAC 03J .0504.

- (2) the Fisheries Director or the Fisheries Director's agent may, by conditions of the permit, impose on a commercial fishing operation and for recreational purposes any of the following restrictions for the permitted purposes:
  - (A) specify time;
  - (B) specify area;
  - (C) specify means and methods;
  - (D) specify record keeping and reporting requirements;
  - (E) specify season;
  - (F) specify species;
  - (G) specify size;
  - (H) specify quantity;
  - (I) specify disposition of resources;
  - (J) specify marking requirements; and
  - (K) specify harvest conditions.
- (3) unless specifically stated as a condition on the permit, all statutes, rules, and proclamations shall apply to the permittee and the permittee's designees.

*History Note: Authority G.S. 113-134; 113-169.1; 113-170.2; 113-170.3; 113-182; 113-210; 143B-289.52; Temporary Adoption Eff. May 1, 2000; Eff. April 1, 2001; Amended Eff. April 1, 2009; September 1, 2005; Readopted Eff. (Pending legislative review pursuant to S.L. 2019-198).*

**15A NCAC 03O .0504 SUSPENSION AND REVOCATION OF PERMITS**

(a) All commercial and recreational permits issued under Article 14A, Article 14B, and Article 25A of Chapter 113, and rules of the Marine Fisheries Commission shall be subject to suspension and revocation. For the purpose of this Rule and in accordance with G.S. 150B-2, "permit" includes "certification" and "certificate of compliance".

- (b) If a license is required to hold a permit:
- (1) all permits shall be suspended or revoked if the permittee's license privilege has been suspended or revoked as set forth in G.S. 113-171 and Rule .0114 of this Subchapter. The duration of the permit suspension or revocation shall be the same as the license suspension or revocation.
  - (2) in the event a person makes application for a new permit during any period of license or permit suspension, no new permit shall be issued during the suspension period.
  - (3) in the case of revocation of license privileges, the former licensee shall not be eligible to apply for reinstatement of a revoked permit while license privileges are revoked.
- (c) If a license is not required to hold a permit, in the case of revocation of a permit, the former permittee shall not be eligible

to apply for reinstatement of a revoked permit for a period of six months.

(d) It shall be unlawful to violate any permit condition. For violation of permit conditions as specified on the permit, permits may be suspended or revoked according to the following schedule:

- (1) violation of one permit condition in a three-year period, permit shall be suspended for 10 days.
- (2) violation of two permit conditions in a three-year period, permits shall be suspended for 30 days.
- (3) violation of three permit conditions in a three-year period, permits shall be revoked for a period not less than six months.
- (4) violation of any permit conditions as set forth in 15A NCAC 03J .0505(a), permits may be revoked and the former permittee may not be eligible to apply for any future Pound Net Set Permits.

If several permit conditions are violated as a result of a single transaction or occurrence, the permit violations shall be treated as a single violation for the purpose of suspension or revocation.

(e) Permit designees shall not be permitted to participate in a permit operation during any period they are under license suspension or revocation.

(f) If violation of permit conditions requires suspension or revocation of a permit, the Fisheries Director shall cause the permittee to be served with written notice of the intent to commence suspension or revocation. If the permittee is not an individual, the written notice shall be served upon any responsible individual affiliated with the corporation, partnership, or association. The notice of the intent to commence suspension or revocation shall be served by an inspector or other agent of the Department or by certified mail, and shall state the grounds upon which it is based.

(g) The Fisheries Director shall order summary suspension of a permit if he or she finds that the public health, safety, or welfare requires emergency action. Upon such determination, the Fisheries Director shall issue an order giving the reasons for the emergency action. The effective date of the order shall be the date specified on the order or the date of service of a certified copy of the order at the last known address of the permittee, whichever is later.

(h) Upon service of a notice of suspension or revocation of a permit, it shall be unlawful to fail to surrender any permit so suspended or revoked.

(i) It shall be unlawful to fail to surrender a permit issued by the Division in error immediately upon service of a notice by an agent of the Fisheries Director to surrender the permit.

(j) It shall be unlawful to fail to remove all gear, markers, and devices associated with an Aquaculture Operation Permit within 30 days after expiration of the Aquaculture Operation Permit, termination of a shellfish lease for which the Aquaculture Operation Permit was issued, or notice by the Fisheries Director that an existing Aquaculture Operation Permit has been revoked or denied. Similar requirements for gear removal for a Pound Net Set Permit are described in 15A NCAC 03J .0505.

*History Note: Authority G.S. 113-134; 113-171; 113-182; 113-202; 113-221.2; 143B-289.52; 150B-3; S.L. 2010-145; Temporary Adoption Eff. May 1, 2000; Eff. April 1, 2001; Readopted Eff. (Pending legislative review pursuant to S.L. 2019-198).*

**15A NCAC 03P .0101 LICENSE, PERMIT, OR CERTIFICATE DENIAL: REQUEST FOR REVIEW**

(a) Except in cases where summary suspension is applicable, before the Division of Marine Fisheries may commence proceedings for suspension, revocation, annulment, withdrawal, recall, cancellation, or amendment of a license, notice shall be given to the license holder that the license holder may file a petition for a contested case in accordance with G.S. 113-171(e) and may request a final agency decision in accordance with G.S. 113-171(f).

(b) For the purpose of this Rule and in accordance with G.S. 150B-2, "permit" includes "certification" and "certificate of compliance."

(c) Except in cases where G.S. 113-171, 15A NCAC 03O .0114, or summary suspension is applicable, before the Division may commence proceedings for suspension, revocation, annulment, withdrawal, recall, cancellation, or amendment of a permit, notice shall be given to the permittee that the permittee:

- (1) may request an opportunity to show compliance with all requirements for retention of the permit by submitting a statement in writing to the personnel designated in the notice to commence proceedings; and
- (2) has the right, through filing a request for a contested case hearing in the Office of Administrative Hearings, to a hearing before an administrative law judge.

(d) For a permit related to endangered or threatened species or a species managed by a quota, any statements submitted by the permittee to show compliance with all requirements for retention of the permit shall be postmarked or emailed within five days of receipt of the notice to commence proceedings. For all other permits, any statements submitted by the permittee to show compliance with all requirements for retention of the permit shall be postmarked or emailed within 10 days of receipt of the notice to commence proceedings. Statements and any supporting documentation shall be addressed to the personnel designated in the notice and if mailed, sent to the Division of Marine Fisheries, 3441 Arendell Street, P.O. Box 769, Morehead City, NC 28557, or if emailed, sent to the email address provided in the notice for the designated personnel.

(e) Upon receipt of a statement and any supporting documentation from the permittee, the Division shall review the statement and, within 10 days, shall notify the permittee in writing with the Division's determination whether the permittee demonstrated compliance with all requirements for retention of the permit. In making this determination, the Division may consider changes the permittee made enabling the permittee to conduct the operations for which the permit is held in accordance with all applicable laws and rules, and processing errors made by the Division.



- Ophelia Inlet, then northeasterly along the Core Sound shore of Core Banks to the point of beginning; and
- (e) Barden Inlet Area: beginning at a point on the Core Sound shore of Core Banks 34° 40.7131' N - 76° 28.9495' W; running northwesterly to a point on Harkers Island 34° 41.0674' N - 76° 31.5834' W; running southwesterly to a point on Shackleford Banks 34° 39.5418' N - 76° 34.0451' W; following the shoreline in southeasterly direction around the northern side of Barden Inlet then along the Atlantic Ocean shoreline northwesterly to a point on Shackleford Banks 34° 38.7748' N - 76° 32.8463' W; running southwesterly to a point in the Atlantic Ocean 34° 38.2938' N - 76° 33.5130' W; running southerly to a point near Buoy "2" at the end of the Cape Lookout Jetty in the Atlantic Ocean 34° 37.1253' N - 76° 33.7446' W; running southeasterly to a point on Cape Lookout 34° 36.7229' N - 76° 33.0514' W; running northerly along the Atlantic Ocean shoreline toward and around the southern side of Barden Inlet to a point on Cape Lookout 34° 36.5492' N - 76° 32.2416' W, then running northeasterly along the Core Sound shore of Core Banks to the point of beginning.
- (2) in Areas from Beaufort Inlet and West and South:
- (a) Beaufort Inlet Area: beginning at a point on the Back Sound side of Shackleford Banks 34° 41.0017' N - 76° 37.7538' W; running northerly to a point on Carrot Island 34° 42.3553' N - 76° 37.1124' W; running westerly along the shoreline to a point on Carrot Island 34° 42.6291' N - 76° 38.6608' W; running westerly to a point on Town Marsh 34° 42.6394' N - 76° 38.7442' W; running westerly along the shoreline to a point on Town Marsh 34° 42.7915' N - 76° 40.2489' W; running westerly to a point on Bird Shoal 34° 42.7694' N - 76° 40.4764' W; running northerly to a point on Pivers Island 34° 42.9294' N - 76° 40.4301' W; running northerly along the shoreline to a point on Pivers Island 34° 43.1892' N - 76° 40.3873' W; running northerly to a point on Radio Island 34° 43.2344' N - 76° 40.4099' W; running along the shoreline to a point on Radio Island 34° 43.2770' N - 76° 41.2422' W; running along the south side of the Highway 70 Bridge over the Newport River to a point near the Morehead City Port 34° 43.2419' N - 76° 41.7067' W; running southerly along the shore to a point near the Morehead City Port 34° 42.9560' N - 76° 41.6986' W; running southwesterly to a point on Goat Island 34° 42.7185' N - 76° 41.9145' W; running southeasterly along the shoreline to a point on Goat Island 34° 42.2031' N - 76° 41.3923' W; running southwesterly to a point on shore near Fort Macon State Park 34° 42.1709' N - 76° 41.3693' W; following the shoreline in a southwesterly direction around the western shoreline of Beaufort Inlet then along the Atlantic Ocean shoreline to a point on Bogue Banks 34° 41.6480' N - 76° 42.0986' W; extending 100 yards seaward from the shoreline from the mean high water line and the COLREG Demarcation Line in the Atlantic Ocean and running easterly then southeasterly and returning to shore parallel to a point on Shackleford Banks 34° 40.6129' N - 76° 38.1521' W; running northwesterly along the Atlantic Ocean shoreline around the eastern side of Beaufort Inlet, then running easterly along the Back Sound shore of Shackleford Banks to the point of beginning;
- (b) Bogue Inlet Area: beginning at a point on Bogue Banks 34° 39.1828' N - 77° 05.8503' W; running northerly to a point 34° 40.1526' N - 77° 05.6346' W; running northerly to a point 34° 40.2531' N - 77° 05.6385' W; running westerly to a point 34° 40.2550' N - 77° 05.9450' W; running southerly to a point 34° 40.1732' N - 77° 05.9616' W; running southerly to a point 34° 39.9629' N - 77° 06.1038' W; running southerly to a point 34° 39.5209' N - 77° 06.4042; running southwesterly to a point 34° 39.0599' N - 77° 07.3287' W; running southerly to a point on Bear Island 34° 38.3856' N - 77° 07.2373'; following the shoreline in a northeasterly direction around the western shoreline of Bogue Inlet then along the Atlantic Ocean shoreline to a point on Bear Island 34° 37.5607' N - 77° 09.5752' W; extending 100 yards

- seaward from the shoreline from the mean high water line and the COLREG Demarcation Line in the Atlantic Ocean and running northeasterly and returning to shore parallel to a point on Bogue Banks 34° 38.7491' N - 77° 05.2548' W; running southwesterly along the Atlantic Ocean shoreline around the eastern side of Bogue Inlet to a point 34° 38.7686' N - 77° 06.0596' W; running northerly to a point 34° 38.9900' N - 77° 06.1269' W, then running northeasterly to the point of beginning;
- (c) Bear Inlet Area: beginning at a point on Bear Island 34° 37.7852' N - 77° 09.7128' W; running northerly to a point 34° 37.8817' N - 77° 09.7698' W; running southwesterly to a point 34° 37.6695' N - 77° 10.4134' W; running northwesterly to a point 34° 37.8105' N - 77° 10.5849' W; running southwesterly to a point on Saunders Island 34° 37.4531' N - 77° 11.0624' W; running southeasterly to a point on Browns Island 34° 37.2216' N - 77° 10.8461' W; following the shoreline in northeasterly direction around the western shoreline of Bear Inlet then along the Atlantic Ocean shoreline to a point on Browns Island 34° 36.1188' N - 77° 13.0193' W; extending 100 yards seaward from the shoreline from the mean high water line and the COLREG Demarcation Line in the Atlantic Ocean and running northeasterly and returning to shore parallel to a point on Bear Island 34° 37.5607' N - 77° 09.5752' W; running southwesterly along the Atlantic Ocean shoreline around the eastern shoreline of Bear Inlet, then northeasterly along the shore to the point of beginning;
- (d) Browns Inlet Area: beginning at a point on Browns Island 34° 35.8978' N - 77° 13.8409' W; running northwesterly to a point 34° 36.0015' N - 77° 13.9606' W; running westerly to a point 34° 35.9360' N - 77° 14.1340' W; running southerly to a point 34° 35.6631' N - 77° 14.1270' W; following the shoreline in a northeasterly direction around the western shoreline of Browns Inlet then along the Atlantic Ocean shoreline to a point 34° 33.7692' N - 77° 16.8043' W; extending 100 yards seaward from the shoreline from the mean high water line and the COLREG Demarcation Line in the Atlantic Ocean and running northeasterly and returning to shore parallel to a point on Browns Island 34° 36.1188' N - 77° 13.0193' W; running southwesterly along the Atlantic Ocean shoreline around the eastern shoreline of Browns Inlet, then northerly along the shore to the point of beginning;
- (e) New River Inlet Area: beginning at a point on shore on the south side of Wards Channel 34° 32.2064' N - 77° 19.8404' W; running northwesterly to a point 34° 33.1386' N - 77° 20.8902' W; running westerly to a point 34° 33.1097' N - 77° 21.1013' W; running southeasterly to a point 34° 32.3473' N - 77° 20.6013' W; running southwesterly to a point on Topsail Island 34° 32.1096' N - 77° 20.8447' W; following the shore line in a southerly direction around the western shoreline of New River Inlet then along the Atlantic Ocean shoreline to a point 34° 31.3352' N - 77° 21.1694' W; extending 100 yards seaward from the shoreline from the mean high water line and the COLREG Demarcation Line in the Atlantic Ocean and running northeasterly and returning to shore parallel to a point 34° 33.7692' N - 77° 16.8043' W; running southwesterly along the Atlantic Ocean shoreline around the eastern shoreline of New River Inlet, then northeasterly along the shore to the point of beginning;
- (f) Topsail Inlet Area: beginning at a point on Topsail Island 34° 21.9619' N - 77° 37.8381' W; running northwesterly to a point in Topsail Sound 34° 22.1071' N - 77° 37.9944' W; running southwesterly to a point near Marker "5" 34° 21.7185' N - 77° 38.3499' W; running southwesterly to a point near Marker "3" 34° 21.5798' N - 77° 38.5928' W; running southwesterly to a point near Marker "1" 34° 21.1055' N - 77° 39.1749' W; running northwesterly to a point 34° 21.2065' N - 77° 39.6127' W; running southwesterly to a point 34° 20.7450' N - 77° 40.3682' W; running southerly to a point 34° 20.3011' N - 77° 40.3728' W; following the shoreline in a northeasterly direction around the western shoreline of Topsail Inlet then

along the Atlantic Ocean shoreline to a point on Lea-Hutaff Island 34° 20.0228' N - 77° 40.4332' W; extending 100 yards seaward from the shoreline from the mean high water line and the COLREG Demarcation Line in the Atlantic Ocean and running northeasterly and returning to shore parallel to a point on Topsail Island 34° 20.8762' N - 77° 38.9403' W; running southwesterly along the Atlantic Ocean shoreline around the eastern shore of Topsail Inlet, then northeasterly along the Topsail Sound shore of Topsail Island to the point of beginning;

- (g) Rich Inlet Area: beginning at a point on Lea-Hutaff Island 34° 18.1292' N - 77° 42.6492' W; running northwesterly to a point 34° 18.2851' N - 77° 42.9352' W; running southwesterly to a point 34° 18.0190' N - 77° 43.2798' W; running southerly to a point on Figure Eight Island 34° 17.5649' N - 77° 43.1649' W; following the shoreline in an easterly direction around the southern shoreline of Rich Inlet then along the Atlantic Ocean shoreline to a point on Figure Eight Island 34° 17.2243' N - 77° 43.2491' W; extending 100 yards seaward from the shoreline from the mean high water line and the COLREG Demarcation Line in the Atlantic Ocean and running northeasterly and returning to shore parallel to a point on Lea-Hutaff Island 34° 18.1251' N - 77° 42.4352' W; running southwesterly along the Atlantic Ocean shoreline around the northern shoreline of Rich Inlet, then northeasterly along the shore to the point of beginning;

- (h) Mason Inlet Area: beginning at a point on Figure Eight Island 34° 14.9536' N - 77° 45.9567' W; running northwesterly to a point 34° 15.0409' N - 77° 46.1766' W; running southwesterly to a point 34° 14.8657' N - 77° 46.4044' W; running southwesterly to a point 34° 14.7256' N - 77° 46.5348' W; running southerly to a point on Shell Island 34° 14.2036' N - 77° 46.5189' W; following the shoreline in a northeasterly direction around the southern shoreline of Mason Inlet then along the Atlantic Ocean shoreline to a point on Shell Island 34° 14.1375' N - 77° 46.4263'

W; extending 100 yards seaward from the shoreline from the mean high water line and the COLREG Demarcation Line in the Atlantic Ocean and running northeasterly and returning to shore parallel to a point on Figure Eight Island 34° 14.8474' N - 77° 45.7857' W; running southwesterly along the Atlantic Ocean shoreline around the northern shoreline of Mason Inlet, then northeasterly along the shore to the point of beginning;

- (i) Masonboro Inlet Area: beginning at a point on Wrightsville Beach 34° 11.3446' N - 77° 48.7458' W; running northwesterly to a point 34° 11.4604' N - 77° 49.0510' W; running northwesterly to a point 34° 11.5164' N - 77° 49.2368' W; running northwesterly to a point 34° 11.5255' N - 77° 49.2652' W; running northwesterly to a point 34° 11.5700' N - 77° 49.4425' W; running southwesterly to a point 34° 11.3553' N - 77° 49.5924' W; running easterly to a point 34° 11.3737' N - 77° 49.4628' W; running easterly to a point 34° 11.3737' N - 77° 49.4345' W; following the shoreline southeasterly to a point 34° 11.2551' N - 77° 49.2287' W; running southerly to a point on Masonboro Island 34° 10.8451' N - 77° 49.0242' W; following the shoreline in an easterly direction around the southern shoreline of Masonboro Inlet through a point at the base of the jetty 34° 10.8814' N - 77° 48.7074' W; running southwesterly along the Atlantic Ocean shoreline to a point on Masonboro Island 34° 10.5221' N - 77° 49.1658' W; extending 100 yards seaward from the shoreline and the Atlantic Ocean side of the jetties from the mean high water line and the COLREG Demarcation Line in the Atlantic Ocean and returning to shore parallel to a point 34° 11.5753' N - 77° 48.3061' W; running southwesterly along the Atlantic Ocean shoreline through a point at the base of the jetty 34° 11.2076' N - 77° 48.5555' W, around the northern shoreline of Masonboro Inlet then northeasterly along the shore to the point of beginning;
- (j) Carolina Beach Inlet Area: beginning at a point on Masonboro Island 34°

04.8168' N - 77° 52.8796' W; running southerly to a point 34° 04.4997' N - 77° 53.0080' W; following the shoreline in an easterly direction to a point 34° 04.5022' N - 77° 52.7982' W; running easterly to a point on Pleasure Island 34° 04.5102' N - 77° 52.7340' W; following the shoreline in an easterly direction around the southern shoreline of Carolina Beach Inlet then along the Atlantic Ocean shoreline to a point on Pleasure Island 34° 04.3505' N - 77° 52.5048' W; extending 100 yards seaward from the mean high water line and the COLREG Demarcation Line in the Atlantic Ocean and running northeasterly and returning to shore parallel to a point on Masonboro Island 34° 05.2151' N - 77° 52.1472' W; running southeasterly along the Atlantic Ocean shoreline around the northern shoreline of Carolina Beach Inlet, then westerly along the shore to the point of beginning;

- (k) Cape Fear River Inlet Area: beginning at a point on Bald Head Island 33° 52.7072' N - 78° 00.0449' W; running northeasterly to a point 33° 53.6135' N - 77° 59.2549' W; running northerly to a point 33° 54.4086' N - 77° 59.0330' W; running northerly to a point 33° 54.8399' N - 77° 58.9115' W; running westerly to a point at Southport 33° 54.9503' N - 78° 01.3581' W; running southerly to a point on Fort Caswell 33° 53.7948' N - 78° 01.0782' W; following the shoreline in a southerly direction around the western shoreline of Cape Fear River Inlet then westerly along the Atlantic Ocean shoreline to a point on Caswell Beach 33° 53.4293' N - 78° 01.7604' W; extending 100 yards seaward from the mean high water line and the COLREG Demarcation Line in the Atlantic Ocean and running southerly to point near Buoy "12" 33° 51.8213' N - 78° 01.0179' W; running southeasterly to a point 33° 51.1999' N - 78° 00.0632' W; running northeasterly to a point on Bald Head Island 33° 51.3488' N - 77° 59.9222' W; running northwesterly along the Atlantic Ocean shoreline around the eastern shore of Cape Fear River Inlet, then northeasterly along the shore to the point of beginning;

- (l) Lockwoods Folly Inlet Area: beginning at a point on Oak Island 33°

54.9392' N - 78° 13.6711' W; running northerly to a point on Sheep Island 33° 55.0837' N - 78° 13.6753' W; following the shoreline northwesterly to a point on Sheep Island 33° 55.2263' N - 78° 13.9395' W; running westerly to a point on Holden Beach 33° 55.1794' N - 78° 14.3132' W; following the shoreline in a southwesterly direction around the western shore of Lockwoods Folly Inlet then along the Atlantic Ocean shoreline to a point on Holden Beach 33° 54.8695' N - 78° 14.6180' W; running southerly to a point in the Atlantic Ocean 33° 54.6076' N - 78° 14.6026' W; running easterly to a point in the Atlantic Ocean 33° 54.5564' N - 78° 14.0529' W; running northerly to a point on Oak Island 33° 54.8853' N - 78° 14.0041' W; running northwesterly along the Atlantic Ocean shoreline around the eastern shore of Lockwoods Folly Inlet, then easterly along the shore to the point of beginning;

- (m) Shallotte Inlet Area: beginning at a point near Monks Island 33° 54.5773' N - 78° 22.8077' W; running southwesterly to a point on Ocean Isle Beach 33° 54.2436' N - 78° 23.2758' W; following the shoreline in a southerly direction around the western shore of Shallotte Inlet then along the Atlantic Ocean shoreline to a point on Ocean Isle Beach 33° 53.8151' N - 78° 23.7753' W; extending 100 yards seaward from the mean high water line and the COLREG Demarcation Line in the Atlantic Ocean and running easterly and returning to shore parallel to a point on Big Beach 33° 54.1103' N - 78° 21.9540' W; running westerly along the Atlantic Ocean shoreline around the eastern shore of Shallotte Inlet, then northerly along the shore to the point of beginning; and

- (n) Tubbs Inlet Area: beginning at a point on the Jinks Creek shore of Ocean Isle Beach 33° 52.5844' N - 78° 28.6583' W; running northerly to a point 33° 52.7734' N - 78° 28.7428' W; running southwesterly to a point 33° 52.6815' N - 78° 29.0080' W; running southwesterly to a point on the Eastern Channel shore of Sunset Beach 33° 52.3878' N - 78° 29.1301' W; following the shoreline in an easterly direction around the western shore of

Tubbs Inlet then along the Atlantic Ocean shoreline to a point on Sunset Beach 33° 52.3250' N - 78° 29.1865' W; extending 100 yards seaward of the mean high water line and the COLREG Demarcation Line in the Atlantic Ocean and running northeasterly and returning to shore parallel to a point on Ocean Isle Beach 33° 52.5676' N - 78° 28.4027' W; running southwesterly along the Atlantic Ocean shoreline around the eastern shore of Tubbs Inlet then in a northerly direction along the shore to the point of beginning.

*History Note: Authority G.S. 113-134; 113-182; 143B-289.52; Eff. January 1, 1991; Amended Eff. September 1, 1991; Recodified from 15A NCAC 03R .0010 Eff. December 17, 1996; Amended Eff. August 1, 2004; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018; Amended Eff. (Pending legislative review of 15A NCAC 03L .0205).*

**15A NCAC 03R .0111 PURSE SEINES PROHIBITED**

The areas referenced in 15A NCAC 03J .0105(b)(1) are delineated in the following coastal fishing waters of the Atlantic Ocean:

- (1) in the Atlantic Ocean within an area bounded by a line extending from a point near the Bald Head Lighthouse 33° 52.3500' N - 78° 00.3000' W; running southwesterly to a point near the Cape Fear River ship channel buoy "9" 33° 51.5500' N - 78° 01.5500' W; running northwesterly to a point near the foot of the Yaupon Beach Fishing Pier on Oak Island 33° 54.2000' N - 78° 04.9333' W; following the shoreline easterly to a point near Fort Caswell 33° 53.2166' N - 78° 01.1833' W; running southeasterly to the point of beginning;
- (2) in the Atlantic Ocean from May 1 through September 30:
  - (a) in the area bounded by a line beginning at a point onshore at the northern boundary of Dare County 36° 13.8536' N - 75° 46.3914' W; running easterly 1.5 nautical miles to a point offshore 36° 13.8536' N - 75° 44.3814' W; running southerly parallel to and 1.5 nautical miles from the ocean beach to a point 1.5 nautical miles offshore at the northern town limits of Southern Shores 36° 09.0673' N - 75° 44.2225' W; running westerly to a point onshore at the northern town limits of Southern Shores 36° 09.0673' N - 75° 42.2416' W; and

- (b) in the area bounded by a line beginning at a point at the southern limits of Kitty Hawk 36° 03.3187' N - 75° 40.9503' W; running easterly 1.5 nautical miles to a point offshore 36° 03.3187' N - 75° 38.8029' W; running southerly parallel to and 1.5 nautical miles from the ocean beach to a point 1.5 nautical miles offshore of the rock jetty south of Oregon Inlet 35° 46.4052' N - 75° 29.2379' W; running westerly to a point onshore at the rock jetty south of Oregon Inlet 35° 46.4052' N - 75° 31.5369' W; and
- (3) in the Atlantic Ocean from October 1 through December 31:
  - (a) in the area bounded by a line beginning at a point onshore at the northern boundary of Dare County 36° 13.8536' N - 75° 46.3914' W; running easterly 0.5 nautical miles to a point offshore 36° 13.8536' N - 75° 45.6977' W; running southerly parallel to and 0.5 nautical miles off the ocean beach to a point 0.5 nautical miles offshore at the northern town limits of Southern Shores 36° 09.0673' N - 75° 43.5514' W; running westerly 0.5 nautical miles to a point onshore at the northern town limits of Southern Shores 36° 09.0673' N - 75° 44.2416' W; and
  - (b) in the area bounded by a line beginning at a point at the southern limits of Kitty Hawk 36° 03.3187' N - 75° 40.9503' W; running easterly 0.5 nautical miles to a point offshore 36° 03.3187' N - 75° 40.2033' W; running southerly parallel to and 0.5 nautical miles off the ocean beach to a point offshore at the rock jetty south of Oregon Inlet 35° 46.4052' N - 75° 30.6134' W; running westerly to a point onshore at the rock jetty south of Oregon Inlet 35° 46.4052' N - 75° 31.5369' W.

*History Note: Authority G.S. 113-134; 113-182; 143B-289.52; Eff. January 1, 1991; Amended Eff. October 1, 1993; Recodified from 15A NCAC 03R .0011 Eff. December 17, 1996; Amended Eff. August 1, 2004; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018; Amended Eff. (Pending legislative review of 15A NCAC 03J .0105).*

**15A NCAC 03R .0118 CRAB HARVEST**

**MANAGEMENT AREAS**

The areas referenced in 15A NCAC 03L .0201(a) and (b) are delineated in the following coastal fishing waters:

- (1) Northern Region: All Coastal Fishing Waters of the state north and east of a line extending southeast from the Highway 58 Bridge to a point offshore at 34° 36.3292' N - 77° 02.5940' W to the North Carolina/Virginia state line.
- (2) Southern Region: All Coastal Fishing Waters of the State south and west of a line extending southeast from the Highway 58 Bridge to a point offshore at 34° 36.3292' N - 77° 02.5940' W to the North Carolina/South Carolina state line.

*History Note:* Authority G.S. 113-134; 113-182; 143B-289.52;

*Eff. April 1, 2014;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018;*

*Amended Eff. (Pending legislative review of 15A NCAC 03L .0201).*

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**15A NCAC 10C .0301 INLAND GAME FISHES**

**DESIGNATED**

(a) The following fishes are classified and designated as inland game fishes in inland, joint, and coastal fishing waters:

- (1) Alabama bass, largemouth bass, redeye bass, smallmouth bass, and spotted bass;
- (2) black crappie and white crappie;
- (3) chain pickerel (jack), muskellunge, and redbfin pickerel;
- (4) kokanee salmon;
- (5) mountain trout, all species including but not limited to brook trout, brown trout, and rainbow trout;
- (6) sauger and walleye; and
- (7) sunfish, including bluegill (bream), flier, pumpkinseed, redbreast (robin), redear (shellcracker), Roanoke bass, rock bass (redeye), warmouth, and all other species of the sunfish family (Centrarchidae) not specifically listed in this Rule.

(b) The following fishes are classified as inland game fishes when found in inland fishing waters:

- (1) American shad and hickory shad;
- (2) black bullhead, brown bullhead, flat bullhead, snail bullhead, white catfish, and yellow bullhead;
- (3) flounder;
- (4) red drum (channel bass, red fish, puppy drum);
- (5) spotted sea trout (speckled trout);
- (6) striped bass, white bass, white perch, and Morone hybrids (striped bass-white bass); and
- (7) yellow perch.

*History Note:* Authority G.S. 113-134;

*Eff. February 1, 1976;*

*Amended Eff. June 1, 2005; June 1, 2004; July 1, 1996; July 1, 1990; July 1, 1983; January 1, 1981; January 1, 1980;*

*Readopted Eff. August 1, 2020;*

*Amended Eff. (Pending legislative review pursuant to G.S. 150B-21.3).*

**15A NCAC 10C .0302 MANNER OF TAKING INLAND GAME FISHES**

(a) Inland game fishes may only be taken with hook and line unless otherwise provided.

(b) Landing nets may be used to land fishes caught on hook and line.

(c) Game fishes taken incidental to the use of special devices for taking nongame fishes from inland fishing waters as authorized in 15A NCAC 10C .0402 or as authorized by 15A NCAC 10C .0407 by anglers licensed under G.S. 113-272.2(c) shall be immediately returned to the water unharmed except:

- (1) that a daily creel limit of American and hickory shad may be taken with dip nets and bow nets from March 1 through April 30 in those waters where such gear may be lawfully used; and
- (2) white perch may be taken when captured in a cast net being used to collect nongame fishes in all impounded waters west of Interstate 95 and in the Tar River Reservoir (Nash County).

(d) Inland game fishes taken from Inland Fishing Waters shall not be sold.

(e) In the inland waters of the Roanoke River upstream of U.S. 258 bridge, only a single barbless hook or a lure with a single barbless hook may be used from 1 April to 30 June. "Barbless" as used in this Rule requires that the hook does not have a barb or the barb is bent down.

*History Note:* Authority G.S. 113-134; 113-272.3; 113-292;

*Eff. February 1, 1976;*

*Amended Eff. July 1, 1996; October 1, 1994; July 1, 1993; May 1, 1992; January 1, 1982;*

*Temporary Amendment Eff. November 1, 1998;*

*Amended Eff. August 1, 2014; August 1, 2002; April 1, 1999;*

*Readopted Eff. October 1, 2021;*

*Amended Eff. (Pending legislative review pursuant to G.S. 150B-21.3).*

**15A NCAC 10C .0304 TAKING AND POSSESSION OF INLAND GAME FISHES**

(a) Individuals shall only take up to the daily creel limit of those species of inland game fish having a specified creel limit.

(b) Individuals shall only possess on those waters being fished:

- (1) the specified daily creel limit for the species;
- (2) fish conforming to the size limit for the species; and
- (3) the daily creel limit while fishing or afield.

(c) Individuals shall only possess up to three days creel limit at any place.

(d) No person, while fishing or afield, shall:

- (1) unnecessarily destroy any inland game fish taken from inland fishing waters;

- (2) remove the head or tail or otherwise change the appearance of any game fish having a size limit so to render it impracticable to measure its total original length; or
- (3) change the appearance of any game fish having a daily creel limit so to obscure its identification or render it impracticable to count the number of fish in possession.

*History Note:* Authority G.S. 113-134; 113-135; 113-135.1; 113-292;  
*Eff. February 1, 1976;*  
*Amended Eff. July 1, 1998; July 1, 1991; July 1, 1988; January 1, 1981;*  
*Readopted Eff. (Pending legislative review pursuant to G.S. 150B-21.3).*

**15A NCAC 10C .0305 LARGEMOUTH BASS**

- (a) The daily creel limit for Largemouth Bass is five fish, except in waters identified in Paragraphs (d), (e), (f), (l), (m), and (n) of this Rule.
- (b) There is no minimum size limit for Largemouth Bass, but only two of them may be less than 14 inches except in waters identified in Paragraphs (d) through (n) of this Rule.
- (c) There is no closed season, except for waters identified in Paragraph (l) of this Rule.
- (d) In Lake Cammack in Alamance County, and Lake Holt in Granville County the daily creel limit for Largemouth Bass is 10 fish and no more than two fish greater than 14 inches may be possessed.
- (e) In Lake Santeetlah in Graham County, there is no daily creel limit for Largemouth Bass and Smallmouth Bass less than 14 inches. The daily creel limit for Largemouth Bass and Smallmouth Bass greater than 14 inches is five fish in aggregate.
- (f) In Lake Chatuge in Clay County, the daily creel limit for Largemouth Bass, Smallmouth Bass, Alabama Bass, and Spotted Bass is 10 fish in aggregate. The minimum size limit for Largemouth Bass is 12 inches.
- (g) The minimum size limit for Largemouth Bass is 14 inches in the following:
  - (1) Lake Raleigh in Wake County;
  - (2) Lake Sutton in New Hanover County;
  - (3) Pungo Lake in Washington and Hyde counties;
  - (4) New Lake in Hyde County; and
  - (5) Currituck, Roanoke, Croatan, Albemarle sounds, and all their tributaries including Roanoke River downstream of Roanoke Rapids Dam, Chowan River, Meherrin River, Yeopim River, Pasquotank River, Perquimans River, Little River, Big Flatty Creek, North River, Northwest River, Scuppernong River, Alligator River, including the Alligator/Pungo Canal east of the NC Hwy 264/45 bridge, and all other associated tributaries and canals in these river systems.
- (h) In Cane Creek Lake in Union County, and Buckhorn Reservoir in Wilson and Nash counties, the minimum size limit for Largemouth Bass is 16 inches.

- (i) In Lake Phelps in Tyrrell and Washington counties, the minimum size limit for Largemouth Bass is 14 inches, and no fish between 16 and 20 inches may be possessed.
- (j) In Shearon Harris Reservoir in Chatham and Wake counties and Lake Hampton in Yadkin County, there is no minimum size limit for Largemouth Bass, but only two Largemouth Bass less than 14 inches and no Largemouth Bass between 16 and 20 inches may be possessed.
- (k) In Lake Thom-A-Lex in Davidson County, the minimum size limit for Largemouth Bass is 18 inches.
- (l) In the Alleghany County portion of New River downstream of Fields Dam (Grayson County, Virginia), the daily creel limit for Largemouth Bass, Smallmouth Bass, and Spotted Bass is five fish in aggregate. There is no minimum size limit for Largemouth Bass, but no fish between 14 and 22 inches in length may be possessed and only one Largemouth Bass, Smallmouth Bass, or Spotted Bass greater than 22 inches may be possessed.
- (m) In Lake Mattamuskeet and associated canals in Hyde County, the minimum size limit for Largemouth Bass is 16 inches and only one Largemouth Bass greater than 20 inches may be possessed.
- (n) In Jean Guite Creek and associated canals within the Town of Southern Shores in Dare County and in the ponds associated with Martin Marietta Park in Craven County, no Largemouth Bass may be possessed.

*History Note:* Authority G.S. 113-134; 113-292;  
*Eff. February 1, 1976;*  
*Temporary Amendment Eff. May 10, 1990, for a period of 180 days to expire on November 1, 1990;*  
*Temporary Amendment Eff. May 22, 1990, for a period of 168 days to expire on November 1, 1990;*  
*Temporary Amendment Eff. May 1, 1991, for a period of 180 days to expire on November 1, 1991;*  
*Amended Eff. July 1, 1994; July 1, 1993; October 1, 1992;*  
*Temporary Amendment Eff. December 1, 1994 for a period of 180 days or until the permanent rule becomes effective, whichever is sooner;*  
*Amended Eff. July 1, 1998; July 1, 1997; July 1, 1996; July 1, 1995;*  
*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;*  
*Temporary Amendment Eff. March 8, 2002 [This rule replaces the rule proposed for permanent amendment effective July 1, 2002 and approved by RRC in May 2001];*  
*Amended Eff. August 1, 2002 (approved by RRC in April 2002);*  
*Temporary Amendment Eff. June 1, 2003;*  
*Amended Eff. June 1, 2004 (this amendment replaces the amendment approved by RRC on July 17, 2003);*  
*Amended Eff. August 1, 2018; August 1, 2017; August 1, 2016;*  
*November 1, 2013; August 1, 2012; March 1, 2012; August 1, 2011; August 1, 2010; May 1, 2009; July 1, 2008; May 1, 2008;*  
*May 1, 2007; May 1, 2006; June 1, 2005;*  
*Readopted Eff. August 1, 2019;*  
*Amended Eff. August 1, 2021; August 1, 2020;*  
*Amended Eff. (Pending legislative review pursuant to G.S. 150B-21.3).*

**15A NCAC 10C .0306 CRAPPIE**

(a) There is no daily creel limit for Crappie, except for waters identified in Paragraphs (d) through (h) of this Rule.

(b) There is no minimum size limit except in waters identified in Paragraphs (f) through (h) of this Rule.

(c) There is no closed season.

(d) In Buckhorn Reservoir in Wilson and Nash counties, the daily creel limit is 20 fish.

(e) In Lake Chatuge in Clay County, the daily creel limit is 30 fish.

(f) In the following waters, the daily creel limit is 20 fish and the minimum size limit is 10 inches:

- (1) B. Everett Jordan Reservoir;
- (2) Roanoke River and its tributaries downstream of Roanoke Rapids dam;
- (3) Cashie River and its tributaries;
- (4) Middle River and its tributaries;
- (5) Eastmost River and its tributaries; and
- (6) Lake Mattamuskeet and associated canals in Hyde County.

(g) In the following waters, the daily creel limit is 20 fish and the minimum size limit is eight inches:

- (1) Lake Norman;
- (2) Lake Hyco;
- (3) Lake Ramseur;
- (4) Cane Creek Lake (Union County);
- (5) Lake Hampton (Yadkin County);
- (6) Tar River downstream of Tar River Reservoir Dam and all tributaries;
- (7) Neuse River downstream of Falls Lake Dam and all tributaries;
- (8) Haw River downstream of Jordan Lake Dam and all tributaries;
- (9) Deep River downstream of Lockville Dam and all tributaries;
- (10) Cape Fear River and all tributaries;
- (11) Waccamaw River downstream of Lake Waccamaw Dam and all tributaries;
- (12) Lumber River including Drowning Creek and all tributaries;
- (13) all other public fishing waters east of Interstate 95, except Tar River Reservoir in Nash County, Sutton Lake in New Hanover County, and waters listed in Paragraph (f) of this Rule; and
- (14) all public waters west of Interstate 77, except Lake Chatuge.

(h) In John H. Kerr Reservoir, the daily creel limit is 25 fish and the minimum size limit is nine inches.

*History Note: Authority G.S. 113-134; 113-292; Eff. November 1, 2013; Amended Eff. August 1, 2017; August 1, 2016; August 1, 2015; Readopted Eff. August 1, 2019; Amended Eff. August 1, 2020; Amended Eff. (Pending legislative review pursuant to G.S. 150B-21.3).*

**15A NCAC 10C .0307 FLOUNDER**

(a) The daily creel limit for flounder is four fish.

(b) The minimum size limit is 15 inches.

(c) The season for taking and possessing flounder is September 1 through September 14.

*History Note: Authority G.S. 113-134; 113-292; 113-304; 113-305;*

*Eff. November 1, 2013;*

*Readopted Eff. October 1, 2021;*

*Amended Eff. (Pending legislative review pursuant to G.S. 150B-21.3).*

**15A NCAC 10C .0308 KOKANEE SALMON**

(a) The daily creel limit for kokanee salmon is four fish.

(b) There is no minimum size limit.

(c) There is no closed season.

*History Note: Authority G.S. 113-134; 113-292;*

*Eff. November 1, 2013;*

*Readopted Eff. August 1, 2020;*

*Amended Eff. (Pending legislative review pursuant to G.S. 150B-21.3).*

**15A NCAC 10C .0313 AMERICAN SHAD AND HICKORY SHAD**

(a) The daily creel limit for American and hickory shad in the aggregate is 10 fish, only one of which may be an American shad, except for waters identified in Paragraphs (d) through (f) of this Rule.

(b) There is no minimum size limit.

(c) There is no closed season, except for waters identified in Paragraph (g) of this Rule.

(d) In the inland waters of the Tar-Pamlico River, Pungo River, Pee Dee River, and their tributaries, the daily creel limit for American and hickory shad is 10 in the aggregate.

(e) In the inland waters of the Cape Fear River and its tributaries, the daily creel limit for American and hickory shad is 10 in the aggregate, only five of which may be American shad.

(f) In Roanoke Rapids Reservoir, Lake Gaston and John H. Kerr Reservoir, no American shad may be possessed.

(g) The season for taking American and hickory shad with dip nets and bow nets is March 1 through April 30.

*History Note: Authority G.S. 113-134; 113-292;*

*Eff. November 1, 2013;*

*Readopted Eff. August 1, 2019;*

*Amended Eff. (Pending legislative review pursuant to G.S. 150B-21.3).*

**15A NCAC 10C .0314 STRIPED BASS**

(a) The daily creel limit for striped bass and its hybrids is four fish in the aggregate, except in waters identified in Paragraphs (d) and (g) through (l) of this Rule.

(b) The minimum size limit for these fish is 20 inches, except in waters identified in Paragraphs (d) through (l) of this Rule.

(c) There is no closed season, except for waters identified in Paragraphs (i) through (m) of this Rule.

(d) In the Dan River upstream from its confluence with Bannister River to the dam at Union Street in Danville, VA and in John H. Kerr Reservoir, the daily creel limit on striped bass and its hybrids

is two in the aggregate and the minimum size limit is 20 inches from October 1 through May 31. From June 1 through September 30, the daily creel limit on striped bass and its hybrids is four in the aggregate with no minimum size limit.

(e) In Lake Gaston and Roanoke Rapids Reservoir, the minimum size limit for striped bass and its hybrids is 20 inches from October 1 through May 31. There is no minimum size limit for these fish from June 1 through September 30.

(f) In Hyco Lake, Moss Lake, Mountain Island Reservoir, Oak Hollow Lake, Lake Thom-A-Lex, Lake Townsend, and Salem Lake the minimum size limit for striped bass and its hybrids is 16 inches.

(g) In Lake Chatuge in Clay County, the daily creel limit is 15 in the aggregate. There is no minimum size limit, but only two may be greater than 22 inches.

(h) In Lake Mattamuskeet, and in the Pee Dee River and its tributaries downstream from the Blewett Falls Dam to the South Carolina state line, the daily creel limit for striped bass and its hybrids is three fish in the aggregate, and the minimum size limit is 18 inches.

(i) In the inland fishing waters of Neuse, 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 in all other inland fishing waters east of Interstate 95 not specified in Paragraphs (h) and (j) through (l) of this Rule, the daily creel limit for striped bass and its hybrids is two fish in the aggregate. The minimum size limit is 26 inches. In these waters, the season for taking and possessing striped bass is closed from May 1 through September 30.

(j) In the inland fishing waters of the Cape Fear River and its tributaries downstream of Buckhorn Dam and in the ponds associated with Martin Marietta Park in Craven County, the season for taking and possessing striped bass is closed year-round.

(k) In the inland and joint fishing waters of the Roanoke River Striped Bass Management Area, as established in 15A NCAC 03R .0201 and identified in 15A NCAC 10C .0110, which includes the Roanoke, Cashie, Middle, and Eastmost rivers and their tributaries, the open season for taking and possessing striped bass and its hybrids is March 1 through April 30 from the joint-coastal fishing waters boundary at Albemarle Sound upstream to Roanoke Rapids Lake dam. During the open season, the daily creel limit for striped bass and its hybrids is one fish in the aggregate, and the minimum size limit is 18 inches. No fish between 22 inches and 27 inches in length shall be possessed in the daily creel limit.

(l) In designated inland and joint fishing waters of Roanoke Sound, Croatan Sound, Albemarle Sound, Chowan River, Currituck Sound, Alligator River, Scuppernon River, and their tributaries (excluding the Roanoke River and Cashie River and their tributaries), the striped bass fishing season, size limits, and creel limits are the same as those established by rules or proclamations of the Marine Fisheries Commission in adjacent coastal fishing waters.

(m) In accordance with G.S. 113-292, 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.

*History Note:* Authority G.S. 113-134; 113-292; 113-304; 113-305;

*Eff.* November 1, 2013;

*Amended Eff.* June 1, 2018; August 1, 2016; August 1, 2015; August 1, 2014;

*Readopted Eff.* August 1, 2019;

*Amended Eff.* August 1, 2021; August 1, 2020;

*Temporary Amendment Eff.* November 30, 2021;

*Amended Eff.* August 1, 2022;

*Amended Eff.* (Pending legislative review pursuant to G.S. 150B-21.3).

#### **15A NCAC 10C .0318 WHITE BASS**

(a) The daily creel limit for white bass is 10 fish.

(b) There is a 14-inch minimum size limit.

(c) There is no closed season.

*History Note:* Authority G.S. 113-134; 113-292;

*Eff.* November 1, 2013.

*Amended Eff.* August 1, 2017;

*Amended Eff.* (Pending legislative review pursuant to G.S. 150B-21.3).

#### **15A NCAC 10C .0319 WHITE PERCH**

(a) There is no daily creel limit for white perch.

(b) There is no minimum size limit.

(c) There is no closed season.

(d) In and west of Haywood, Buncombe, and Rutherford counties, it is unlawful to transport, possess, or release live white perch.

(e) White perch may be taken when captured in a cast net being used to collect nongame fishes for bait or personal consumption in all impounded waters west of I-95 and in the Tar River Reservoir (Nash County).

*History Note:* Authority G.S. 113-134; 113-292; 113-304; 113-305;

*Eff.* November 1, 2013;

*Amended Eff.* August 1, 2016;

*Readopted Eff.* October 1, 2021;

*Amended Eff.* (Pending legislative review pursuant to G.S. 150B-21.3).

#### **15A NCAC 10C .0321 SMALLMOUTH BASS**

(a) The daily creel limit for smallmouth bass is five fish, except in waters identified in Paragraphs (d) through (f) of this Rule.

(b) There is no minimum size limit for smallmouth bass, but only two of them may be less than 14 inches except in waters identified in Paragraphs (d) through (f) of this Rule.

(c) There is no closed season.

(d) In Lake Santeetlah in Graham County, there is no daily creel limit for largemouth bass and smallmouth bass less than 14 inches. The daily creel limit for largemouth bass and smallmouth bass greater than 14 inches is five fish in aggregate.

(e) In Lake Chatuge in Clay County, the daily creel limit for largemouth bass, smallmouth bass, Alabama bass, and spotted bass is 10 fish in aggregate. There is no minimum size limit for smallmouth bass.

(f) In the Alleghany County portion of New River downstream of Fields Dam (Grayson County, Virginia), the daily creel limit for largemouth bass, smallmouth bass, and spotted bass is five fish in aggregate. There is no minimum size limit for smallmouth bass, but no fish between 14 and 22 inches in length may be possessed and only one largemouth bass, smallmouth bass, or spotted bass greater than 22 inches may be possessed.

*History Note:* Authority G.S. 113-134; 113-292;  
*Eff.* August 1, 2020;  
*Amended Eff.* August 1, 2021;  
*Amended Eff.* (Pending legislative review pursuant to G.S. 150B-21.3).

**15A NCAC 10C .0322 ALABAMA BASS AND SPOTTED BASS**

- (a) There is no daily creel limit for Alabama bass or spotted bass, except for waters identified in Paragraphs (d) and (e) of this Rule.
- (b) There is no minimum size limit.
- (c) There is no closed season.
- (d) In Lake Chatuge in Clay County, the daily creel limit for largemouth bass, smallmouth bass, Alabama bass, and spotted bass is 10 fish in aggregate.
- (e) In the Alleghany County portion of New River downstream of Fields Dam (Grayson County, Virginia), the daily creel limit for largemouth bass, smallmouth bass, and spotted bass is five fish in aggregate. There is no minimum size limit for spotted bass, but no fish between 14 and 22 inches in length may be possessed and only one largemouth bass, smallmouth bass, or spotted bass greater than 22 inches may be possessed.

*History Note:* Authority G.S. 113-134; 113-292;  
*Eff.* August 1, 2020;  
*Amended Eff.* August 1, 2021;  
*Amended Eff.* (Pending legislative review pursuant to G.S. 150B-21.3).

**15A NCAC 10C .0323 REDEYE BASS**

- (a) The daily creel limit for redeye bass is five fish.
- (b) There is no minimum size limit for redeye bass, but only two of them may be less than 14 inches.
- (c) There is no closed season.

*History Note:* Authority G.S. 113-134; 113-292;  
*Eff.* August 1, 2020;  
*Amended Eff.* (Pending legislative review pursuant to G.S. 150B-21.3).

**15A NCAC 10C .0324 BULLHEADS**

- (a) The daily creel limit for black bullhead, brown bullhead, flat bullhead, snail bullhead, white catfish, and yellow bullhead is 10 fish in aggregate.
- (b) There is no minimum size limit.
- (c) There is no closed season.

*History Note:* Authority G.S. 113-134; 113-292;  
*Eff.* August 1, 2020;  
*Amended Eff.* (Pending legislative review pursuant to G.S. 150B-21.3).

**15A NCAC 10C .0325 SEA TROUT**

- (a) The daily creel limit for sea trout (spotted or speckled) is four fish.
- (b) The minimum size limit is 14 inches.
- (c) There is no closed season.

*History Note:* Authority G.S. 113-134; 113-292; 113-304; 113-305;  
*Eff.* (Pending legislative review pursuant to G.S. 150B-21.3).

**15A NCAC 10C .0326 RED DRUM**

- (a) The daily creel limit for red drum (also known as channel bass, red fish or puppy drum) is one fish.
- (b) The minimum size limit is 18 inches and no fish over 27 inches may be possessed in the daily creel limit.
- (c) There is no closed season.

*History Note:* Authority G.S. 113-134; 113-292; 113-304; 113-305;  
*Eff.* (Pending legislative review pursuant to G.S. 150B-21.3).

**15A NCAC 10C .0401 MANNER OF TAKING NONGAME FISHES**

- (a) Except as permitted by the rules in this Section, no person shall take nongame fishes from the inland fishing waters of North Carolina in any manner other than with hook and line, grabbling, or special device with a special device fishing license, or inland fishing license.
- (b) Nongame fishes may be taken from inland fishing waters at any time without restriction as to size limits or creel limits, except as specified in this Section.
- (c) Special devices used with a special device fishing license shall only be used in those counties and waters with open season designated in 15A NCAC 10C .0407.
- (d) Archery equipment used with either a hunting license or inland fishing license may be used to take nongame fishes year-round in all inland fishing waters, except:

- (1) in the Pee Dee River downstream of Blewett Falls Dam to the South Carolina state line and in all tributaries, where only catfish can be taken;
- (2) in impounded waters located on the Sandhills Game Land; and
- (3) in public mountain trout waters.

- (e) Set hooks, jug hooks, and trotlines may be used to take nongame fishes as designated in 15A NCAC 10C .0206.
- (f) The season for taking nongame fishes by hook and line in designated public mountain trout waters is the same as the trout fishing season. Trout seasons are designated in 15A NCAC 10C .0316.
- (g) Nongame fishes taken by hook and line, grabbling, or by special device with a special device fishing license may be sold unless otherwise specified in this Section.

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

*Temporary Amendment Eff. July 1, 1999;*  
*Amended Eff. July 1, 2000;*  
*Temporary Amendment Eff. July 1, 2002; July 1, 2001;*  
*Amended Eff. August 1, 2002 (approved by RRC on 06/21/01 and 04/18/02);*  
*Temporary Amendment Eff. June 1, 2003;*  
*Amended Eff. May 1, 2004 (this amendment replaces the amendment approved by RRC on July 17, 2003);*  
*Amended Eff. August 1, 2019; August 1, 2018; August 1, 2016;*  
*August 1, 2015; August 1, 2014; August 1, 2013; August 1, 2012;*  
*August 1, 2011; August 1, 2010; May 1, 2009; May 1, 2008; May 1, 2007; May 1, 2006; June 1, 2005;*  
*Readopted Eff. August 1, 2020;*  
*Amended Eff. August 1, 2021;*  
*Amended Eff. (Pending legislative review pursuant to G.S. 150B-21.3).*

**15A NCAC 10C .0402 TAKING NONGAME FISHES BY SPECIAL DEVICE FOR BAIT OR PERSONAL CONSUMPTION**

(a) The use of equipment specified in this Rule requires a valid license that provides basic inland fishing privileges.

(b) It is unlawful to take nongame fish for bait or personal consumption in the inland waters of North Carolina using equipment other than:

- (1) a net of dip net design not greater than six feet across;
- (2) a seine of not greater than 12 feet in length (except in Lake Waccamaw in Columbus County where there is no length limitation) and with a bar mesh measure of not more than one-fourth inch;
- (3) a cast net;
- (4) a bow net for the seasons and waters in which the use of bow nets is authorized in 15A NCAC 10C .0407;
- (5) a dip net when used in conjunction with a licensed hand-crank electrofisher;
- (6) a gig (except in Public Mountain Trout Waters);
- (7) up to three traps for the seasons and waters in which the use of traps is authorized in 15A NCAC 10C .0407;
- (8) up to two eel pots;
- (9) a spear gun for the seasons and waters in which the use of a spear gun is authorized in 15A NCAC 10C .0407;
- (10) minnow traps not exceeding 12 inches in diameter and 24 inches in length, with funnel openings not exceeding one inch in diameter, from which all fish and animals are removed daily, and that are labeled with the user's Wildlife Resources Commission customer number or name and address;
- (11) a hand-held line with a single bait attached;
- (12) a single, multiple-bait line for taking crabs not to exceed 100 feet in length, marked on each end with a solid float no less than five inches in diameter, bearing legible and indelible identification of the user's name and address,

and under the immediate control and attendance of the person using the device, with a limit of one line per person and no more than one line per vessel; or

- (13) a collapsible crab trap with the largest open dimension not greater than 18 inches and that by design is collapsed at all times when in the water, except when it is being retrieved or lowered to the bottom, with a limit of one trap per person.

(c) It is unlawful to sell nongame fishes or aquatic animals taken under this Rule.

(d) Game fishes taken shall be returned unharmed to the water, except for the following:

- (1) American and hickory shad may be taken when captured with dip nets and bow nets from March 1 through April 30 subject to the size and creel limits specified in 15A NAC 10C .0313.
- (2) white perch may be taken when captured in a cast net being used to collect nongame fishes for bait or personal consumption in all impounded waters west of I-95 and in the Tar River Reservoir (Nash County) subject to the size and creel limits specified in 15A NCAC 10C .0319.

(e) No person shall take or possess during one day more than 200 nongame fish, in aggregate, for bait or personal consumption, accounting for species specific size and creel limits identified in Section .0400 of this Subchapter.

(f) Any fishes taken for bait purposes are included within the daily possession limit for that species.

(g) It is unlawful to take nongame fish for bait from the following waters:

- (1) Public Mountain Trout Waters (except in impounded waters of power reservoirs and municipally-owned water supply reservoirs);
- (2) Bear Creek in Chatham County;
- (3) Deep River in Chatham, Lee, and Moore counties and downstream of Coleridge Dam in Randolph County;
- (4) Fork Creek in Randolph County; and
- (5) Rocky River in Chatham County.

*History Note: Authority G.S. 113-134; 113-272; 113-272.3; 113-292;*

*Eff. February 1, 1976;*

*Amended Eff. July 1, 2000; July 1, 1998; July 1, 1993; July 1, 1992; May 1, 1992; July 1, 1989;*

*Temporary Amendment Eff. July 1, 2001;*

*Amended Eff. July 18, 2002;*

*Temporary Amendment Eff. June 1, 2003;*

*Amended Eff. June 1, 2004 (this amendment replaces the amendment approved by RRC on July 17, 2003);*

*Amended Eff. August 1, 2019; August 1, 2018; August 1, 2017; August 1, 2016; August 1, 2015; August 1, 2014; August 1, 2013; August 1, 2010; May 1, 2008; May 1, 2007; May 1, 2006;*

*Readopted Eff. August 1, 2021;*

*Amended Eff. (Pending legislative review pursuant to G.S. 150B-21.3).*

**15A NCAC 10C .0404 SPECIAL DEVICES**

(a) Archery equipment. Archery equipment, as defined in 15A NCAC 10B .0116, is a special device.

(b) Nets. Where authorized, manually operated nets, including seines and bow, cast, dip, gill, drift, and fyke nets may be used under the special device license. No fixed gill net or other stationary net which may be authorized as a special device may be more than 100 yards in length, nor shall any such net be placed within 50 yards of any other fixed net. Fixed nets must be set so that they run parallel to the nearest shoreline. No fixed or drift gill nets shall be used unless such net is marked for the protection of boat operators. A net shall be deemed so marked when there is attached to it at each end two separate yellow buoys that shall be of solid foam or other solid buoyant material no less than five inches in its smallest dimensions. The owner shall be identified on a buoy on each end either by using engraved buoys or by attaching engraved metal or plastic tags to the buoys. Such identification shall include one of the following:

- (1) owner's N.C. motor boat registration number;
- (2) owner's U.S. vessel documentation name; or
- (3) owner's last name, first and middle initials.

It is unlawful to attach gill nets to any wire, rope, or similar device extended across any navigable watercourse.

(c) Traps. Baskets and traps, excluding collapsible crab traps, may be used under the special device license. Such devices when set and left unattended shall be affixed with a card or tag furnished by the license holder and upon which his name and address shall be legibly and indelibly inscribed. No fish trap may exceed 60 inches in length or 30 inches in depth or width. No lead nets, wing nets, or other device designed to guide or herd fish may be attached to the trap or used or set within 25 feet of the trap.

(d) Spears. Manually operated gigs or under-water spear or harpoon guns may be used under the special device license in the inland waters having a season for their use specified in 15A NCAC 10C .0407.

(e) Crab pots. It is unlawful to use crab pots in inland fishing waters, except by persons owning property adjacent to the inland fishing waters of coastal rivers and their tributaries who are permitted to set two crab pots to be attached to their property and not subject to special device license requirements.

(f) Eel pots. It is unlawful to use pots with mesh sizes smaller than one-half inch by one-half inch. Each pot must be marked by attaching a floating buoy that shall be of solid foam or other solid buoyant material and no less than five inches in diameter and no less than five inches in length. Buoys may be of any color except yellow. The owner shall be identified on the attached buoy by using engraved buoys or by engraved metal or plastic tags attached to the buoy. Such identification shall include one of the following:

- (1) owner's N.C. motorboat registration number;
- (2) owner's U.S. vessel documentation name; or
- (3) owner's last name, first and middle initials.

(g) Hand-crank electrofisher. For the purposes of this Rule, a hand-crank electrofisher is any manually-operated device which is capable of generating a low voltage electrical current not exceeding 300 volts for the taking of catfish. Hand-crank electrofishers may be used only where authorized by local law and only in those waters specified in 15A NCAC 10C .0407.

*History Note:* Authority G.S. 113-134; 113-272.2; 113-276; 113-292;  
*Eff.* February 1, 1976;  
*Amended Eff.* July 1, 1999; July 1, 1996; December 1, 1995; July 1, 1995; July 1, 1994; July 1, 1993;  
*Temporary Amendment Effective* July 1, 2001;  
*Amended Eff.* August 1, 2014; August 1, 2012; May 1, 2008; May 1, 2007; August 1, 2004; July 18, 2002;  
*Readopted Eff.* (Pending legislative review pursuant to G.S. 150B-21.3).

**15A NCAC 10C .0405 POSSESSION OF LICENSES**

Except as indicated in this Rule, every individual participating in the taking of fish through the use of any special device must have the special device fishing license issued to him, personally, in his possession or readily available for inspection. A bow net or a dip net may be used by an individual other than the licensee with the licensee's permission, but such user must have the license in his possession or readily available for inspection. When using drag seines authorized for taking nongame fishes at beaches on inland fishing waters where there are migratory saltwater fishes only the principal owner and operator is required to be licensed.

*History Note:* Authority G.S. 113-134; 113-275; 113-276; 113-276.1; 113-292;  
*Eff.* February 1, 1976;  
*Temporary Amendment Eff.* November 1, 1998;  
*Amended Eff.* April 1, 1999;  
*Readopted Eff.* (Pending legislative review pursuant to G.S. 150B-21.3).

**15A NCAC 10C .0406 TRAWLS AND DREDGES**

It is unlawful to use a trawl or clam dredge in any inland fishing waters.

*History Note:* Authority G.S. 113-134; 113-276; 113-292;  
*Eff.* February 1, 1976;  
*Amended Eff.* July 1, 1988; January 1, 1982; January 1, 1981;  
*Readopted Eff.* (Pending legislative review pursuant to G.S. 150B-21.3).

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

The use of special fishing devices, including crab pots in impoundments located entirely on game lands, shall be 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;

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| <p>(4) Anson:</p> <p>(a) July 1 to June 30 with traps and gigs in all public waters;</p> <p>(b) March 1 to April 30 with bow nets in Pee Dee River below Blewett Falls Dam;</p> <p>(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;</p> <p>(5) Ashe: July 1 to June 30 with gigs in New River (both forks), except designated public mountain trout waters;</p> <p>(6) Beaufort:</p> <p>(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;</p> <p>(b) March 1 to April 30 with bow nets in all inland public waters;</p> <p>(7) Bertie:</p> <p>(a) July 1 to June 30 with traps in the Broad Creek (tributary of Roanoke);</p> <p>(b) March 1 to April 30 with bow nets in all inland public waters, except public lakes, ponds, and other impounded waters;</p> <p>(8) Bladen:</p> <p>(a) March 1 to April 30 with bow nets in Black River;</p> <p>(b) July 1 to March 1 with hand-crank electrofishers (local law) in Cape Fear River between Lock and Dam 1 and 3 and in Black River, except that hand-crank electrofishing is prohibited within 400 yards of Lock and Dam 1, 2, and 3 on Cape Fear River;</p> <p>(9) Brunswick: March 1 to April 30 with bow nets in Alligator Creek, Hoods Creek, Indian Creek, Orton Creek below Orton Pond, Rices Creek, Sturgeon Creek and Town Creek;</p> <p>(10) Buncombe: July 1 to June 30 with gigs in all public waters, except designated public mountain trout waters;</p> <p>(11) Burke:</p> <p>(a) July 1 to August 31 with seines in all running public waters, except Johns River and designated public mountain trout 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 and Lake James;</p> <p>(12) Cabarrus:</p> <p>(a) July 1 to August 31 with seines in all running public waters,</p> | <p>(b) July 1 to June 30 with traps and gigs in all public waters;</p> <p>(13) Caldwell: July 1 to June 30 with traps, gigs, and spear guns in all public waters, except designated public mountain trout waters;</p> <p>(14) Camden:</p> <p>(a) July 1 to June 30 with traps in all inland public waters;</p> <p>(b) March 1 to April 30 with bow nets in all inland public waters, except public lakes, ponds, and other impounded waters;</p> <p>(15) Carteret: March 1 to April 30 with bow nets in all inland public waters except South River and the tributaries of the White Oak River;</p> <p>(16) Caswell:</p> <p>(a) July 1 to June 30 with gigs in all public waters;</p> <p>(b) July 1 to August 31 with seines in all running public waters, except Moons Creek;</p> <p>(c) July 1 to June 30 with traps in Hyco Reservoir;</p> <p>(17) Catawba:</p> <p>(a) July 1 to August 31 with seines in all running public waters, except Catawba River below Lookout Dam;</p> <p>(b) July 1 to June 30 with traps, spear guns, and gigs in all public waters;</p> <p>(18) Chatham:</p> <p>(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);</p> <p>(b) July 1 to August 31 with seines in the Cape Fear River, and Haw River;</p> <p>(c) July 1 to June 30 with traps in Deep River; and with gigs in all public waters;</p> <p>(19) Cherokee: July 1 to June 30 with gigs in all public waters, except designated public mountain trout waters;</p> <p>(20) Chowan:</p> <p>(a) March 1 to April 30 with bow nets in all inland public waters, except public lakes, ponds, and other impounded waters;</p> <p>(b) July 1 to June 30 with traps in all inland public waters, except public lakes, ponds, and other impounded waters;</p> <p>(21) Clay: July 1 to June 30 with gigs in all public waters, except designated public mountain trout waters;</p> <p>(22) Cleveland:</p> <p>(a) July 1 to August 31 with seines in all running public waters;</p> <p>(b) July 1 to June 30 with gigs, traps and spear guns in all public waters;</p> |
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| <p>(23) Columbus:</p> <p>(a) December 1 to March 1 with gigs in all inland public waters, except Lake Waccamaw and its tributaries;</p> <p>(b) March 1 to April 30 with bow nets in Livingston Creek;</p> <p>(c) July 1 to March 1 with hand-crank electrofishers (local law) in Waccamaw and Lumber rivers;</p> <p>(24) Craven:</p> <p>(a) July 1 to June 30 with traps in the main run of the Trent and Neuse Rivers;</p> <p>(b) March 1 to April 30 with 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;</p> <p>(25) Currituck:</p> <p>(a) July 1 to June 30 with traps in Tulls Creek and Northwest River;</p> <p>(b) March 1 to April 30 with bow nets in all inland public waters, except public lakes, ponds, and other impounded waters;</p> <p>(26) Dare:</p> <p>(a) July 1 to June 30 with traps in Mashoes Creek, Milltail Creek, East Lake, and South Lake;</p> <p>(b) March 1 to April 30 with bow nets in all inland public waters, except public lakes, ponds, and other impounded waters;</p> <p>(27) Davidson:</p> <p>(a) July 1 to August 31 with seines in all running public waters;</p> <p>(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;</p> <p>(28) Davie:</p> <p>(a) July 1 to June 30 with traps and gigs in all public waters;</p> <p>(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;</p> <p>(29) Duplin:</p> <p>(a) December 1 to June 5 with seines in the main run of the Northeast Cape Fear River downstream from a point one mile above Serecta Bridge;</p> <p>(b) March 1 to April 30 with bow nets in the main run of the Northeast Cape</p> | <p>Fear River downstream from a point one mile above Serecta Bridge;</p> <p>(30) Durham:</p> <p>(a) July 1 to August 31 with seines in Neuse River;</p> <p>(b) July 1 to June 30 with gigs in all public waters;</p> <p>(31) Edgecombe: March 1 to April 30 with bow nets in all public waters;</p> <p>(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;</p> <p>(33) Franklin:</p> <p>(a) July 1 to August 31 with seines in Tar River;</p> <p>(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;</p> <p>(34) Gaston:</p> <p>(a) July 1 to August 31 with seines in all running public waters;</p> <p>(b) July 1 to June 30 with gigs, traps, and spear guns in all public waters;</p> <p>(35) Gates: March 1 to April 30 with bow nets in all inland public waters except public lakes, ponds, and other impounded waters;</p> <p>(36) Graham: July 1 to June 30 with gigs in all public waters, except designated public mountain trout waters;</p> <p>(37) Granville:</p> <p>(a) July 1 to June 30 with gigs in all public waters, except Kerr Reservoir;</p> <p>(b) July 1 to August 31 with seines in the Tar River below US 158 bridge;</p> <p>(c) July 1 to June 30 with dip and cast nets in Kerr Reservoir;</p> <p>(38) Greene: March 1 to April 30 with bow nets and reels in Contentnea Creek;</p> <p>(39) Guilford:</p> <p>(a) July 1 to August 31 with seines in Haw River, Deep River below Jamestown Dam, and Reedy Fork Creek below US 29 bridge;</p> <p>(b) July 1 to June 30 with gigs in all public waters;</p> <p>(40) Halifax: March 1 to April 30 with 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;</p> <p>(41) Harnett:</p> <p>(a) January 1 to May 31 with gigs in Cape Fear River and tributaries;</p> <p>(b) March 1 to April 30 with bow nets in Cape Fear River;</p> |
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| <p>(42) Haywood: July 1 to June 30 with gigs in all public waters, except Lake Junaluska and designated public mountain trout waters;</p> <p>(43) Henderson: July 1 to June 30 with gigs in all public waters, except designated public mountain trout waters;</p> <p>(44) Hertford:</p> <p style="padding-left: 20px;">(a) July 1 to June 30 with traps in Wiccacon Creek;</p> <p style="padding-left: 20px;">(b) March 1 to April 30 with bow nets in all inland public waters, except public lakes, ponds, and other impounded waters;</p> <p>(45) Hyde:</p> <p style="padding-left: 20px;">(a) July 1 to June 30 with traps in all inland waters;</p> <p style="padding-left: 20px;">(b) March 1 to April 30 with bow nets in all inland public waters, except public lakes, ponds, and other impounded waters;</p> <p>(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;</p> <p>(47) Jackson: July 1 to June 30 with gigs in all public waters, except designated public mountain trout waters;</p> <p>(48) Johnston: March 1 to April 30 with bow nets in Black Creek, Little River, Middle Creek, Mill Creek, Neuse River and Swift Creek;</p> <p>(49) Jones:</p> <p style="padding-left: 20px;">(a) July 1 to June 30 with traps in the Trent River below US 17 bridge and White Oak River below US 17 bridge;</p> <p style="padding-left: 20px;">(b) March 1 to April 30 with bow nets in all inland public waters, except the tributaries to the White Oak River;</p> <p>(50) Lee:</p> <p style="padding-left: 20px;">(a) December 1 to April 15 with dip and gill nets (local law) in Cape Fear River and Deep River;</p> <p style="padding-left: 20px;">(b) July 1 to August 31 with seines in Cape Fear River;</p> <p style="padding-left: 20px;">(c) July 1 to June 30 with traps in Deep River, and with gigs in all public waters;</p> <p>(51) Lenoir:</p> <p style="padding-left: 20px;">(a) July 1 to June 30 with traps in Neuse River below US 70 bridge at Kinston;</p> <p style="padding-left: 20px;">(b) March 1 to April 30 with bow nets in Neuse River and Contentnea Creek upstream from NC 118 bridge at Grifton; and with seines in Neuse River;</p> <p>(52) Lincoln:</p> <p style="padding-left: 20px;">(a) July 1 to August 31 with seines in all running public waters;</p> <p style="padding-left: 20px;">(b) July 1 to June 30 with traps, gigs, and spear guns in all public waters;</p> <p>(53) McDowell:</p> | <p style="padding-left: 20px;">(a) July 1 to August 31 with seines in all running public waters, except designated public mountain trout waters;</p> <p style="padding-left: 20px;">(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;</p> <p>(54) Macon: July 1 to June 30 with gigs in all public waters, except designated public mountain trout waters;</p> <p>(55) Madison: July 1 to June 30 with gigs in all public waters, except designated public mountain trout waters;</p> <p>(56) Martin: March 1 to April 30 with bow nets in all inland public waters, except public lakes, ponds, and other impounded waters;</p> <p>(57) Mecklenburg:</p> <p style="padding-left: 20px;">(a) July 1 to August 31 with seines in all running public waters;</p> <p style="padding-left: 20px;">(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;</p> <p>(58) Montgomery:</p> <p style="padding-left: 20px;">(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;</p> <p style="padding-left: 20px;">(b) July 1 to June 30 with traps and gigs in all public waters;</p> <p>(59) Moore:</p> <p style="padding-left: 20px;">(a) July 1 to August 31 with seines in all running public waters except in Deep River;</p> <p style="padding-left: 20px;">(b) 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;</p> <p>(60) Nash:</p> <p style="padding-left: 20px;">(a) July 1 to June 30 with gigs in all public waters, except Tar River;</p> <p style="padding-left: 20px;">(b) March 1 to April 30 with bow nets in the Tar River below Harris' Landing and Fishing Creek below the Fishing Creek Mill Dam;</p> <p>(61) New Hanover: March 1 to April 30 with bow nets in all inland public waters, except Sutton (Catfish) Lake;</p> <p>(62) Northampton:</p> <p style="padding-left: 20px;">(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;</p> <p style="padding-left: 20px;">(b) March 1 to April 30 with bow nets in Occoneechee Creek, Old River Landing Gut, and Vaughans Creek below Watsons Mill;</p> |
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- (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) March 1 to April 30 with 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 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: March 1 to April 30 with 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) March 1 to April 30 with bow nets in all inland public waters, except public lakes, ponds, and other impounded waters;
- (67) Pender:
- (a) December 1 to June 5 with seines in the main run of Northeast Cape Fear River;
  - (b) March 1 to April 30 with bow nets in the Northeast Cape Fear River, Long Creek, Moore's Creek approximately one mile upstream to New Moon Fishing Camp, and Black River;
  - (c) July 1 to March 1 with hand-crank electrofishers (local law) in Black River;
- (68) Perquimans:
- (a) July 1 to June 30 with traps in all inland waters;
  - (b) March 1 to April 30 with bow nets in all inland public waters, except public lakes, ponds, and other impounded waters;
- (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.
- (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) March 1 to April 30 with 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;
- (71) Polk: July 1 to June 30 with gigs in all public waters, except designated public mountain trout waters;
- (72) Randolph:
- (a) July 1 to August 31 with seines in Deep River above the Coleridge Dam and Uwharrie River;
  - (b) July 1 to June 30 with gigs in all public waters;
- (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) March 1 to April 30 with bow nets in Pee Dee River below Blewett Falls Dam;
- (74) Robeson: December 1 to March 1 with gigs in all inland public waters.
- (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;
- (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;
- (77) Rutherford:
- (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;
- (78) Sampson:
- (a) March 1 to April 30 with bow nets in Big Coharie Creek, Black River and Six Runs Creek;
  - (b) July 1 to March 1 with hand-crank electrofishers (local law) in Black River downstream of NC 1105 bridge;
- (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;
- (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;
- (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;
- (82) Swain: July 1 to June 30 with gigs in all public waters, except designated public mountain trout waters;
- (83) Transylvania: July 1 to June 30 with gigs in all public waters, except designated public mountain trout waters;
- (84) Tyrrell:
- (a) July 1 to June 30 with traps in Scuppernong River and Alligator Creek;
- (b) March 1 to April 30 with bow nets in all inland public waters, except Lake Phelps, the drainage canals that connect Lake Phelps and Scuppernong River, public lakes, ponds and other impounded waters;
- (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;
- (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;
- (c) July 1 to June 30 with dip and cast nets in Kerr Reservoir;
- (87) Wake:
- (a) July 1 to June 30 with gigs in all public waters, except Sunset, Benson, Wheeler, Raleigh, and Johnson Lakes;
- (b) March 1 to April 30 with bow nets in the Neuse River below Falls Lake 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; except 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;
- (89) Washington: March 1 to April 30 with bow nets in all inland public waters, except Lake Phelps, the drainage canals that connect Lake Phelps and Scuppernong River, public lakes, ponds, and other impoundments.
- (90) Wayne: March 1 to April 30 with 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) March 1 to April 30 with bow nets in Contentnea Creek below US 301 bridge and in Toisnot Swamp downstream from the Lake Toisnot Dam; and
- (93) Yadkin: July 1 to June 30 with gigs in all public waters, and with traps in the main stem of Yadkin River.

*History Note: Authority G.S. 113-134; 113-276; 113-292; Eff. February 1, 1976; Temporary Amendment Eff. December 29, 1988; Temporary Amendment Eff. December 1, 1993; 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, 2002; July 1, 2001; Amended Eff. August 1, 2002 (approved by RRC on 06/21/01 and 04/18/02); Temporary Amendment Eff. June 1, 2003; Amended Eff. August 1, 2019; August 1, 2015; May 1, 2007; June 1, 2005; August 1, 2004; Readopted Eff. (Pending legislative review pursuant to G.S. 150B-21.3).*

#### **15A NCAC 10C .0409 TAKING AND POSSESSION OF NONGAME FISHES**

- (a) Individuals shall only take up to the daily creel limit of those species of nongame fish having a specified creel limit.
- (b) Individuals shall only possess, on those waters being fished:
- (1) the specified daily creel limit for the species;
  - (2) fish conforming to the size limit of the species; and
  - (3) the daily creel limit while fishing or afield.
- (c) Individuals shall only possess up to three days creel limit at any place.
- (d) No person, while fishing or afield, shall:
- (1) remove the head or tail or otherwise change the appearance of any nongame fish specified in Section .0400 of this Subchapter as having a size limit, so as to render it impractical to

measure its total original length, except as provided in 15A NCAC 10C .0410.

- (2) change the appearance of any nongame fish that has a species-specific daily creel limit in Section .0400 of this Subchapter, as to obscure its identification or render it impractical to count the number of fish in possession, except for American Eel as provided in 15A NCAC 10C .0410.

*History Note:* Authority G.S. 113-134; 113-292; 113-304; 113-305;  
*Eff.* (Pending legislative review pursuant to G.S. 150B-21.3).

**15A NCAC 10C .0410 AMERICAN EEL**

- (a) The daily creel limit for American eels taken from or possessed, regardless of origin, while boating on or fishing in inland fishing waters is 25.  
(b) The minimum size limit is nine inches.  
(c) There is no closed season.  
(d) Eels greater than nine inches in length and with a minimum body depth greater than ½ inch may be cut for use as bait.

*History Note:* Authority G.S. 113-134; 113-292; 113-304; 113-305;  
*Eff.* (Pending legislative review pursuant to G.S. 150B-21.3).

**15A NCAC 10C .0411 ATLANTIC CROAKER**

- (a) The daily creel limit for Atlantic croaker is 50 fish.  
(b) There is no minimum size limit.  
(c) There is no closed season.  
(d) Atlantic croaker shall not be sold.

*History Note:* Authority G.S. 113-134; 113-292; 113-304; 113-305;  
*Eff.* (Pending legislative review pursuant to G.S. 150B-21.3).

**15A NCAC 10C .0412 BLACK DRUM**

- (a) The daily creel limit for black drum is 10 fish.  
(b) The minimum size limit is 14 inches and no fish over 25 inches may be possessed in the daily creel limit.  
(c) There is no closed season.  
(d) Black drum shall not be sold.

*History Note:* Authority G.S. 113-134; 113-292; 113-304; 113-305;  
*Eff.* (Pending legislative review pursuant to G.S. 150B-21.3).

**15A NCAC 10C .0413 BLUE CRAB**

- (a) Blue crabs shall have a minimum carapace width of five inches (point to point).  
(b) It is unlawful to possess more than 50 crabs per person per day, or to exceed 100 crabs per vessel per day.  
(c) There is no closed season.  
(d) Blue crabs shall not be sold.

*History Note:* Authority G.S. 113-134; 113-292; 113-304; 113-305;  
*Eff.* (Pending legislative review pursuant to G.S. 150B-21.3).

**15A NCAC 10C .0414 BLUEFISH**

- (a) The daily creel limit for bluefish is three.  
(b) There is no size limit.  
(c) There is no closed season.  
(d) Bluefish shall not be sold.

*History Note:* Authority G.S. 113-134; 113-292; 113-304; 113-305;  
*Eff.* (Pending legislative review pursuant to G.S. 150B-21.3).

**15A NCAC 10C .0415 BOWFIN**

- (a) There is no daily creel limit for bowfin.  
(b) There is no minimum size limit.  
(c) There is no closed season.  
(d) Bowfin shall not be sold.

*History Note:* Authority G.S. 113-134; 113-292; 113-304; 113-305;  
*Eff.* (Pending legislative review pursuant to G.S. 150B-21.3).

**15A NCAC 10C .0416 BLUE CATFISH, CHANNEL CATFISH, AND FLATHEAD CATFISH**

- (a) There is no daily creel limit for blue, channel, and flathead catfish, except for waters identified in Paragraphs (e), (f), and (g) of this Rule.  
(b) There is no minimum size limit.  
(c) There is no closed season.  
(d) In waters that are stocked and managed for catfish and located on game lands, on Commission-owned property, or on the property of a cooperator, including waters within the Community Fishing Program, no person shall take channel or blue catfish by means other than hook and line.  
(e) In waters that are stocked and managed for catfish and located on game lands, on Commission-owned property, or on the property of a cooperator, including waters within the Community Fishing Program, the daily creel limit for channel catfish is seven on waters posted with signs indicating the creel limit.  
(f) The daily creel limit for blue catfish greater than 32 inches is one fish in the following waters:

- (1) Lake Norman;
- (2) Mountain Island Lake;
- (3) Lake Wylie;
- (4) Badin Lake;
- (5) Lake Tillery;
- (6) John H. Kerr Reservoir (North Carolina portion);
- (7) Dan River (Downstream of the Union Street Dam in Danville, VA);
- (8) Lake Gaston (North Carolina portion); and
- (9) Roanoke Rapids Reservoir.

- (g) The daily creel limit is five catfish in aggregate on the Pee Dee River downstream of Blewett Falls Dam to the South Carolina state line and all tributaries.

*History Note:* Authority G.S. 113-134; 113-292; 113-304; 113-305;  
*Eff.* (Pending legislative review pursuant to G.S. 150B-21.3).

**15A NCAC 10C .0417 COBIA**

- (a) The daily creel limit for cobia is one fish.
- (b) The minimum size limit is 36 inches.
- (c) The season for taking and possessing cobia is May 1 to December 31.
- (d) Cobia shall not be sold.

*History Note:* Authority G.S. 113-134; 113-292; 113-304; 113-305;

*Eff.* (Pending legislative review pursuant to G.S. 150B-21.3).

**15A NCAC 10C .0418 FRESHWATER MUSSELS**

- (a) Freshwater mussels, including the Asiatic clam (*Corbicula fluminea*), may only be taken from impounded waters, except mussels shall not be taken in:
  - (1) Lake Waccamaw in Columbus County; and
  - (2) University Lake in Orange County.
- (b) The daily possession limit for freshwater mussels is 200 in the aggregate, except there is no daily possession limit for the Asiatic clam (*Corbicula fluminea*).
- (c) There is no minimum size limit.
- (d) There is no closed season.

*History Note:* Authority G.S. 113-134; 113-292; 113-304; 113-305;

*Eff.* (Pending legislative review pursuant to G.S. 150B-21.3).

**15A NCAC 10C .0419 GRASS CARP**

- (a) There is no daily creel limit for grass carp, except for waters identified in Paragraphs (d) and (e) of this Rule.
- (b) There is no minimum size limit.
- (c) There is no closed season.
- (d) Grass carp shall not be taken or possessed except that one fish per day may be taken with archery equipment on the following waters:
  - (1) Lake James;
  - (2) Lookout Shoals Lake;
  - (3) Mountain Island Reservoir; and
  - (4) Lake Wylie.
- (e) Grass carp shall not be taken or possessed except for scientific study by permit issued by the Wildlife Resources Commission on the following waters:
  - (1) Lake Gaston (S.L. 2009-261);
  - (2) Roanoke Rapids Reservoir (S.L. 2009-261);
  - (3) Lake Norman; and
  - (4) the North Carolina portion of John H. Kerr Reservoir.

*History Note:* Authority G.S. 113-134; 113-292; 113-304; 113-305;

*Eff.* (Pending legislative review pursuant to G.S. 150B-21.3).

**15A NCAC 10C .0420 KING MACKEREL**

- (a) The daily creel limit for king mackerel is three fish.
- (b) The minimum size limit is 24 inches.
- (c) There is no closed season.
- (d) King mackerel shall not be sold.

*History Note:* Authority G.S. 113-134; 113-292; 113-304; 113-305;

*Eff.* (Pending legislative review pursuant to G.S. 150B-21.3).

**15A NCAC 10C .0421 MARGINED MADTOM AND TADPOLE MADTOM**

Margined madtom and tadpole madtom shall not be taken or possessed.

*History Note:* Authority G.S. 113-134; 113-292; 113-304; 113-305;

*Eff.* (Pending legislative review pursuant to G.S. 150B-21.3).

**15A NCAC 10C .0422 STRIPED MULLET AND WHITE MULLET**

- (a) The daily creel limit for striped mullet and white mullet is 200 fish in aggregate.
- (b) There is no minimum size limit.
- (c) There is no closed season.

*History Note:* Authority G.S. 113-134; 113-292; 113-304; 113-305;

*Eff.* (Pending legislative review pursuant to G.S. 150B-21.3).

**15A NCAC 10C .0423 ALEWIFE AND BLUEBACK HERRING**

- (a) There is no daily creel limit for alewife or blueback herring (river herring), except for waters identified in Paragraph (e) of this Rule.
- (b) There is no minimum size limit, except for waters identified in Paragraph (d) of this Rule.
- (c) There is no closed season.
- (d) While boating on or fishing in the following inland fishing waters, no person shall take alewife and blueback herring that are greater than six inches in length, or possess such herring regardless of origin in:
  - (1) Roanoke River downstream of Roanoke Rapids Dam;
  - (2) Tar River downstream of Rocky Mount Mill Dam;
  - (3) Neuse River downstream of Falls Lake Dam;
  - (4) Cape Fear River downstream of Buckhorn Dam;
  - (5) Pee Dee River downstream of Blewett Falls Dam;
  - (6) Lumber River, including Drowning Creek;
  - (7) all the tributaries to the rivers listed above; and
  - (8) all other inland fishing waters east of I-95.

- (e) It shall be unlawful to transport, possess, or release live alewife or blueback herring, in the waters of the Little Tennessee River in and upstream of Lake Santeetlah and Cedar Cliff Lake, including all the tributaries and impoundments thereof, and on adjacent shorelines, docks, access ramps, and bridge crossings.
- (f) Alewife and blueback herring, excluding those less than 6 inches in length collected from Kerr Reservoir (Granville, Vance, and Warren counties), may not be sold.

*History Note:* Authority G.S. 113-134; 113-292; 113-304; 113-305;

*Eff. (Pending legislative review pursuant to G.S. 150B-21.3).*

**15A NCAC 10C .0424 SHARKS**

Sharks shall not be taken or possessed.

*History Note: Authority G.S. 113-134; 113-292; 113-304; 113-305;*

*Eff. (Pending legislative review pursuant to G.S. 150B-21.3).*

**15A NCAC 10C .0425 SHEEPSHEAD**

- (a) The daily creel limit for sheepshead is 10 fish.
- (b) The minimum size limit is 10 inches.
- (c) There is no closed season.
- (d) Sheepshead shall not be sold.

*History Note: Authority G.S. 113-134; 113-292; 113-304; 113-305;*

*Eff. (Pending legislative review pursuant to G.S. 150B-21.3).*

**15A NCAC 10C .0426 SPANISH MACKEREL**

- (a) The daily creel limit for Spanish mackerel is 15 fish.
- (b) The minimum size limit is 12 inches.
- (c) There is no closed season.
- (d) Spanish mackerel shall not be sold.

*History Note: Authority G.S. 113-134; 113-292; 113-304; 113-305;*

*Eff. (Pending legislative review pursuant to G.S. 150B-21.3).*

**15A NCAC 10C .0427 SPOT**

- (a) The daily creel limit for spot is 50 fish.
- (b) There is no minimum size limit.
- (c) There is no closed season.
- (d) Spot shall not be sold.

*History Note: Authority G.S. 113-134; 113-292; 113-304; 113-305;*

*Eff. (Pending legislative review pursuant to G.S. 150B-21.3).*

**15A NCAC 10C .0428 TARPON**

Tarpon shall not be taken or possessed.

*History Note: Authority G.S. 113-134; 113-292; 113-304; 113-305;*

*Eff. (Pending legislative review pursuant to G.S. 150B-21.3).*

**15A NCAC 10C .0429 WEAKFISH (GRAY TROUT)**

- (a) The daily creel limit for weakfish (gray trout) is one fish.
- (b) The minimum size limit is 12 inches.
- (c) There is no closed season.
- (d) Weakfish shall not be sold.

*History Note: Authority G.S. 113-134; 113-292; 113-304; 113-305;*

*Eff. (Pending legislative review pursuant to G.S. 150B-21.3).*

**15A NCAC 10C .0430 OTHER FISHES**

- (a) For any nongame fish species not specifically listed in this Section, there is no daily creel limit.

- (b) There is no size limit.
- (c) There is no closed season.

*History Note: Authority G.S. 113-134; 113-292; 113-304; 113-305;*

*Eff. (Pending legislative review pursuant to G.S. 150B-21.3).*

**15A NCAC 10C .0701 INLAND GAME FISHES DESIGNATED IN COASTAL FISHING WATERS**

(a) For the purposes of this Rule, only the following fishes are classified and designated as inland game fishes in coastal fishing waters:

- (1) Alabama bass, largemouth bass, redeye bass, smallmouth bass, and spotted bass;
- (2) black crappie and white crappie;
- (3) chain pickerel (jack), muskellunge, and redbfin pickerel;
- (4) kokanee salmon;
- (5) mountain trout, all species including but not limited to brook trout, brown trout, and rainbow trout;
- (6) Roanoke bass and rock bass (redeye);
- (7) sauger and walleye; and
- (8) sunfish, including bluegill (bream), flier, pumpkinseed, redbreast (robin), redear (shellcracker), warmouth, and all other species of the sunfish family (Centrarchidae) not specifically listed in this Rule.

(b) Inland game fishes shall not be taken by any method other than with hook and line, except that landing nets may be used to land fishes caught on hook and line.

(c) Size, creel limits, and seasons for inland game fishes in coastal fishing waters shall be the same as those in inland waters designated in Section .0300 of this Subchapter.

(d) Inland game fishes taken incidental to commercial fishing operations shall be immediately returned to the water unharmed.

(e) Inland game fishes taken from coastal fishing waters shall not be sold.

(f) Individuals shall only take up to the daily creel limit of those species of inland game fish having a specified creel limit.

(g) Individuals shall only possess, on those waters being fished:

- (1) the specified daily creel limit for the species;
- (2) fish conforming to the size limit for the species; and
- (3) the daily creel limit while fishing or afield.

(h) Individuals shall only possess up to three days creel limit at any place.

(i) No person, while fishing or afield, shall:

- (1) unnecessarily destroy any inland game fish taken from public fishing waters;
- (2) remove the head or tail or otherwise change the appearance of any game fish having a size limit so to render it impracticable to measure its total original length; or
- (3) change the appearance of any game fish having a daily creel limit so to obscure its identification or render it impracticable to count the number of fish in possession.

*History Note:* Authority G.S. 113-134; 113-135; 113-135.1; 113-292;  
*Eff.* (Pending legislative review pursuant to G.S. 150B-21.3).

**15A NCAC 10D .0106 DESIGNATED BEAR MANAGEMENT AREAS**

(a) Bear may be taken on posted designated bear management areas specified in Paragraph (c) of this Rule during the open season by permit only. Individuals may apply for permits on or after July 1 online at ncwildlife.org, by phone, or in person at a wildlife service agent location. The number of permits issued annually will be based on achieving population management objectives of the Commission. The Commission shall issue available bear management area permits to applicants selected at random by computer. Permits shall be non-transferrable. All applicable laws and rules regarding the taking of bear shall apply.  
 (b) The following shall be posted designated bear management areas:

Bachelor Bay designated bear management area – Bertie and Washington counties  
 Columbus County designated bear management area – Brunswick and Columbus counties  
 Croatan designated bear management area – Carteret, Craven, and Jones counties  
 Daniel Boone designated bear management area – Avery, Burke, and Caldwell counties  
 Dare designated bear management area – Dare and Hyde counties  
 Fires Creek designated bear management area – Clay County  
 Flat Top designated bear management area – Mitchell and Yancey counties  
 Green Swamp designated bear management area – Brunswick County  
 Gull Rock designated bear management area – Hyde County  
 Harmon Den designated bear management area – Haywood County  
 Juniper Creek designated bear management area – Brunswick and Columbus counties  
 Mt. Mitchell designated bear management area – McDowell and Yancey counties  
 North River designated bear management area – Camden and Currituck counties  
 Panthertown – Bonas Defeat designated bear management area – Jackson County  
 Pisgah designated bear management area – Buncombe, Haywood, Henderson and Transylvania  
 Pungo River designated bear management area – Hyde County  
 Rich Mountain designated bear management area – Madison County  
 Sherwood designated bear management area – Haywood County  
 Suggs Mill Pond designated bear management area – Bladen and Cumberland counties  
 Standing Indian designated bear management area – Macon County

Thurmond Chatham designated bear management area – Allegheny and Wilkes counties  
 Wayah designated bear management area – Macon County

(c) It shall be lawful to take bear on the following designated management areas when authorized by permit issued by the Commission in accordance with G.S. 113-264(d):

Daniel Boone designated bear management area – Avery, Burke, and Caldwell counties  
 Dare designated bear management area – Dare and Hyde counties  
 Mt. Mitchell designated bear management area – McDowell and Yancey counties  
 Panthertown – Bonas Defeat designated bear management area – Jackson County  
 Pisgah designated bear management area – Buncombe, Haywood, Henderson and Transylvania  
 Standing Indian designated bear management area – Macon County

(d) Feral Swine shall not be taken with the use of dogs on designated bear management areas.

(e) Dogs shall not be trained or allowed to run unleashed between March 1 and the Monday on or nearest October 15 on designated bear management areas located in and west of the counties and parts of counties described in 15A NCAC 10B .0109.

*History Note:* Authority G.S. 113-134; 113-264; 113-291.1; 113-291.2; 113-291.7; 113-305;  
*Eff.* August 1, 2019;  
*Amended Eff.* (Pending legislative review pursuant to G.S. 150B-21.3).

**15A NCAC 10F .0312 HENDERSON COUNTY**

*History Note:* Authority G.S. 75A-3; 75A-15;  
*Eff.* February 1, 1976;  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff.* December 6, 2016;  
*Repealed Eff.* June 1, 2022.

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

(a) Regulated Areas. This Rule shall apply to the following waters described as follows:

- (1) Badin Lake.
  - (A) within 50 yards northeast and southwest of the section of the railroad trestle designed for vessel traffic, northwest of the Old Whitney Boating Access Area near the Stanly-Montgomery County line;
  - (B) Old Whitney Boating Access Area on Old Whitney Road in New London; and
  - (C) Badin Lake Boat Ramp, 293 NC Highway 740 in Badin.
- (2) Lake Tillery.
  - (A) Turner Beach Cove shore to shore, south of a point at 35.22529 N, 80.09318 W;

- (B) the waters within 50 yards of the fuel docks at the Boathouse and Marina at 712 Berry Hill Drive in Norwood;
- (C) the waters within 50 yards of the shoreline at Morrow Mountain State Park, from a point north of the Morrow Mountain Boathouse at a point at 35.38256 N, 80.06221 W, to a point south of the Morrow Mountain Boat Launch at 35.37919 N, 80.06114 W;
- (D) Norwood Boating Access Area, 307-A Lakeshore Drive in Norwood; and
- (E) Stony Mountain Boating Access Area, 22682-A Lake Tillery Road in Albemarle.

- (3) Tuckertown Reservoir, within 50 yards of the NC Highway 49 Boat Ramp at 36824 NC Highway 49 in New London.

(b) **Swimming Areas.** No person operating or responsible for the operation of a vessel shall permit it to enter the waters of the Badin Swim Area.

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

(d) **Placement of Markers.**

- (1) The North Carolina Wildlife Resources Commission shall be the designated agency for placement and maintenance of the markers implementing Parts (a)(1)(A), (B), (C), (a)(2)(D), (E), and Subparagraph (a)(3) of this Rule.
- (2) The Board of Commissioners of Stanly County shall be the designated agency for placement of markers implementing Parts (a)(2)(A), (B) and Paragraph (b) of this Rule.
- (3) Morrow Mountain State Park shall be the designated agency for placement of markers implementing Part (a)(2)(C) of this Rule.

*History Note: Authority G.S. 75A-3; 75A-15; Eff. February 1, 1976; Amended Eff. July 1, 1995; March 25, 1978; November 1, 1977; Temporary Amendment Eff. June 1, 1998; Amended Eff. July 1, 2000; April 1, 1999; July 1, 1998; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016; Amended Eff. October 1, 2018; Emergency Amendment Eff. July 30, 2019; Temporary Amendment Eff. June 1, 2020; October 1, 2019; Temporary Amendment Expired February 26, 2021; Amended Eff. June 1, 2022; October 1, 2021; February 1, 2021.*

**15A NCAC 10F .0318 WARREN COUNTY**

*History Note: Authority G.S. 75A-3; 75A-15; Eff. February 1, 1976; Amended Eff. October 1, 1992; March 25, 1978; Temporary Amendment Eff. June 17, 2002;*

*Amended Eff. May 1, 2004 (this amendment replaces the amendment approved by RRC on February 20, 2003; Amended Eff. May 1, 2013; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016; Amended Eff. October 1, 2018; Repealed Eff. June 1, 2022.*

**15A NCAC 10F .0323 BURKE COUNTY**

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

- (1) Lake Hickory.
- (2) Lake James at the following locations:
  - (A) Holiday Shores Subdivision;
  - (B) Lake James Campground;
  - (C) Laurel Pointe Subdivision;
  - (D) the waters of Boyd Moore Cove shore to shore, north of a line from a point on the northwest shore at 35.76667 N, 81.82337 W to a point on the southeast shore at 35.76558 N, 81.82245 W;
  - (E) East Shores development;
  - (F) Mallard Cove shore to shore, southwest of a point at 35.74437 N, 81.87053 W;
  - (G) the portion of Lake James shore to shore, beginning 385 yards northeast of the NC Highway 126 bridge at a line from a point on the north shore at 35.74652 N, 81.88231 W to a point on the south shore at 35.74440 N, 81.88017 W, and ending at a line 550 yards southwest of the NC Highway 126 bridge and 50 yards south of the Canal Bridge Boating Access Area dock from a point on the northwest shore at 35.74163 N, 81.88943 W to a point on the southeast shore at 35.73869 N, 81.88652 W;
  - (H) the waters within 50 yards of the end of the South Pointe Subdivision peninsula from a point east of the peninsula at 35.76399 N, 81.83768 W, and surrounding the peninsula from a point east of the peninsula at 35.76399 N, 81.83768 W, and surrounding the peninsula to a point west of the peninsula at 35.76307 N, 81.83648 W;
  - (I) the waters of Sherman's Hollow Cove shore to shore, and contiguous with those waters beginning at a point on the west shore of the mouth of Sherman's Hollow Cove at 35.76423 N, 81.82748 W, extending northeast within 50 yards of Linville Point to a point on the northeast shore of Linville Point at 35.76596 N, 81.82432 W; and
  - (J) the waters of Mills Creek at Lake James State Park, shore to shore from

a point 50 yards northwest of the Cove bridge at 35.76469 N, 81.87703 W to a point 50 yards southeast of the bridge at 35.76406 N, 81.87637 W.

(3) Lake Rhodhiss.

(b) Speed Limit. 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 in Mooring Areas. No person shall operate a vessel at greater than no-wake speed while within a marked mooring area on the regulated areas described in Paragraph (a) of this Rule.

(d) Swimming Area. No person operating or responsible for the operation of a vessel shall permit it to enter the waters of Paddy's Creek Swim Area at Lake James State Park Road in Nebo.

(e) Placement of Markers. The following agencies shall be responsible for placement of the markers implementing this Rule, subject to the approval of the United States Coast Guard and the United States Army Corps of Engineers:

- (1) the Board of Commissioners of Burke County, for the regulated areas designated in Parts (a)(2)(A) through (I) of this Rule; and
- (2) Lake James State Park for the regulated areas designated in Part (a)(2)(J) and Paragraph (d) of this Rule.

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

*Eff. July 1, 1976;*

*Amended Eff. December 1, 1995; December 1, 1994; December 1, 1992; March 1, 1992;*

*Temporary Amendment Eff. April 1, 1999;*

*Amended Eff. July 1, 2000;*

*Temporary Amendment Eff. August 15, 2001;*

*Amended Eff. July 1, 2009; May 1, 2009; August 1, 2002;*

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

*Amended Eff. November 1, 2017;*

*Emergency Amendment Eff. November 2, 2020;*

*Temporary Amendment Eff. December 30, 2020; Temporary Amendment Expired September 26, 2021;*

*Amended Eff. June 1, 2022; February 1, 2021.*

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

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

- (1) Badin Lake.
  - (A) Lake Forest Drive Cove shore to shore, west of a point 50 yards east of the fueling site at the marina at 35.48739 N, 80.10918 W;
  - (B) Garr Creek shore to shore, north of a line beginning at a point on the east shore at 35.47952 N, 80.13633 W to a point on the west shore at 35.47946 N, 80.13932 W;
  - (C) the channel between Beyer's Island and the mainland, shore to shore beginning at a line from a point on Beyer's Island at 35.49102 N,

80.10221 W to a point on the mainland at 35.49230 N, 80.10241 W, ending at a line westward, from a point on Beyer's Island at 35.48988 N, 80.10573 W to a point on the mainland at 35.49077 N, 80.10702 W;

- (D) within 50 yards of the fueling station at the Old North State Marina at the entrance to a cove within the Uwharrie Point community;
- (E) within 50 yards of the Circle Drive Boating Access Area, at 724 Shoreline Drive in New London;
- (F) within 50 yards of Lakemont Boating Access Area, at 241 Lakemont Road in New London; and
- (G) within 50 yards of the Cove Boat Ramp at 400 Cove Road in New London.

(2) Lake Tillery.

- (A) the waters within 50 yards of the boat ramp in the south end of Woodrun Cove at 35.33113 N, 80.06277 W;
- (B) Carolina Forest Cove shore to shore and the waters within 50 yards of the boat ramps and boat slips at the end of Arroyo Drive in Carolina Forest Community, from a point on the south shore at 35.36276 N, 80.05386 W, northeast to a point on the north shore at 35.36405 N, 80.05304 W;
- (C) Lilly's Bridge Boating Access Area shore to shore, from line 25 feet north of the SR 1110 bridge otherwise known as Lillys Bridge Road at a point on the east shore at 35.23223 N, 80.06166 W, to a point on the west shore at 35.23289 N, 80.06318 W, to a line 200 feet southwest of the Lilly's Bridge Boating Access Area, from a point on the east shore at 35.23067 N; 80.06262 W, to a point on the west shore at 35.23156 N; 80.06437 W; and
- (D) within 50 yards of Swift Island Boating Access Area at 4917 NC Highway 24/27 in Mount Gilead.

(3) Tuckertown Reservoir. Pee Dee River, within 50 yards of the Clarks Creek Boating Access Area at 177 Tillery Dam Road in Mount Gilead.

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

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

(e) Placement of Markers. The following agencies shall be responsible for placement or placement and maintenance of the markers implementing this Rule, subject to the approval of the United States Coast Guard and United States Army Corps of Engineers:

- (1) The Board of Commissioners of Montgomery County for placement of the markers implementing Parts (a)(1)(A), (B), (C), (D), and (a)(2)(A), and (B) of this Rule;
- (2) The North Carolina Wildlife Resources Commission for placement and maintenance of the markers implementing Parts (a)(1)(E), (F), (a)(2)(C), (D), and Subparagraph (a)(4) of this Rule;
- (3) The Board of Commissioners of Montgomery County shall be the designated agency for placement and maintenance of the ropes and markers implementing Paragraph (c) of this Rule; and
- (4) The U.S. Forest Service for placement and maintenance of the markers implementing Part (a)(1)(G) of this Rule.

*History Note: Authority G.S. 75A-3; 75A-15; Eff. November 1, 1977; Amended Eff. December 1, 1990; May 1, 1989; March 25, 1978; Temporary Amendment Eff. June 1, 1998; Amended Eff. April 1, 1999; July 1, 1998; Temporary Amendment Eff. July 1, 2002; Amended Eff. August 1, 2006; June 1, 2005; April 1, 2003; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016; Amended Eff. October 1, 2018; April 1, 2017; Emergency Amendment Eff. July 30, 2019; Temporary Amendment Eff. October 1, 2019; Amended Eff. May 1, 2020; Temporary Amendment Eff. June 1, 2020; Temporary Amendment Expired March 12, 2021; Amended Eff. June 1, 2022; October 1, 2021.*

### **15A NCAC 10F .0333 MECKLENBURG AND GASTON COUNTIES**

(a) Regulated Areas. This Rule shall apply to the following waters of Lake Wylie in Mecklenburg and Gaston Counties:

- (1) McDowell Park. The waters of the coves adjoining McDowell Park and the Southwest Nature Preserve in Mecklenburg County shore to shore, east of the mouth of the cove at a line from a point on the south shore at 35.10272 N, 81.03026 W to a point on the north shore at 35.10556 N, 80.02964 W;
- (2) Gaston County Wildlife Club Cove. The waters of the cove west of the Gaston County Wildlife Club on South Point Road in Belmont, north of a line at the mouth of the cove from a point on the east shore at 35.15628 N, 81.01427 W to a point on the west shore at 35.15628 N, 81.01615 W;

- (3) Buster Boyd Bridge. The waters from a point 250 feet east of the Buster Boyd Bridge on N.C. Highway 49 in Mecklenburg County at 35.10293 N, 81.03932 W, to a point 150 feet west of the Buster Boyd Bridge at 35.10242 N, 81.04089 W;
- (4) N.C. Highway 27 bridge. The waters shore to shore, from a point 50 yards north of the N.C. Highway 27 bridge in Mecklenburg and Gaston counties at 35.29849 N, 81.00346 W to a point 190 yards south of the N.C. Highway 27 bridge at 35.29635 N, 81.00424 W;
- (5) Brown's Cove. The area beginning at the mouth of Brown's Cove in Mecklenburg County shore to shore, at a point at 35.16453 N, 81.00474 W, west to a point at 35.16480 N, 81.00309 W;
- (6) Paradise Point Cove. The waters of Paradise Point Cove in Gaston County between Paradise Circle and Lake Front Drive, west of a line from a point on the south shore at 35.18853 N, 81.04036 W to a point on the north shore at 35.18991 N, 81.04136 W;
- (7) Withers Cove. The waters from a point 50 feet southeast of the Withers Bridge on SR 1116, otherwise known as Shopton Road W. in Mecklenburg County at 35.14576 N, 81.00187 W, to a point 50 feet northwest of the bridge at 35.14599 N, 81.00222 W;
- (8) Sadler Island. The waters shore to shore beginning at a line from a point on the west shore of Lake Wylie in Gaston County at 35.27481 N, 81.0138 W east to a point on the east shore of the Lake in Mecklenburg County at 35.27423 N, 81.01111 W, extending south on the Lake west of Sadler Island to a line from a point on the west shore of the Lake in Gaston County at 35.27079 N, 81.01525 W, east to a point on the west side of Sadler Island in Mecklenburg County at 35.27051 N, 81.01396 W, and the waters shore to shore east of Sadler Island in Mecklenburg County from a point at 35.27441 N, 81.01185 W, south-southwest to a line from a point on the south shore of Sadler Island at 35.26635 N, 81.01432 W, south to a point on the Lake shore at 35.26494 N, 81.01368 W;
- (9) Other bridges. The areas within 50 feet of any bridge in North Carolina that crosses the waters of Lake Wylie that is not otherwise specifically mentioned in this Paragraph; and
- (10) Yachtsman on Lake Wylie Community. The waters within 50 yards of the community piers near the terminus of Waterside Drive in Mecklenburg County, and northward to include the waters east of the island that is west of Point Lookout Road, ending at a line from a point on the northern end of the island at 35.12226 N, 81.03306 W, east to a point on the shore at 35.12253 N, 81.03190 W; and

- (11) Brown's Cove. The waters of Brown's Cove beginning at a line from a point on the east shore at 35.16892 N, 80.99702 W to a point on the west shore at 35.16948 N, 80.99783 W, northeast to a line from a point on the south shore at 35.16913 N, 80.99556 W to a point on the north shore at 35.17043 N, 80.99684 W.

(b) Speed Limit Near Ramps. No person shall operate a vessel at greater than no-wake speed within 50 yards of any public boat-launching ramp, dock, pier, marina, boat storage structure, or boat service area.

(c) Speed Limit Near Marked Swimming or Mooring Areas. No person shall operate a vessel at greater than no-wake speed within 50 yards of any marked mooring area or marked swimming area.

(d) Placement and Maintenance of Markers. The Lake Wylie Marine Commission shall be the designated agency for placement and maintenance of markers implementing this Rule.

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

*Eff. July 1, 1980;*

*Amended Eff. July 1, 1994; June 1, 1985; June 1, 1984; March 1, 1983;*

*Temporary Amendment Eff. January 1, 1998;*

*Amended Eff. July 1, 1998;*

*Temporary Amendment Eff. February 4, 2000;*

*Amended Eff. April 1, 2009; June 1, 2004; July 1, 2000;*

*Temporary Amendment Eff. May 1, 2015;*

*Amended Eff. October 1, 2015;*

*Readopted Eff. October 1, 2018;*

*Amended Eff. June 1, 2022; May 1, 2019.*

**15A NCAC 10F .0336 NORTHAMPTON AND WARREN COUNTIES**

(a) No person shall operate a vessel at greater than no-wake speed in the following waters of Lake Gaston and the Roanoke River in Northampton and Warren counties.

(1) Lake Gaston:

- (A) the cove on the north shore of Lake Gaston in Northampton County east of SR 1252 otherwise known as Vincent Lane, shore to shore from a point on the north shore at 36.51660 N, 77.82226 W to a point on the south shore at 36.51578 N, 77.82269 W;
- (B) Jimmies Creek in Northampton County shore to shore, north of a line from a point on the east shore at 36.52450 N, 77.82600 W to a point on the west shore at 36.52445 N, 77.82810 W;
- (C) within 50 yards of the Henrico Boating Access Area in Northampton County, 142 Wildlife Landing Road, Henrico, N.C.;
- (D) within 50 yards of the Vulture Boating Access Area in Northampton County, 773 Old Gaston Road, Gaston, N.C.;

- (E) within 50 yards east and west of the N.C. Highway 903 Eaton Ferry Road Bridge in Warren County;
- (F) within 50 yards of the Hawtree Creek Boating Access Area in Warren County, 1200 Peete Farm Road, Warrenton, N.C.;
- (G) within 50 yards of the Salmons Landing Boating Access area in Warren County, 129 Salmon Landing Road, Littleton, N.C.;
- (H) within 50 yards of the Wildwood Point boat ramp in Warren County, 184 N. Oak Drive, Littleton, N.C.;
- (I) within 50 yards of the Lizard Creek boat ramp in Warren County, 417 Lizard Creek Road, Littleton, N.C.;
- (J) Songbird Creek in Warren County within 50 yards of the culvert under N.C. Highway 903 at 36.53260 N, 77.97330 W; and
- (K) Sixpound Creek in Warren County within 50 yards of the culvert under SR 1704 otherwise known as Nocarva Road at 36.52950 N, 78.07283 W;
- (L) Lizard Creek in Warren County within 50 yards of the culvert under SR 1362 otherwise known as Lizard Creek Road at 36.52501 N, 77.91187 W;
- (M) within 50 yards of the Waters View Restaurant adjacent to the northwest end of the N.C. Highway 903 bridge in Warren County;
- (N) the cove west of the Pointe at Lake Gaston at the southwest end of the N.C. Highway 903 bridge in Warren County, south of a point at 36.50937 N, 77.96644 W;
- (O) Camp Willow Run Canoe and Sail Cove in Warren County, beginning at a line shore to shore from a point on the southwest shore at 36.49355 N, 77.91795 W, to a point on the north shore at 36.49534 N, 77.91508 W; and
- (P) the cove on Hubquarter Creek in Warren County, shore to shore beginning at a line from a point on the northeast shore at 36.50030 N, 78.00474 W to a point on the southwest shore at 36.49947 N, 78.00553 W.

- (2) Roanoke River. No person shall operate a vessel at greater than no-wake speed in Roanoke River in Northampton County within 50 yards of the Gaston Boating Access Area, 601 Roanoke Rapids Road, Gaston, N.C.

(b) Speed Limit in Mooring Areas. No person shall operate a vessel at greater than no-wake speed while within a marked

mooring area on the waters of Lake Gaston within Northampton and Warren counties.

(c) Placement of Markers. The Boards of Commissioners of Northampton County and Warren County shall be the designated agencies for placement of the markers implementing this Rule, subject to the approval of the United States Coast Guard and United States Army Corps of Engineers.

*History Note: Authority G.S. 75A-3; 75A-15;  
Eff. March 29, 1981;  
Amended Eff. June 1, 1994; March 1, 1993; September 1, 1989;  
Temporary Amendment Eff. March 15, 2003;  
Temporary Amendment Expired October 12, 2003;  
Amended Eff. May 1, 2014; May 1, 2004;  
Pursuant to G.S. 150B-21.3A, rule is necessary without  
substantive public interest Eff. December 6, 2016;  
Amended Eff. June 1, 2022; February 1, 2020; October 1, 2018.*

**15A NCAC 10F .0354 PITT COUNTY**

(a) Regulated Areas. This Rule shall apply to the waters described in this Paragraph:

- (1) the waters of Tar River, known as Hardee Creek, shore to shore, west of a line at its confluence with the main course of Tar River from a point on the north shore at 35.59878 N, 77.31168 W to a point on the south shore at 35.59813 N, 77.31157 W;
- (2) the portion of Tranters Creek east of a line from a point on the north shore at 35.56961 N, 77.09159 W to a point on the south shore at 35.56888 N, 77.09118 W and north of a line from a point on the east shore at 35.56714 N, 77.08941 W to a point on the west shore at 35.56689 N, 77.09029 W; and
- (3) the waters of Barber Creek at Wildwood Park in the City of Greenville shore to shore, north of its confluence with Tar River at a point at 35.60719 N, 77.32890 W.

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

(c) Placement of Markers. The following agencies shall be responsible for placement of the markers implementing this Rule, subject to the approval of the United States Coast Guard and the United States Army Corps of Engineers:

- (1) The Board of Commissioners of Pitt County for those waters listed in Subparagraphs (a)(1) and (a)(2) of this Rule; and
- (2) The City of Greenville for the waters listed in Subparagraph (a)(3) of this Rule.

*History Note: Authority G.S. 75A-3; 75A-15;  
Eff. May 1, 1988;  
Amended Eff. May 1, 2014; September 1, 2010; July 1, 1995;  
April 1, 1992;  
Pursuant to G.S. 150B-21.3A, rule is necessary without  
substantive public interest Eff. December 6, 2016;  
Amended Eff. June 1, 2022; October 1, 2018.*

**15A NCAC 10F .0378 HALIFAX COUNTY**

(a) Regulated Areas. This Rule shall apply to the following waters in Halifax County:

- (1) Roanoke Rapids Lake.
  - (A) within 50 yards north and south of the abandoned railroad trestle at the location where Deep Creek meets Roanoke Raids Lake in Roanoke Rapids, northwest of Windsong Drive;
  - (B) within 50 yards of the Thelma Boating Access Area, 1011 Van Warren Road, Roanoke Rapids; and
  - (C) within 50 yards of the Fifth Street Landing Boating Access Area, 1919 W. Fifth Street, Roanoke Rapids.
- (2) Roanoke River.
  - (A) Within 50 yards of the Weldon Boating Access Area, 1090 Rockfish Lane, Weldon; and
  - (B) within 50 yards of the Edwards Ferry Boating Access Area, 89 U.S. Highway 258, Scotland Neck.
- (3) Lake Gaston within 50 yards of Summit Boating Access Area at 432 Bluebird Lane, Littleton.

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

(c) Placement of Markers. The North Carolina Wildlife Resources Commission shall be the designated agency for placement and maintenance of the markers implementing this Rule, subject to the approval of the United States Coast Guard and United States Army Corps of Engineers.

*History Note: Authority G.S. 75A-3; 75A-15;  
Eff. June 1, 2022.*

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**15A NCAC 18A .0135 PERMITS**

(a) It shall be unlawful to operate a processing facility without first obtaining a Crustacea Permit and Certificate of Compliance from the Division of Marine Fisheries.

(b) Application for a permit shall be submitted in writing to the Division. Application forms may be obtained from the Division, P.O. Box 769, 3441 Arendell Street, Morehead City, NC 28557.

(c) No permit shall be issued by the Division until an inspection by the Division shows that the facility and equipment comply with applicable rules of this Section. The owner or responsible person shall sign the completed inspection sheet to acknowledge receipt of the inspection sheet.

(d) The permit shall be posted in a conspicuous place in the facility.

(e) All permits shall expire on March 31 of each year and are non-transferrable.

(f) Plans and specifications for proposed new construction, expansion of operations, or changes in operating processes shall be submitted to the Division for review and approval prior to beginning construction or making a change.

(g) A permit may be revoked or suspended in accordance with 15A NCAC 030 .0504.

*History Note:* Authority G.S. 113-134; 113-182; 113-221.2; 143B-289.52;  
*Eff. October 1, 1992;*  
*Readopted Eff. (Pending legislative review pursuant to S.L. 2019-198).*

**15A NCAC 18A .0302 PERMITS**

(a) It shall be unlawful to operate any of the following facilities without first obtaining a Shellfish Dealer Permit and Certificate of Compliance from the Division of Marine Fisheries:

- (1) depuration facilities;
- (2) repacking plants;
- (3) shellstock plants; and
- (4) shucking and packing plants.

(b) It shall be unlawful to operate as a shellstock dealer without first obtaining a Shellfish Dealer Permit and Certificate of Compliance from the Division.

(c) It shall be unlawful to operate as a reshipper without first obtaining a Shellfish Dealer Permit and Certificate of Compliance from the Division if shellfish are purchased and shipped out of state.

(d) Approval for wet storage of shellstock shall be granted only to persons permitted pursuant to this Rule.

(e) Application for a permit shall be submitted in writing to the Division. Application forms may be obtained from the Division, P.O. Box 769, 3441 Arendell Street, Morehead City, NC 28557.

(f) No permit shall be issued by the Division until an inspection by the Division shows that the facility and equipment comply with all applicable Rules in Sections .0300 through .0800 of this Subchapter. The owner or responsible person shall sign the completed inspection sheet to acknowledge receipt of the inspection sheet.

(g) All permits shall be posted in a conspicuous place in the facility.

(h) All permits shall expire on April 30 of each year and are non-transferrable.

(i) Plans and specifications for proposed new construction, expansion of operations, or changes in operating processes shall be submitted to the Division for review and approval prior to beginning construction or making a change.

(j) A permit may be revoked or suspended in accordance with 15A NCAC 030 .0504.

*History Note:* Authority G.S. 113-134; 113-182; 113-221.2; 143B-289.52;  
*Eff. February 1, 1987;*  
*Amended Eff. April 1, 1997;*  
*Readopted Eff. (Pending legislative review pursuant to S.L. 2019-198).*

**15A NCAC 18A .0303 RELAYING PERMITS**

*History Note:* Authority G.S. 130A-230;  
*Eff. February 1, 1987;*  
*Amended Eff. September 1, 1990;*

*Repealed Eff. (Pending legislative review of 15A NCAC 03K .0104).*

**15A NCAC 18A .0304 DEPURATION HARVESTING PERMITS**

*History Note:* Authority G.S. 130A-230;  
*Eff. February 1, 1987;*  
*Amended Eff. September 1, 1990;*  
*Repealed Eff. June 1, 2022.*

**15A NCAC 18A .0425 DEALER TAGS**

(a) Consistent with the rules of this Section, it shall be unlawful to possess shellstock without a dealer tag or label affixed after the shellstock is processed or shipped by the initial certified shellfish dealer. The tag shall be durable, waterproof, and a minimum of two and five-eighths inches by five and one-fourth inches in size. It shall be unlawful for the tag to fail to contain legible information arranged in the specific order as follows:

- (1) the dealer's name, address, and certification number assigned by the appropriate shellfish control agency;
- (2) the original shipper's certification number;
- (3) the harvest date, or if depurated, the date of depuration processing, or if wet stored, the original harvest date and the final harvest date, which is the date removed from wet storage;
- (4) if wet stored or depurated, the wet storage or depuration cycle or lot number. The wet storage lot number shall begin with the letter "W";
- (5) the most precise identification of the harvest location as is practicable, including the initials of the state of harvest, and the state or local shellfish control authority's designation of the growing area by indexing, administrative, or geographic designation. If the authority in another state has not indexed growing areas, then a geographical or administrative designation shall be used (e.g., Long Bay, shellfish lease or franchise number, or lot number);
- (6) the type and quantity of shellstock;
- (7) the following statements in bold, capitalized font:
  - (A) "THIS TAG IS REQUIRED TO BE ATTACHED UNTIL CONTAINER IS EMPTY AND THEREAFTER KEPT ON FILE, IN CHRONOLOGICAL ORDER, FOR 90 DAYS."; and
  - (B) "RETAILERS; DATE WHEN LAST SHELLFISH FROM THIS CONTAINER SOLD OR SERVED (INSERT DATE) \_\_\_\_\_";
- (8) the following statement, or equivalent:  
 "Consumer Advisory  
 Eating raw oysters, clams, or mussels may cause severe illness. People with the following conditions are at especially high risk: liver

disease, alcoholism, diabetes, cancer, stomach or blood disorder, or weakened immune system. Ask your doctor if you are unsure of your risk. If you eat raw shellfish and become sick, see a doctor immediately."; and  
 (9) the following statement, or equivalent: "Keep Refrigerated".

(b) The dealer tag or label shall remain attached to the shellstock container until the container is empty and thereafter shall be kept on file, in chronological order, for 90 days.

*History Note:* Authority G.S. 113-134; 113-182; 113-221.2; 143B-289.52;  
*Eff. February 1, 1987;*  
*Amended Eff. April 1, 1997; January 4, 1994; December 1, 1987;*  
*Temporary Amendment Eff. October 12, 1998; February 1, 1998;*  
*Amended Eff. April 1, 1999;*  
*Readopted Eff. (Pending legislative review pursuant to S.L. 2019-198).*

## **15A NCAC 18A .0912 SHELLFISH MANAGEMENT AREAS**

*History Note:* Authority G.S. 130A-230;  
*Eff. June 1, 1989;*  
*Repealed Eff. June 1, 2022.*

## **TITLE 21 - OCCUPATIONAL LICENSING BOARDS AND COMMISSIONS**

### **CHAPTER 02 – BOARD OF ARCHITECTURE AND REGISTERED INTERIOR DESIGNERS**

#### **21 NCAC 02 .0102 ORGANIZATION OF BOARD AND OFFICERS**

*History Note:* Authority G.S. 83A-2; 83A-6;  
*Eff. February 1, 1976;*  
*Readopted Eff. September 29, 1977;*  
*Amended Eff. May 1, 1989; November 1, 1979;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 13, 2015;*  
*Temporary Amendment Eff. November 30, 2021.*  
*Repealed Eff. June 1, 2022.*

#### **21 NCAC 02 .0106 SEAL OF BOARD**

The official seal adopted by the Board is the Great Seal of the State of North Carolina with the inscription of the Board name on the perimeter.

*History Note:* Authority G.S. 83-5; 83A-6;  
*Eff. February 1, 1976;*  
*Readopted Eff. September 29, 1977;*  
*Amended Eff. May 1, 1989;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 13, 2015;*  
*Temporary Amendment Eff. November 30, 2021;*  
*Amended Eff. June 1, 2022.*

#### **21 NCAC 02 .0108 FEES**

The fees required by the Board are set forth below:

##### **Initial License to Practice Architecture:**

By Exam	\$50.00
By Reciprocity	\$150.00
Firm License	\$75.00

##### **Annual License to Practice Architecture Renewal:**

Individual	\$50.00
Firm	\$100.00

##### **Late Renewal Penalty for Individual Architects and Firms:**

Up-to-30 days	\$50.00
30 days to 1 year	\$100.00

##### **Reinstatement of Expired License:**

Architect	\$250.00
Firm	\$250.00

##### **Initial Registration to Practice Interior Design:**

By Reciprocity	\$150.00
Firm Registration	\$75.00

##### **Annual Registration to Practice Interior Design Renewal:**

Individual	\$50.00
Firm	\$100.00

##### **Late Renewal Penalty for Interior Designers and Interior Design Firms:**

Up-to-30 days	\$50.00
30 days to 1 year	\$100.00

##### **Reinstatement of Expired Registration**

Interior Designer	\$250.00
Interior Design Firm	\$250.00

All fees paid to the Board are non-refundable.

*History Note:* Authority G.S. 55B-10; 83A-4; 83A-11;  
*Eff. February 1, 1976;*  
*Readopted Eff. September 29, 1977;*  
*Amended Eff. July 1, 2014; December 1, 2010; June 1, 1995;*  
*December 1, 1992; May 1, 1991; May 1, 1989; July 1, 1987;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 13, 2015;*  
*Amended Eff. November 1, 2017;*  
*Temporary Amendment Eff. November 30, 2021;*  
*Amended Eff. June 1, 2022.*

#### **21 NCAC 02 .0109 DEFINITIONS**

In addition to the statutory definitions in G.S. 83A-1, as used in these Rules, the following terms shall have the following meanings:

- (1) "Delinquent" is the status of a license registration that has not been renewed in accordance with Rule .0213(b) of this Chapter for individuals and Rule .0214(c) of this Chapter for firms.

- (2) "Fictitious name" is any assumed name, style, or designation other than the proper legal name of the entity as registered with the Secretary of State. The surname of a person, standing alone or coupled with words that describe the business, is not a fictitious business name. The inclusion of words that suggest additional owners, such as "Company," "& Company," "& Sons," "& Associates," makes the name an assumed or fictitious name. For partnerships, the last name of all partners must be listed, or the fictitious name definition applies.
- (3) "Procurement" means purchasing or pricing of materials to construct a building or structure.
- (4) "Direct Supervision" as used in North Carolina G.S. 83A-15(a)(1)b means responsible control as defined in Rule .0203 of this Chapter.
- (5) "Continuing Competency" as used in G.S. 83A-6(a) means continuing education obtained post licensure or registration that enables an architect or registered interior designer to increase or update knowledge of and competence in technical and professional subjects related to the practice of architecture and interior design to safeguard the public's health, safety, and welfare.
- (6) "Health, safety or, welfare" (HSW) as used in G.S. 83A-6(a) means technical and professional subjects that according to these rules safeguard the public and that are necessary for the proper evaluation, design, construction and utilization of buildings and the built environment.
- (7) "Architect-of-record" or "Designer-of-record" means persons or entities whose seals appear on plans, specifications, and contract documents.

*History Note: Authority G.S. 83A-6;  
Eff. November 1, 2010;  
Amended Eff. October 1, 2012;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 13, 2015;  
Temporary Amendment Eff. November 30, 2021;  
Amended Eff. June 1, 2022.*

**21 NCAC 02 .0201 ARCHITECT, REGISTERED INTERIOR DESIGNER, FIRM OR PARTNERSHIP CONTACT INFORMATION AS ON FILE WITH THE BOARD**

- (a) Every individual licensee and registrant shall keep the Board advised of his or her preferred current contact information. Current contact information includes a physical mailing address, email, phone numbers, and the name of the firm or partnership where he or she is employed.
- (b) Each firm or partnership shall, within 30 days, notify the Board of all changes in ownership, association, contact information, email, or physical address. Upon the dissolution of a firm, the architect or registered interior designer in responsible control of the firm at the time of dissolution shall notify the Board within 30 days concerning such dissolution and of the succeeding

status and addresses of the architects and registered interior designers employed by the firm.

*History Note: Authority G.S. 83A-5; 83A-6;  
Eff. February 1, 1976;  
Readopted Eff. September 29, 1977;  
Amended Eff. November 1, 2010; June 1, 1995;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 13, 2015;  
Temporary Amendment Eff. November 30, 2021;  
Amended Eff. June 1, 2022.*

**21 NCAC 02 .0202 APPLICABILITY OF BOARD RULES**

*History Note: Authority G.S. 83A-6;  
Eff. February 1, 1976;  
Readopted Eff. September 29, 1977;  
Amended Eff. July 1, 2014; June 1, 1995; May 1, 1989;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 13, 2015;  
Temporary Amendment Eff. November 30, 2021;  
Repealed Eff. June 1, 2022.*

**21 NCAC 02 .0203 RULES OF PROFESSIONAL CONDUCT**

All persons licensed or registered under the provisions of Chapter 83A of the North Carolina General Statutes are charged with having knowledge of the rules of this Chapter and are deemed to be familiar with their provisions and to understand them. Each licensed or registered person and entity shall sign a statement on the renewal notice affirming understanding of the laws and rules.

- (1) Licensees and registrants shall conduct their practice in order to safeguard life, health and property as provided in G.S. 83A-12. The licensee or registrant shall always recognize the primary obligation to protect the public in the performance of the professional duties. If the licensee or registrant's professional judgment is overruled under circumstances where the licensee or registrant, in their professional judgment, believes health, safety, and welfare of the public are endangered, the licensee or registrant shall inform the employer, the client, the contractor, other affected parties, and any appropriate regulatory agency of the possible consequences of the situation.
- (2) In designing a project, the licensee or registrant shall consider all applicable federal, State and municipal building laws and rules. A licensee or registrant shall undertake to perform professional services only when they, together with those whom the licensee or registrant may engage as consultants, are qualified by education, training and experience in the specific technical areas involved. While a licensee or registrant may rely on the advice of other professionals such as attorneys, engineers or other qualified persons as to the intent and

- meaning of such laws and rules, once having obtained advice, a licensee or registrant shall not design a project in violation of laws and rules.
- (3) In practicing architecture or interior design, the licensee or registrant shall act with reasonable care and competence and shall apply the technical knowledge and skill which is ordinarily applied by architects or interior designers of good standing.
  - (4) Responsible Control. No architect or registered interior designer shall affix his or her seal and signature to contract documents developed by others not under the architect's or registered interior designer's responsible control. "Responsible control" means that amount of control over and professional knowledge of the content of technical submissions during their preparation as is exercised by an architect or registered interior designer applying the required professional standard of care, including:
    - (a) dissemination of programmatic requirements;
    - (b) ongoing coordination and correlation of services with other aspects of the total design of the project;
    - (c) verification with consultant that owner's requirements are being met;
    - (d) authority over the services of those who assisted in the preparation of the documents;
    - (e) assumption of responsibility for the services;
    - (f) incorporation of services and technical submissions into design documents to be issued for permitting purposes; and
    - (g) incorporation and integration of information from manufacturers, suppliers, installers, the architect's or registered interior designer's consultants, owners, contractors, or other sources the architect or registered interior designer knows to be reliable that is incidental to and intended to be incorporated into the architect's or registered interior designer's technical submissions if the architect or registered interior designer has coordinated and reviewed such information.
  - (5) An architect or registered interior designer shall not deliberately make a false statement or deliberately fail to disclose a fact requested in connection with their application for license or registration renewal.
  - (6) An architect or registered interior designer shall not assist in the application for licensure or registration of a person known by the architect or registered interior designer to be unqualified with respect to education, training, experience, or character.
  - (7) An architect or registered interior designer shall issue public statements only in an unbiased and truthful manner and:
    - (a) shall be objective and truthful in all professional reports, statements, or testimony. The architect or registered interior designer shall include all relevant and pertinent information in such reports, statements or testimony;
    - (b) when serving as an expert or technical witness before any court, commission, or other tribunal, shall express an opinion only when it is founded upon knowledge of the facts at issue, upon a background of technical competence in the subject matter, and of the accuracy and propriety of the individual's testimony;
    - (c) shall issue no statements, criticisms, or arguments on architectural or interior design matters connected with public policy which are inspired or paid for by an interested party, or parties, unless the architect or registered interior designer has prefaced the comment by explicitly identifying their name, by disclosing the identities of the party or parties on whose behalf the architect or registered interior designer is speaking, and by revealing the existence of any pecuniary interest the architect or registered interior designer may have in the matters; and
    - (d) shall not attempt to harm the professional reputation, prospects, practice, or employment of another architect or registered interior designer, nor indiscriminately criticize another architect's or registered interior designer's work. Indiscriminate criticism is a statement without basis or cause or that is not objective and truthful or that fails to include all factual information. If the architect or registered interior designer believes that another architect or registered interior designer is in violation of G.S. 83A or the Rules of this Chapter, such information shall be presented to the North Carolina Board of Architecture and Registered Interior Designers in writing.
  - (8) An architect or registered interior designer shall avoid conflicts of interest and:
    - (a) shall inform the employer or client, and any reviewing agency, of any

business association, interests, or circumstances that attempts to influence the judgment or the quality of services of the architect or registered interior designer. If, in the course of their work on a project, an architect or registered interior designer becomes aware of a decision taken by their employer or client, against their advice, which violates applicable State or municipal building laws or federal regulations and which will, in their judgment, affect adversely the safety to the public of the finished project, the architect or registered interior designer shall:

- (i) report the decision to the local building inspector or other public official charged with the enforcement of the applicable State or municipal building laws and regulations;
  - (ii) refuse to consent to the decision;
  - (iii) in circumstances where the architect or registered interior designer reasonably believes that other such decisions will be taken notwithstanding his or her objection, terminate their services with reference to the project; and
  - (iv) in the case of termination in accordance with clause in Sub-Item (a)(iii) of this Rule, the architect or registered interior designer shall have no liability to his or her client or employer on account of such termination.
- (b) shall not accept compensation, financial or otherwise, from more than one party for services on the same project, or for services pertaining to the same project, unless the circumstances are disclosed to, and agreed to, in writing, by all interested parties;
- (c) shall not solicit or accept financial or other valuable considerations from material, furniture, fixtures, or equipment suppliers for specifying their products unless disclosed to the client;
- (d) shall not pay or offer to pay, a commission, political contribution, gift, or other consideration in order to

secure work. Gifts of nominal value including entertainment and hospitality are permitted;

- (e) when in public service as a member, advisor, or employee of a governmental body or department, shall not participate in considerations or actions with respect to services provided by the licensee or registrant or the licensee's or registrant's firm in private architectural or registered interior design practices;
  - (f) shall not engage in any false, deceptive, fraudulent, or misleading advertising;
  - (g) shall not attempt to supplant another architect or registered interior designer on a specific project after becoming aware that the other has been selected for the employment;
  - (h) when acting as the interpreter of building contract documents and the judge of contract performance, an architect or interior designer shall render decisions in an impartial manner;
  - (j) if an architect or registered interior designer has any business association or financial interest which influences their judgment in connection with the performance of professional services, they shall disclose in writing to their client or employer the nature of the business association or financial interest, and if the client or employer objects to such association or financial interest, they will either terminate such association or interest or offer to give up the commission or employment;
  - (k) an architect or registered interior designer making public statements on architectural or interior design questions shall disclose when they are being compensated for making such statements.
- (9) A licensee or registrant shall solicit or accept work on the basis of qualifications and:
- (a) shall not offer to pay any commission, political contribution, gift, or other consideration in order to secure work, exclusive of securing salaried positions through employment agencies;
  - (b) shall not solicit or submit proposals for professional services containing a false, fraudulent, misleading, or deceptive statement or claim regarding the cost, quality, or extent of services to be rendered;

- (c) shall, with regard to fee bidding on public projects, comply with, and not knowingly cooperate in any violation of the provisions of G.S.143-64.31(a), (a1), (e), and (f) for state projects and, with the Brooks Act, 40 U.S.C. 541 et seq. for federal projects; and
  - (d) shall not falsify or permit misrepresentation of academic or professional qualifications and shall only report educational qualifications when a degree or certificate was awarded unless it is stated that no degree or certificate was awarded; and
  - (e) shall represent to a prospective or existing client or employer their qualifications and the scope of their responsibility in connection with work for which they are claiming credit. Misrepresentation shall be found if any of the following is not complied with:
    - (i) Each licensee or registrant shall state their prior professional experience and the firm they are representing while presenting qualifications to all prospective clients. If the licensee or registrant uses visual representations of prior projects or experience, all designers or architects of record shall be identified.
    - (ii) An architect or registered interior designer who has been an employee of another firm may not claim credit for projects contracted for in the name of the previous employer. They shall indicate, next to the listing for each project, that individual experience gained in connection with the project was acquired as an employee and identify the previous firm. The architect or registered interior designer shall also describe the nature and extent of their participation in the project.
    - (iii) An architect or registered interior designer who presents a project that has received awards or public recognition shall comply with the requirements in this Sub-Item with regard to project presentation to the public and prospective clients.
  - (iv) Projects that remain unconstructed and are listed as credits in presentation items shall be listed as "unbuilt" or a similar designation, as determined by the architect or registered interior designer.
- (10) A licensee or registrant shall perform services in compliance with all of the provisions of this Chapter and any federal, State, and municipal laws or regulations that apply and:
- (a) shall not knowingly associate with or permit the use of the licensee's or registrant's name or firm name in a business venture by any person or firm which the licensee or registrant knows, or has reason to believe, is engaging in business or professional practices of a fraudulent or dishonest nature or is not licensed or registered;
  - (b) if the licensee or registrant has knowledge or reason to believe that another person or firm may be in violation of the rules of this Chapter or of the North Carolina Architectural and Registered Interior Design Practice Act (G.S. 83A), they shall present such information to the Board in writing and shall cooperate with the Board in furnishing further information or assistance as may be required by the Board.
  - (c) An architect or registered interior designer shall cooperate with the Board in connection with any inquiry it shall make. Cooperation includes responding to all inquiries from the Board or its representative and claiming correspondence from the U. S. Postal Service, or other delivery service, sent to the licensee or registrant from the Board in a timely manner. The Board shall utilize electronic mail as its primary method of communication with licensees and registrants. "Timely" is defined as within the time specified in the correspondence, or if no time is specified, within 15 business days of receipt.
- (11) An architect or registered interior designer who has received a reprimand or civil penalty or whose professional license or registration is revoked, suspended, denied, refused renewal, refused reinstatement, put on probation,

restricted, or surrendered as a result of disciplinary action by another jurisdiction is subject to discipline by the Board if the licensee's or registrant's action constitutes a violation of G.S. 83A or the rules of this Chapter adopted by the Board.

- (12) In addition to the grounds stated in G.S. 83A-14 and G.S. 83A-15(3), the following acts or omissions may be deemed to be "unprofessional conduct" and to be cause for the levy of a civil penalty or for denial, suspension, or revocation of a license or registration or firm certificate of licensure or registration to practice architecture or registered interior design:

(a) An architect or registered interior designer shall not, in the conduct of their professional practice, knowingly violate any State or federal criminal law. A criminal conviction shall be deemed prima facie evidence of knowingly violating the law.

(b) Evasion of professional duties.

(i) An architect or registered interior designer shall not, through employment by contractors whether or not the contractors are licensed under G.S. 87, or by another individual or entity not holding an individual or firm registration from the Board, enable the employer to offer or perform architectural services or registered interior design services. In design/build arrangements, the architect or registered interior designer shall not be an employee of a person or firm not holding a license to practice architecture or registered interior design in North Carolina.

(ii) An architect or registered interior designer shall not furnish limited services in such manner as to enable owners, draftsmen, or others to evade the public health and safety requirements of Chapter 83A, G.S. 133-2, G.S. 153A, G.S. 153A-357, G.S. 160A-412, or G.S. 160A-417.

(iii) When building plans are begun or contracted for by persons not licensed or registered and qualified, an

architect or registered interior designer shall not take over, review, revise, or sign or seal such drawings or revisions thereof for such persons or do any act to enable either persons or the project owners to evade the requirements of Chapter 83A, G.S. 133-2, G.S. 153A-357, or G.S. 160A-417.

(c) It is unprofessional conduct for an architect or registered interior designer to be found by a court to have infringed upon the copyrighted works of other architects, registered interior designers or other design professionals.

(13) An architect, registered interior designer or firm shall not maintain or represent by sign, listing, or other manner that they have a physical presence in North Carolina unless such office employs a licensed architect or registered interior designer who is a resident in North Carolina whose principal place of business takes place in that office. This item does not apply to on-site project offices during construction of a project.

(14) An architect or registered interior designer shall not knowingly continue to offer or render architectural or registered interior design services as set forth in G.S. 83A after their license or registration expires, is placed on delinquent status, is revoked, or suspended for failure to renew.

(15) Architects or registered interior designers preparing plans for building permits shall submit plans that are complete and buildable. Such plans shall conform with the State Building Code and local plan submission requirements. Professional judgment shall be exercised to reflect sufficient documentation necessary for plan approval. Provided, however, this Rule does not alter any standard of liability applicable to licensees or registrants.

*History Note:* Authority G.S. 83A-6; 83A-14; 83A-15; 83A-16;

*Eff. February 1, 1976;*

*Readopted Eff. September 29, 1977;*

*Amended Eff. May 1, 1989; November 1, 1979;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 13, 2015;*

*Temporary Amendment Eff. November 30, 2021;*

*Amended Eff. June 1, 2022.*

## **21 NCAC 02 .0204 FORMS OF PRACTICE**

(a) The practice of architecture shall be carried out by one of the following types of entities:

- (1) sole practitioners;
  - (2) professional limited liability companies that are established under the provisions of G.S. 57D-2-02;
  - (3) limited liability partnerships that are established under the provisions of G.S. 59-84.2;
  - (4) professional corporations that are established under the provisions of G.S. 55B; or
  - (5) general partnerships.
- (b) The practice of registered interior design shall be carried out by one of the following types of entities:
- (1) sole practitioners;
  - (2) limited liability companies that are established under the provisions of G.S. 57D;
  - (3) limited liability partnerships that are established under the provisions of G.S. 59-84.2;
  - (4) business corporations that are established under the provisions of G.S. 55; or
  - (5) general partnerships.

Each limited liability partnership and each general partnership engaged in the practice of architecture or registered interior design in North Carolina shall keep a current list of all resident and non-resident partners of the partnership. One annual listing by a representative of the partnership shall satisfy the requirement of this Paragraph for all partners in the firm; however, each partner shall remain responsible for compliance with the rules. Changes in the information required by this Paragraph shall be filed with the Board office within 30 days after the change occurs.

(b) All individuals who practice through entities described in Subparagraphs (a)(1) through (a)(4) of this Rule shall be licensed to practice architecture.

(c) All individuals who practice architecture through entities described in Subparagraphs (a)(1) through (a)(4) of this Rule shall be licensed to practice architecture.

*History Note: Authority G.S. 55B; 57C; 59-84.2; 83A-4; 83A-6; 83A-8;*  
*Eff. February 1, 1976;*  
*Readopted Eff. September 29, 1977;*  
*Amended Eff. October 1, 2012; December 1, 2010; June 1, 1995;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 13, 2015;*  
*Temporary Amendment Eff. November 30, 2021;*  
*Amended Eff. June 1, 2022.*

**21 NCAC 02 .0205 NAME OF FIRM**

(a) A licensee or registrant shall not engage in the practice of architecture or registered interior design under a firm name which is misleading or deceptive in any way as to the legal form of the firm or the persons who are partners, officers, members, or shareholders in the firm. The Board shall approve all firm names to be used in this State. Examples of misleading or deceptive firm names include the following:

- (1) use of the plural "architects" or "registered interior designers" by a sole practitioner or a firm employing only one architect or registered

- interior designer in a firm does not warrant such use;
- (2) use of the name of an employee unless that employee is a licensed or registered partner, licensed or registered officer, licensed or registered member or licensed or registered shareholder;
- (3) use of the name of a deceased architect or registered interior designer in order to benefit from their reputation, when that architect or registered interior designer was not a former partner, officer, member or shareholder in the present firm;
- (4) use a name which is deceptively similar to that of an existing firm name; and
- (5) use of a fictitious or assumed name by a sole proprietor.

(b) Failure of the firm to register a fictitious or assumed name shall be prima facie evidence of the name being misleading or deceptive.

*History Note: Authority G.S. 55B-5; 83A-6; 83A-8; 83A-9; 83A-12;*  
*Eff. February 1, 1976;*  
*Readopted Eff. September 29, 1977;*  
*Amended Eff. November 1, 2010; July 1, 2006; June 1, 1995, April 1, 1991; May 1, 1989;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 13, 2015;*  
*Temporary Amendment Eff. November 30, 2021;*  
*Amended Eff. June 1, 2022.*

**21 NCAC 02 .0206 REQUIREMENT FOR AND USE OF PROFESSIONAL SEAL BY AN ARCHITECT OR REGISTERED INTERIOR DESIGNER**

(a) An architect shall seal his or her work whether or not the work is for an exempt project as defined in G.S. 83A-13. An architect shall not sign nor seal drawings, specifications, reports, or other professional work that were not prepared by the architect or under his or her responsible control. Documents shall be sealed as follows:

- (1) An architect may seal those portions of the professional work that:
  - (A) were prepared by or under the responsible control of persons who are licensed architects in this State if the architect has reviewed in whole or in part such portions and has either coordinated their preparation or integrated them into his or her work; and
  - (B) are not required by law to be prepared by or under the responsible control of an architect if the architect has reviewed and adopted in whole or in part such portions and has integrated them into his or her work.
- (2) A registered interior designer may seal those portions of the professional work that were

prepared by or under the responsible control of persons who are registered interior designers in this State if the registered interior designer has reviewed in whole or in part such portions and has either coordinated their preparation or integrated them into their work

(3) Individual Architect Seal Design shall be as follows:

- (A) The seal may be a rubber stamp, embossed seal, computer-generated seal, or other facsimile that becomes a permanent addition to original paper drawings or sets of specifications for use in this State. For the purposes of this Rule, the term "for use in this State" means drawings and sets of specifications prepared for bidding, procurement, permitting, or for construction. For purposes of this Rule, "original" means the version of drawings and sets of specifications from which all paper copies can be made.
- (B) The standard design of the seal shall be two concentric circles in which "North Carolina" and the name of the licensee are placed within the outermost circle and in which the license number of the licensee and "Licensed Architect" placed within the innermost circle. The size shall be 1 ½ to 1 ¾ inches in diameter.
- (C) The original, handwritten signature of the individual named on the seal shall be considered part of the individual seal and shall appear across the face of each original seal imprint along with the date of affixation. The use of signature reproductions such as rubber stamps, computer generated, or other facsimiles on paper copies are not permitted in lieu of actual handwritten and hand dated signatures.

(4) Architecture Firm Seal Design shall be as follows:

- (A) The seal may be a rubber stamp, embossed seal, computer-generated seal, or other facsimile that becomes a permanent addition to paper drawings or sets of specifications.
- (B) The design of the firm seal shall be two concentric circles in which the architectural firm's approved name shall be between the inner and outer circles and the firm's license number is placed within the innermost circle. The size shall be 1 ½ to 1 ¾ inches in diameter. For a Professional Corporation the words "Architectural

Corporation, North Carolina" shall be along the inside perimeter of the inner circle. For a Professional Limited Liability Company, the words "Architectural Company" shall be along the inside perimeter of the inner circle.

(5) Individual Registered Interior Designer Seal Design shall be as follows:

- (A) The seal may be a rubber stamp, embossed seal, computer-generated seal, or other facsimile that becomes a permanent addition to original paper drawings or sets of specifications for use in this State. For the purposes of this Rule, the term "for use in this State" means drawings and sets of specifications prepared for bidding, procurement, permitting, or for construction. For purposes of this Rule, "original" means the version of drawings and sets of specifications from which all paper copies can be made.
- (B) The standard design of the seal shall be two concentric ovals in which "North Carolina" and the name of the registrant are placed within the outermost oval and in which the registration number of the registrant and "Registered Interior Designer" be placed within the innermost oval. The dimensions shall be two inches tall by 2.75 inches wide.
- (C) The original, handwritten signature of the individual named on the seal shall be considered part of the individual seal and shall appear across the face of each original seal imprint along with the date of affixation. The use of signature reproductions such as rubber stamps, computer generated, or other facsimiles on paper are not permitted in lieu of actual handwritten and hand dated signatures.

(6) Registered Interior Design Firm Seal Design shall be as follows:

- (A) The seal may be a rubber stamp, embossed seal, computer-generated seal, or other facsimile that becomes a permanent addition to drawings or sets of specifications.
- (B) The design of the seal shall be two concentric ovals in which the registered interior design firm's approved name shall be between the inner and outer ovals and the firm's registration number is placed within the innermost oval. The size shall be 2

- to 2 ¾ inches in diameter. For a Corporation the words "Registered Interior Design Corporation, North Carolina" shall be along the inside perimeter of the inner circle. For a Limited Liability Company, the words "Registered Interior Design Company" shall be along the inside perimeter of the inner oval.
- (7) Architects and registered interior designers shall affix their seal on one original of all their drawings and sets of specifications prepared by them for use in this State as follows:
    - (A) on the cover sheet of each design and on each drawing prepared by the architect or registered interior designer for the design;
    - (B) on the index page identifying each set of specifications; and
    - (C) on the index page of all other technical submissions. For the purposes of this Rule, "technical submissions" refer to plans, drawings, specifications, studies, addenda, and other technical reports prepared in the course of practicing architecture or registered interior design.
  - (8) Presentation documents, such as renderings created by an architect or registered interior designer used to communicate conceptual information, shall not be sealed or signed.
  - (9) Documents considered incomplete by the architect or registered interior designer may be released for interim review without the architect's or registered interior designers seal or signature affixed, but shall be dated, bear the architect's or registered interior designer's name, and be marked or designated as follows "Incomplete - for interim review only and not intended for bidding, procurement, permit, or construction purposes."
  - (10) Those sheets or pages prepared by licensed professional consultants, such as structural, mechanical or electrical engineers, retained by the architect or registered interior designer shall bear the seal and registration or license number of the consultant responsible therefore and shall not be sealed by the architect or registered interior designer.
  - (11) The use of the prescribed seal on paper is an individual act whereby the architect or registered interior designer must personally sign over the imprint of the seal. By sealing documents for use in this State, an architect or registered interior designer is representing that he or she is in responsible control over the content of such documents and has applied the required professional standard of care. The architect or registered interior designer is responsible for security of the seal when not in use.
  - (12) Use of Firm Seal. The use of the firm seal does not replace the statutory requirement for an architect's or registered interior designer's individual seal as required in Rule .0203(4) of this Chapter. The firm seal must be affixed in addition to the individual seal on the cover sheet. A firm shall designate a principle or other authorized individual to be responsible for the security of the firm seal.
    - (b) Prototypical building design documents prepared by architects or registered interior designers who are licensed or registered in this State or in their state of origin may be sealed by a succeeding licensed architect or registered interior designer in North Carolina provided:
      - (1) the seal of the original architect or registered interior designer appears on the documents to authenticate authorship;
      - (2) the words "Prototypical Design Documents/Not for Construction" appear on each sheet of the documents by the original architect or registered interior designer;
      - (3) the succeeding North Carolina architect or registered interior designer identifies all modifications to the standard design documents;
      - (4) the succeeding North Carolina architect or registered interior designer assumes responsibility for the adequacy of the design for the specific application in North Carolina and for the design conforming with applicable building codes, local conditions, site condition; and
      - (5) the succeeding North Carolina architect or registered interior designer affixes his or her seal to the prototypical design documents with a statement as follows: "These documents have been examined by the undersigned. I have determined that they comply with existing local North Carolina codes, and I assume responsibility for the adequacy of the design for the specific application in North Carolina."
    - (c) Post construction record drawings prepared by an architect or registered interior designer, but based upon representations of contractors, are not plans that are for "bidding, procurement, permit, or construction purposes" and therefore shall not be sealed by the architect or registered interior designer. Post construction record drawings shall bear the name of the architect or registered interior designer and include language that states "these drawings are post construction record drawings and are based in part upon the representations of others and are not for bidding, procurement, permit, or construction purposes."
    - (d) Documents to be electronically transmitted beyond the direct control of the licensee or registrant that are signed using a digital signature, shall contain the authentication procedure in a secure mode and a list of the hardware, software, and parameters used to prepare the document(s). Secure mode means that the authentication procedure has protective measures to prevent

alteration or overriding of the authentication procedure. The term "digital signature" shall be an electronic authentication process that is attached to or logically associated with an electronic document. The digital signature shall be:

- (1) Unique to the person using it;
- (2) Capable of verification;
- (3) Under the sole control of the person using it; and
- (4) Linked to a document in such a manner that the digital signature is invalidated if any data in the document is changed.

(e) Documents for use in this State, that are transmitted electronically beyond the direct control of the licensee or registrant shall have the computer-generated image of the seal removed from the original file, unless signed with a digital signature as defined in this Rule. After removal of the image of the seal the electronic media shall have the following inserted in lieu of the signature and date: "This document was originally issued and sealed by (name of sealer), (license or registration number), on (date of sealing). This medium shall not be considered a certified document." Hardcopy documents containing the original seal, signature and date of the licensee or registrant may be duplicated by photocopy or electronic scanning processes and distributed either in hardcopy or electronic medium. The scanned digital files of certified documents are not subject to the requirements of this Paragraph. The electronic transmission beyond the direct control of the licensee or registrant of Computer Aided Design (CAD), vector, or other files subject to easy editing are subject to the requirements of this Paragraph. A file subject to "easy editing" is one consisting of separate elements that can be individually modified or deleted. Documents that are excepted from certification by a statement meeting the following requirements are not subject to the requirements of this Paragraph:

- (1) "Preliminary - Do not use for construction";
- (2) "Progress Drawings - Do not use for construction";
- (3) "Final Drawing - Not released for construction";
- (4) "Final Drawing - For Review Purposes Only";
- (5) "Not a Certified Document - This document was originally issued and sealed by (name of licensee or registrant), (license or registration number), on (date of sealing). This document shall not be considered a certified document";
- (6) "Not a Certified Document as to the Original Document but Only as to the Revisions - This document originally issued and sealed by (name of licensee or registrant), (license or registration number), on (date of sealing). This document is only certified as to the revisions".

*History Note: Authority G.S. 83A-6; 83A-10; 83A-12; Eff. February 1, 1976; Readopted Eff. September 29, 1977; Amended Eff. December 1, 2010; July 1, 2006; October 1, 1995; July 1, 1993; May 1, 1989; October 1, 1985; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 13, 2015;*

*Amended Eff. June 1, 2022; November 1, 2017.*

**21 NCAC 02 .0208  
21 NCAC 02 .0209**

**DISHONEST CONDUCT  
UNPROFESSIONAL CONDUCT**

*History Note: Authority G.S. 14-353; 83A-6; 83A-14; 83A-15; Eff. February 1, 1976; Amended Eff. February 24, 1976; Readopted September 29, 1977; Amended Eff. November 1, 2010; July 1, 2006; December 1, 1995; June 1, 1995; July 1, 1992; October 1, 1989; May 1, 1989; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 13, 2015; Amended Eff. November 1, 2017; Temporary Amendment Eff. November 30, 2021; Temporary Repeal Eff. November 30, 2021; Repealed Eff. June 1, 2022.*

**21 NCAC 02 .0212  
AND DISCLOSURE**

**INDEPENDENT JUDGMENT**

*History Note: Authority G.S. 83A-6; 83A-16; 83A-17; Eff. February 1, 1976; Readopted Eff. September 29, 1977; Amended Eff. June 1, 1995; May 1, 1989; November 1, 1979; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 13, 2015; Temporary Repeal Eff. November 30, 2021; Repealed Eff. June 1, 2022.*

**21 NCAC 02 .0213  
REGISTRATIONS**

**INDIVIDUAL LICENSES AND**

(a) Renewal. The license to practice architecture or interior design registration must be renewed on or before the first day in July each year. Continued practice after such date shall constitute unlawful practice as set forth in G.S. 83A-12 and may be grounds for disciplinary action. No less than 30 days prior to the renewal date, the Board shall send a notice of renewal to each individual licensee or registrant via electronic mail. The licensee or registrant shall submit to the Board the completed license or registration renewal documentation, along with the annual license or registration renewal fee. The Board shall not accept incomplete renewal documentation. If the accompanying payment in the amount of the renewal fee is dishonored by the licensee or registrant's drawee bank for any reason, the Board shall suspend the license or registration until the renewal fees and check charges are paid. When the annual renewal has been completed according to the provisions of G.S. 83A-11, as well as Section .0900 of this Chapter, the Executive Director shall approve renewal of the license or registration for the current renewal year. Renewal fees are non-refundable.

(b) Late Renewal. If the Board has not received the annual renewal fee and completed renewal documentation on or before the first day of July, each year the license or registration shall expire and be placed on delinquent status. For the purpose of this Rule, "delinquent status" means an administrative suspension and is not considered discipline. The license or registration may be renewed at any time within one year of being deemed delinquent,

upon the return of the completed renewal documentation, the annual renewal fee, and the late renewal penalty and demonstration of compliance with Section .0900 of this Chapter.

(c) Reinstatement. After one year from the date of expiration, the Board shall revoke the license or registration for failure to renew. Reinstatement shall occur pursuant to G.S. 83A-11 and Sections .0300 and .0900 of this Chapter.

(d) Any individual who is currently licensed or registered by and in good standing with the Board who is serving in the armed forces of the United States shall not be subject to late fees, suspension, or revocation for failure to renew licensure on or before the first day July each year, provided that the individual has been granted an extension of time to file a tax return as set forth in G.S. 105-249.2.

*History Note:* Authority G.S. 83A-6; 83A-11; 93B-15(b);

*Eff. February 1, 1976;*

*Readopted Eff. September 29, 1977;*

*Amended Eff. December 1, 2010; July 1, 2006; July 1, 1999; May 1, 1989; November 1, 1979;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 13, 2015;*

*Amended Eff. November 1, 2017;*

*Temporary Amendment Eff. November 30, 2021;*

*Amended Eff. June 1, 2022.*

## **21 NCAC 02 .0214 FIRM PRACTICE OF ARCHITECTURE AND REGISTERED INTERIOR DESIGN**

(a) Prior to offering and rendering architectural or registered interior design services as set forth in G.S. 83A and Rule .0204(a) and Rule .0204(c) of this Chapter, all firms shall submit an application for firm licensure or registration and be granted licensure or registration by the Board. Application for firm licensure or registration to practice of architecture or registered interior design within the State of North Carolina shall be made upon forms provided on the Board web site at [www.ncbarch.org](http://www.ncbarch.org) and include the required application fee as set forth in Rule .0108 of this Chapter. Licensure for firm practice of architecture shall be issued only under the provisions of the Professional Corporation Act, G.S. 55B and G.S. 57D-2-02. Registration for firm practice of interior design shall be issued only under the provisions of the Business Corporation G.S. 55 and G.S. 57D.

(b) Architecture firm licensure and interior design firm registration shall be renewed on or before December 31st of each year. If the Board has not received the annual renewal fee and completed application on or before December 31st of each year, the architecture firm license or interior design firm registration shall expire. The Board shall send a notice of renewal to each licensed and registered firm no less than 30 days prior to the renewal date. Renewal documentation shall be accompanied by the renewal fee. If the accompanying draft or check in the amount of the renewal fee is dishonored by the firm's drawee bank for any reason, the Board shall suspend the firm license or registration until the renewal fees and returned check charges are paid. When the annual renewal has been completed according to the provisions of G.S. 83A-11, the Executive Director shall approve renewal for the firm for the current renewal year. Upon completion of the firm annual renewal, the Board may randomly

audit the compliance of firm licenses and registrations and require proof in the form of corporate records maintained pursuant to North Carolina General Statute 55B or 57D. Such records shall be maintained for a period of seven years after the renewal is submitted. Renewal fees are non-refundable.

(c) Failure to Renew and Reinstatement. Within one year of the expiration, the firm license or registration may be renewed at any time, upon the return of the completed renewal documents, the annual renewal fee, and the late renewal fees. After one year from the date of expiration for non-payment of the annual renewal fee the licensee or registrant shall seek reinstatement, as allowed by G.S. 83A-11. The Board may reinstate the firms' license or registration, as allowed by G.S. 83A-11.

(d) Seal. Each licensed or registered firm shall adopt a seal pursuant to Rule .0206 of this Chapter.

*History Note:* Authority G.S. 55B-5; 55B-10; 55B-15; 83A-6;

*83A-8; 83A-10*

*Eff. February 1, 1976;*

*Readopted Eff. September 29, 1977;*

*Amended Eff. July 1, 2014; December 1, 2010; July 1, 1993; May 1, 1989; November 1, 1979;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 13, 2015;*

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*Amended Eff. June 1, 2022.*

## **21 NCAC 02 .0215 OUT OF STATE FIRMS**

(a) Architectural and interior design firms from other states shall be granted firm licensure or registration for practice in this State upon receipt by the Board of a completed application, fees, the submission of a copy of their firm charter, or other corresponding documents, amended as may be necessary to ensure compliance with all requirements of Chapter 55B, the Professional Corporation Act for architectural firms and Chapter 55, the Business Corporation Act for registered interior design firms. In addition to the other requirements as set out in G.S. 83A-8, out of state interior design firms shall, prior to registration, receive from the Secretary of State of North Carolina a certificate of authority to do business within the state. Architectural firms shall obtain a certificate for filing from the Board prior to submitting application to the Secretary of State for a Certificate of Authority.

(b) Designated Individuals. If an out of state entity offers both architectural and engineering services, then it shall comply with requirements set forth in G.S. 89C. An out of state entity shall have at least one officer, director and shareholder licensed as an architect in this state. Two-thirds of the issued and outstanding shares of the out of state corporations shall be owned by licensed architects or engineers who are licensed to practice their profession in a jurisdiction of the United States. However, the firm shall designate at least one architect who is licensed in the State of North Carolina to be in responsible control for the firm practice of architecture within the State of North Carolina. A registered interior design firm shall designate one registered interior designer to be in responsible control of all interior design work offered and performed by that firm in this State.

(c) Partnerships. An out of state architectural or registered interior design partnership may practice architecture or registered interior design, if every partner in the firm is licensed or registered as an

individual in this state under Rule .0213 and the partnership complies with Paragraph (f) this Rule .

(d) Limited Liability Companies. An out of state Limited Liability Company may practice architecture or registered interior design if the Limited Liability Company complies with G.S. 57D and at least one member and one owner are licensed or registered as an individual under Rule .0213 and comply with Paragraph (a) of this Rule.

(e) Limited Liability Partnerships. An out of state Limited Liability Partnership may practice architecture or registered interior design, if the Limited Liability Partnership complies with G.S. 59, and at least one partner is licensed or registered as an individual under Rule .0213.

(f) Failure to Renew and Reinstatement. If the Board has not received the annual firm renewal fee and completed application on or before December 31st each year the firm license or registration shall expire and be deemed delinquent. The firm registration may be renewed at any time within one year, upon the return of the completed application, the annual renewal fee and the late renewal fees. After one year from the date of expiration for non-payment of the annual renewal fee, the license or registration shall be automatically revoked. The Board may reinstate the firm's license or registration, as allowed by G.S. 83A-11.

*History Note: Authority G.S. 55B-6; 83A-6; 83A-8; 83A-9; 55B-16;*  
*Eff. February 1, 1976;*  
*Readopted Eff. September 29, 1977;*  
*Amended Eff. December 1, 2010; June 1, 1995; July 1, 1993; May 1, 1989; November 1, 1979;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 13, 2015;*  
*Temporary Amendment Eff. November 30, 2021;*  
*Amended Eff. June 1, 2022.*

**21 NCAC 02 .0217 ARCHITECT EMERITUS**

Resident architects who have been registered in this State who are retired from active practice or other related professional activities in any jurisdiction may apply for "Emeritus Status" by submitting a form provided by the Board showing compliance with the requirements of this Section. "Retired" means that the architect no longer practices architecture as defined in G.S. 83A-1. Nonresident architects who have been continuously certified by the National Council of Architecture Registration Boards who are retired from active practice or other related professional activities in any jurisdiction and who are "emeritus," inactive, or retired in every other jurisdiction in which they are licensed may also apply for "Emeritus Status" by submitting a form provided by the Board showing compliance with the requirements of this Section. Any reference to an architect on "Emeritus Status" on any letter, title, sign, card, or other device shall list such individual as "Architect Emeritus."

*History Note: Authority G.S. 83A-4; 83A-6; 83A-11; 83A-12;*  
*Eff. November 1, 1991;*  
*Amended Eff. July 1, 2006;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 13, 2015;*

*Temporary Amendment Eff. November 30, 2021;*  
*Amended Eff. June 1, 2022.*

**21 NCAC 02 .0218 LIMITED LIABILITY COMPANIES**

*History Note: Authority G.S. 57C-2-01; 83A-6;*  
*Eff. June 1, 1995;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 13, 2015;*  
*Temporary Repeal Eff. November 30, 2021;*  
*Repealed Eff. June 1, 2022.*

**21 NCAC 02 .0302 ARCHITECTURAL LICENSURE BY EXAMINATION**

(a) Those individuals who wish to take the Architectural Registration Exam (ARE) shall contact the National Council of Architecture Registration Boards (NCARB) directly to obtain exam eligibility. Upon completion of all requirements set forth in the NCARB Architecture Experience Program (AXP), a candidate seeking licensure by exam in North Carolina shall direct NCARB to transmit a completed NCARB AXP record to the North Carolina Board of Architecture and Registered Interior Designers.

(b) Upon passing all sections of the NCARB ARE, fulfillment of all NCARB AXP requirements, and completion of the National Architectural Accrediting Board (NAAB) accredited degree, NCARB, as directed by the candidate, will transmit a completed NCARB AXP file to the Board to determine compliance with G.S. 83A-7(a)(1)a. shall be deemed satisfied through completion of the requirements set forth in Subparagraphs (1) through (5) of this Paragraph. The Board shall grant licensure by exam to those individuals who:

- (1) are of good moral character as defined in G.S. 83A-1(5);
- (2) are at least 18 years of age;
- (3) have completed a NAAB accredited professional degree in architecture or who have completed a NAAB accredited degree program that is identified as an NCARB endorsed Integrated Path To Architectural Licensure Degree Program;
- (4) have completed the NCARB AXP; and
- (5) submit the Application for Licensure by Exam and fee.

(c) Retention of credit for purposes of licensure by examination in North Carolina.

- (1) Passing scores received after July 1, 2006 on any part of the ARE remain valid for a period of time established by the exam provider, NCARB.
- (2) Scores received on any part of the ARE prior to July 1, 2006 are invalid.

(d) Practical training pursuant to G.S. 83A-7(a)(2) means practical experience and diversified training as defined by the NCARB AXP.

(e) During the application process, Board members, in order to augment the evidence submitted in an application may interview the applicant regarding qualifications required in Paragraph (b) of

this Rule. The Board shall determine whether an interview is needed on a case-by-case basis, based upon information in the application, including any academic or professional discipline.

(f) To complete the ARE, an exam candidate shall receive a passing grade in each division of the ARE. Information regarding NCARB grading methods and procedures can be found on their web site at [www.ncarb.org](http://www.ncarb.org).

(g) A person currently employed under the responsible control of an architect, who holds a Professional Degree from a NAAB accredited program, and who maintains an active NCARB AXP record or has completed the NCARB AXP may use the title "Architectural Intern" or "Intern Architect" in conjunction with his or her current employment.

(h) The fees for examination, or parts thereof, are set and collected by the NCARB. Fee information is available on the NCARB web site [www.ncarb.org](http://www.ncarb.org).

(i) The standards of the National Council of Architecture Registration Boards and its components are hereby incorporated by reference including subsequent amendments and editions, and can be accessed at no charge at [www.ncarb.org](http://www.ncarb.org).

*History Note:* Authority G.S. 83A-1; 83A-6; 83A-7; 83A-12;  
*Eff. February 1, 1976;*  
*Readopted Eff. September 29, 1977;*  
*Amended Eff. March 1, 2016; July 1, 2014; November 1, 2010;*  
*July 1, 2006; July 1, 2000; July 1, 1996; June 1, 1995; December*  
*1, 1992; July 1, 1991;*  
*Amended Eff. November 1, 2017;*  
*Temporary Amendment Eff. November 30, 2021;*  
*Amended Eff. June 1, 2022.*

## **21 NCAC 02 .0303 ARCHITECTURE LICENSURE BY RECIPROCITY**

(a) An individual who holds a current license in good standing from a National Council of Architecture Registration Boards (NCARB) recognized jurisdiction and a Certified Council Certificate issued by NCARB shall qualify for licensure by reciprocity upon receipt of a certified record from NCARB and the Board application for licensure by reciprocity and fee as provided in G.S. 83A-7(b). Revocation of the certificate by NCARB shall automatically suspend the architect's license to practice in North Carolina until such time as the certificate is reinstated by NCARB.

(b) In order to supplement or clarify the contents of a record or application, the Board may interview the applicant to ensure that the applicant has had sufficient architectural practice experience to be able to practice architecture in this State.

*History Note:* Authority G.S. 83A-6; 83A-7;  
*Eff. February 1, 1976;*  
*Readopted Eff. September 29, 1977;*  
*Amended Eff. July 1, 2014; November 1, 2010; July 1, 2006; July*  
*1, 2000; October 1, 1995; May 1, 1989; October 1, 1984;*  
*September 1, 1982;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without*  
*substantive public interest Eff. January 13, 2015;*  
*Temporary Amendment Eff. November 30, 2021;*  
*Amended Eff. June 1, 2022.*

## **21 NCAC 02 .0306 INTERIOR DESIGNER REGISTRATION**

(a) Those individuals who wish to practice as a registered interior designer in North Carolina shall demonstrate that they have satisfied the educational and professional experience eligibility requirements adopted by the Council for Interior Design Qualification (CIDQ) to sit for the National Council for Interior Design Qualification Examination (NCIDQ), shall pass the NCIDQ Examination, and submit to the Board an application for registration and fee. Revocation of the certificate by CIDQ shall automatically suspend the interior designer's registration to practice in North Carolina until such time as the certificate is reinstated by CIDQ.

(b) An architect shall be granted registration to practice interior design so long as they are currently licensed and in good standing in the State of North Carolina and submit the Board application for registration and fee.

(c) In order to supplement or clarify the contents of a record or application, the Board may interview the applicant to ensure that the applicant has had interior design experience to be able to practice registered interior design in this State.

(d) The standards of the CIDQ and its components are hereby incorporated by reference including subsequent amendments and editions and can be accessed at no charge at [www.cidq.org](http://www.cidq.org).

*History Note:* Authority G.S. 83A-7;  
*Temporary Adoption Eff. November 30, 2021;*  
*Eff. June 1, 2022.*

## **21 NCAC 02 .0901 SCOPE**

The rules in this Section set forth the continuing education requirements to be complied with by licensees or registrants.

*History Note:* Authority G.S. 83A-6(a)(4); 83A-6(a)(5); 83A-11;  
*Eff. July 1, 1998;*  
*Amended Eff. July 1, 2006;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without*  
*substantive public interest Eff. January 13, 2015;*  
*Temporary Amendment Eff. November 30, 2021;*  
*Amended Eff. June 1, 2022.*

## **21 NCAC 02 .0903 REQUIREMENTS**

(a) Every licensee and registrant shall obtain 12 contact hours of continuing education for each calendar year. "Contact Hour" means 50 minutes contact.

(b) The contact hours shall be obtained in structured educational activities intended to increase or update the architect's or registered interior designer's knowledge and competence in technical and professional architectural and interior design subjects d related to safeguarding public health, safety, and welfare("HSW"). "Structured educational activities" are activities in which at least 75 percent of an activity's content and instructional time is devoted to HSW subjects related to the practice of architecture, including courses of study or other activities under the areas identified as HSW by individuals or organizations, whether delivered by direct contact or distance learning methods.

- (c) Licensees and registrants shall not carry forward any contact hours into the subsequent period.
- (d) Licensees and registrants shall certify completion of the contact hours for the previous calendar year with annual renewal.

*History Note:* Authority G.S. 83A-6(a)(4); 83A-6(a)(5); 83A-11;  
*Eff. July 1, 1998;*  
*Amended Eff. October 1, 2012;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 13, 2015;*  
*Temporary Amendment Eff. November 30, 2021;*  
*Amended Eff. June 1, 2022.*

**21 NCAC 02 .0904 DETERMINATION OF CREDIT**

The Board may randomly audit the compliance of individual licensees and registrants and require proof in the form of records maintained pursuant to Rule .0905 of this Section of participation in courses or programs that conform with the content and contact hours calculation requirements contained in G.S. 83A-6(a) and these Rules.

*History Note:* Authority G.S. 83A-6(a)(4); 83A-6(a)(5); 83A-11;  
*Eff. July 1, 1998;*  
*Amended Eff. October 1, 2012; July 1, 2006;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 13, 2015;*  
*Temporary Amendment Eff. November 30, 2021;*  
*Amended Eff. June 1, 2022.*

**21 NCAC 02 .0905 RECORD KEEPING**

(a) The licensee or registrant shall maintain records to support credits claimed. Records shall be any of the following:

- (1) a self-made log showing the type of activity claimed, sponsoring organization, location, duration, the name of the instructor or speaker and contact hours earned; or
- (2) attendance certificates or other evidence of participation that includes the type of activity claimed, sponsoring organization, location, duration, the name of the instructor or speaker and contact hours earned; or
- (3) records maintained by the American Institute of Architects Continuing Education System (AIA/CES) or the International Design Continuing Education Council (IDCEC).

(b) Records shall be retained by the licensee or registrant for a period of six years after the credit is claimed and provided to the Board upon request.

*History Note:* Authority G.S. 83A-6(a)(4); 83A-6(a)(5); 83A-11;  
*Eff. July 1, 1998;*  
*Amended Eff. October 1, 2012;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 13, 2015;*  
*Temporary Amendment Eff. November 30, 2021;*  
*Amended Eff. June 1, 2022.*

**21 NCAC 02 .0906 CONTINUING EDUCATION EXCEPTIONS**

A licensee or registrant shall be exempt from the continuing education requirements for any of the following reasons:

- (1) new licensees or registrants for the calendar year in which they become licensed or registered;
- (2) architects or registered interior designers currently licensed by or registered and in good standing with the Board (whose license or registration is not suspended or revoked) who are serving in the armed forces of the United States and who are eligible for an extension of time to file a tax return pursuant to G.S. 105-249.2 are granted a waiver of their mandatory continuing education requirements for the time period disregarded pursuant to the Internal Revenue Code 26 U.S.C. 7508;
- (3) the Board shall exempt a licensee or registrant if the Board determines that the licensee or registrant is experiencing physical disability, illness, or other extenuating circumstances that prevent the licensee or registrant from continuing education. Supporting documentation must be furnished to the Board.
- (4) licensees who receive emeritus status from the Board. In order to return to active practice, licensees shall complete continuing education requirements for each exempted year not to exceed two years.

*History Note:* Authority G.S. 83A-6(a)(4); 83A-6(a)(5); 83A-11;  
*Eff. July 1, 1998;*  
*Amended Eff. October 1, 2012; July 1, 2006;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 13, 2015;*  
*Temporary Amendment Eff. November 30, 2021;*  
*Amended Eff. June 1, 2022.*

**21 NCAC 02 .0907 REINSTATEMENT**

A former licensee or registrant may only apply for reinstatement pursuant to G.S. 83A-11 if he or she has earned all delinquent contact hours within the 12 months preceding the application. However, if the total number of contact hours required to become current exceeds 24, then 24 shall be the maximum number required.

*History Note:* Authority G.S. 83A-6(a)(4); 83A-6(a)(5); 83A-11;  
*Eff. July 1, 1998;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 13, 2015;*  
*Temporary Amendment Eff. November 30, 2021;*  
*Amended Eff. June 1, 2022.*

**21 NCAC 02 .0908 CONTINUING EDUCATION RECIPROCITY**

The continuing education requirements of North Carolina shall be deemed satisfied by a non-resident licensee or registrant provided:

- (1) the licensee or registrant's resident jurisdiction has a similar continuing education program; and
- (2) the same jurisdiction accepts the North Carolina continuing education requirements as satisfying their requirements.

*History Note:* Authority G.S. 83A-6(a)(4); 83A-6(a)(5); 83A-11;  
 Eff. July 1, 1998;  
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 13, 2015;  
 Temporary Amendment Eff. November 30, 2021;  
 Amended Eff. June 1, 2022.

**21 NCAC 02 .0909 DOCUMENTATION AND AUDITS**

All renewal applications shall require the completion of a continuing education certification provided by the Board documenting the contact hours claimed for the renewal period. Upon request by the Board, the licensee or registrant shall supply documentation as set forth in Rule .0905 of this Chapter to permit audit verification.

*History Note:* Authority G.S. 83A-6(a)(4); 83A-6(a)(5); 83A-11;  
 Eff. July 1, 1998;  
 Amended Eff. October 1, 2012;  
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 13, 2015;  
 Temporary Amendment Eff. November 30, 2021;  
 Amended Eff. June 1, 2022.

**21 NCAC 02 .0910 NON-COMPLIANCE**

- (a) If any credits are disallowed by the Board, then the licensee or registrant shall have 60 calendar days from the date on the notice to substantiate the original claim or obtain other contact hours to meet the minimum requirements.
- (b) A licensee or registrant who fails to complete the continuing education requirement by the end of the previous calendar year shall have his or her license or registration placed on probation and shall complete the outstanding continuing education by December 31<sup>st</sup> of the current calendar year. If the licensee or registrant fails to complete the outstanding continuing education requirements his or her license shall be suspended for 60 days or until such time as compliance is demonstrated if prior to 60 days. If the licensee or registrant fails to complete the outstanding continuing education within the 60 days suspension period, his or her license or registration shall be revoked.

*History Note:* Authority G.S. 83A-6(a)(4); 83A-6(a)(5); 83A-11; 83A-15;  
 Eff. July 1, 1998;  
 Amended Eff. October 1, 2012; July 1, 2006;

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 13, 2015;  
 Temporary Amendment Eff. November 30, 2021;  
 Amended Eff. June 1, 2022.*

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**CHAPTER 58 - REAL ESTATE COMMISSION**

**21 NCAC 58A .1712 BROKER-IN-CHARGE COURSE**

(a) The Broker-in-Charge Course is a 12-hour educational course that is required for a broker to attain BIC Eligible status under Rule .0110 of this Subchapter.

(b) In order to receive credit for completing the Broker-in-Charge Course, a broker shall:

- (1) personally perform all work required to complete the course; and
- (2) complete the 12-hour Broker-in-Charge Course no later than 30 days after the broker registers for the course and no later than the following June 10, whichever comes first.

(c) Upon completion of the 12-hour Broker-in-Charge Course, a broker shall receive four credit hours of elective continuing education. The four credit hours will be awarded in the license year in which the broker completes the 12-hour Broker-in-Charge Course.

*History Note:* Authority G.S. 93A-3(c); 93A-38.5; 93A-4.2;  
 Eff. January 1, 2020;  
 Amended Eff. July 1, 2022.

**21 NCAC 58B .0101 APPLICATION FOR REGISTRATION**

(a) A timeshare program seeking registration shall apply to the Commission on a form available on the Commission's website and shall, in addition to the requirements set forth in G.S. 93A-52, set forth:

- (1) the timeshare program's physical and mailing address and telephone number;
- (2) the developer's name, address, telephone number, email address, type of business structure with supporting documentation, and legal counsel's contact information, if any;
- (3) information concerning the developer's title or right to use the real property on which the project is located, including a title opinion provided by an independent attorney performed within 30 days preceding the date of application;
- (4) a description of the timeshare estate to be sold or conveyed to purchasers;
- (5) the developer's past real estate development experience and any criminal, bankruptcy, and occupational licensing history;
- (6) the developer's financial information including the following:
  - (A) an audited financial statement within the previous six months;

- (B) loan commitments for completion of the timeshare program; and
- (C) a projected budget for construction, marketing, and operations of the timeshare program;
- (7) the Registrar, Program Broker, marketing entity, and managing entity's:
  - (A) name;
  - (B) business and email address;
  - (C) real estate license number, if applicable;
  - (D) telephone number; and
  - (E) executed Affidavit of Designation, if applicable, that includes:
    - (i) the timeshare program name, registration number, and address;
    - (ii) the name of the designated individual and license number, if applicable, or financial institute;
    - (iii) the designated individual's address, email address, and telephone number; and
    - (iv) a notarized signature of the designated individual.
- (8) the names and real estate license number of brokers associated with the timeshare program; and
- (9) a signed affidavit by the developer.

(b) An entity that owns time shares at a timeshare program where there are one or more existing registered developers may also apply to the Commission for registration of its timeshares, provided that the entity does not control a registered developer, is not controlled by a registered developer, and is not in common control of the program with a registered developer.

*History Note: Authority G.S. 93A-51; 93A-52; Eff. March 1, 1984; Amended Eff. July 1, 2000; August 2, 1993; February 1, 1989; April 1, 1987; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018; Amended Eff. July 1, 2022.*

**21 NCAC 58B .0102 REGISTRATION FEE**

The timeshare program registration fee pursuant to Rule .0101 of this Subchapter shall be:

- (1) one thousand dollars (\$1,000) for programs with 16 or more units;
- (2) seven hundred dollars (\$700.00) for programs with 15 or fewer units; and
- (3) four hundred fifty dollars (\$450.00) for programs offering to resell 51 or more units through a homeowner association which has acquired the units in satisfaction of unpaid assessments by prior owners.

*History Note: Authority G.S. 93A-51; 93A-52;*

*Eff. March 1, 1984; Amended Eff. July 1, 2016; April 1, 2013; July 1, 2000; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018; Amended Eff. July 1, 2022.*

**21 NCAC 58B .0103 RENEWAL OF TIMESHARE PROGRAM REGISTRATION**

(a) A developer seeking renewal of a timeshare program registration shall submit a renewal application on a form available on the Commission's website that sets forth the:

- (1) timeshare program's name, registration number, and mailing address;
- (2) developer's name, telephone number, and email address;
- (3) names and license numbers of brokers associated with the timeshare program;
- (4) exchange programs associated with the timeshare program along with a current copy of the Exchange Disclosure Report pursuant to G.S. 93A-48;
- (5) name, address, email address, telephone number, real estate broker license number if applicable, and the assignment date for the:
  - (A) managing entity;
  - (B) marketing entity;
  - (C) registrar pursuant to G.S. 93A-58(a);
  - (D) independent escrow agent pursuant to G.S. 93A-42(a); and
  - (E) program broker pursuant to 93A-58(c);
- (6) certification that the information contained in the renewal registration is accurate and current on the date of the renewal application; and
- (7) developer's attorney or program broker's signature.

(b) The developer shall submit a renewal registration fee of eight hundred dollars (\$800.00) for timeshare programs not offered for resale by a homeowners association. A homeowners association shall submit a renewal registration fee of four hundred fifty dollars (\$450.00).

(c) Making a false certification on a time share project registration renewal application shall be grounds for disciplinary action by the Commission pursuant to G.S. 93A-54(b)(13).

*History Note: Authority G.S. 93A-51; 93A-52(d); Eff. March 1, 1984; Temporary Amendment Eff. May 23, 1985; Amended Eff. July 1, 2016; April 1, 2013; February 1, 1989; September 1, 1985; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018; Amended Eff. July 1, 2022; July 1, 2018.*

**21 NCAC 58B .0104 AMENDMENTS TO TIMESHARE PROGRAM REGISTRATION**

(a) A developer shall notify the Commission within 30 days after any material change in the information contained in the timeshare program registration.

(b) A material change shall be any change which reflects a difference in the:

- (1) nature, quality, or availability of the purchaser's ownership or right to use the timeshare;
- (2) nature, quality, or availability of any amenity at the project;
- (3) developer's title, control, or right to use the real property on which the project is located;
- (4) information concerning the developer, managing or marketing entities, independent escrow agent, registrar, or program broker, previously filed with the Commission; or
- (5) purchaser's right to exchange his or her unit; however, a change in the information required to be disclosed to a purchaser by G.S. 93A-48 shall not be a material change.

(c) A timeshare developer seeking to amend a program's registration shall submit each document to be amended with new or changed information underlined in red. Every amendment submitted shall be accompanied by a cover letter signed by the developer or the developer's attorney containing a summary of the amendment and a statement of reasons for which the amendment has been made. The cover letter shall also state:

- (1) the name and address of the timeshare program and registration number;
- (2) the name and address of the developer;
- (3) the document or documents to which the amendment applies;
- (4) whether or not the changes represented by the amendment required the assent of the timeshare owners and, if so, how the assent of the timeshare owners was obtained; and
- (5) the recording reference in the office of the register of deeds for the changes, if applicable.

(d) If the ownership of a developer of a registered timeshare program changes, the new developer shall file a new timeshare program registration application pursuant to Rule .0101 of this Subchapter. Said refiling shall be without a fee.

*History Note: Authority G.S. 93A-51; 93A-52(a3); Eff. March 1, 1984; Amended Eff. October 1, 2000; February 1, 1989; April 1, 1987; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018; Amended Eff. July 1, 2022.*

#### **21 NCAC 58B .0105 NOTICE OF TERMINATION**

A developer seeking to terminate its interest in a timeshare program shall file a Notice of Termination form available on the Commission's website and shall set forth the timeshare program's:

- (1) name;
- (2) physical, mailing, and email address;
- (3) telephone number;
- (4) reason the developer is terminating its interest;
- (5) date of termination;
- (6) new owner, if the developer's interest will be sold or transferred; and
- (7) the signature of the developer.

*History Note: Authority G.S. 93A-51; 93A-52; Eff. April 1, 1987; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018; Amended Eff. July 1, 2022.*

#### **21 NCAC 58B .0201 GENERAL PROVISIONS**

(a) Information contained in a public offering statement pursuant to G.S. 93A-44(b) shall be accurate on the day it is supplied to a purchaser.

(b) The inclusion of false or misleading statements in a public offering statement shall be grounds for disciplinary action by the Commission.

*History Note: Authority G.S. 93A-44(b); 93A-51; Eff. March 1, 1984; Amended Eff. October 1, 2000; August 2, 1993; February 1, 1989; April 1, 1987; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018; Amended Eff. July 1, 2022.*

#### **21 NCAC 58B .0202 PUBLIC OFFERING STATEMENT SUMMARY**

In addition to the requirements in G.S. 93A-44, a public offering statement shall contain a page prescribed by the Commission and completed by the developer entitled Public Offering Statement Summary in conspicuous type. The Public Offering Statement Summary shall read as follows:

#### **PUBLIC OFFERING STATEMENT SUMMARY**

##### **NAME OF PROJECT:**

##### **NAME AND REAL ESTATE LICENSE NUMBER OF BROKER (IF ANY):**

Please study this Public Offering Statement carefully. Satisfy yourself that any questions you may have are answered before you decide to purchase. If a salesperson or other representative of the developer has made a representation which concerns you, and you cannot find that representation in writing, ask that it be pointed out to you.

##### **NOTICE**

**UNDER NORTH CAROLINA LAW, YOU MAY CANCEL YOUR TIMESHARE PURCHASE WITHOUT PENALTY WITHIN FIVE DAYS AFTER SIGNING YOUR CONTRACT. TO CANCEL YOUR TIMESHARE PURCHASE, YOU MUST MAIL OR HAND DELIVER WRITTEN NOTICE OF YOUR DESIRE TO CANCEL YOUR PURCHASE TO (name and address of project). IF YOU CHOOSE TO MAIL YOUR CANCELLATION NOTICE, THE NORTH CAROLINA REAL ESTATE COMMISSION RECOMMENDS THAT YOU USE REGISTERED OR CERTIFIED MAIL AND THAT YOU RETAIN YOUR POSTAL RECEIPT AS PROOF OF THE DATE YOUR NOTICE WAS MAILED. UPON**

**CANCELLATION, ALL PAYMENTS WILL BE REFUNDED TO YOU.**

*History Note: Authority G.S. 93A-44; 93A-51;  
Eff. March 1, 1984;  
Amended Eff. April 1, 2006; October 1, 2000; February 1, 1989;  
April 1, 1987;  
Pursuant to G.S. 150B-21.3A, rule is necessary without  
substantive public interest Eff. May 1, 2018;  
Amended Eff. July 1, 2022.*

**21 NCAC 58B .0203 RECEIPT FOR PUBLIC OFFERING STATEMENT**

- (a) Prior to the execution of any contract to purchase a timeshare, a developer or a timeshare salesperson shall obtain from the purchaser a written receipt for the public offering statement, which shall display, directly over the buyer signature line in type in all capital letters, no smaller than the largest type on the page on which it appears, the following statement: DO NOT SIGN THIS RECEIPT UNLESS YOU HAVE RECEIVED A COMPLETE COPY OF THE PUBLIC OFFERING STATEMENT.
- (b) Receipts for public offering statements shall be maintained as part of the records of the sales transaction.

*History Note: Authority G.S. 93A-44(b); 93A-51;  
Eff. February 1, 1988;  
Amended Eff. October 1, 2000;  
Pursuant to G.S. 150B-21.3A, rule is necessary without  
substantive public interest Eff. May 1, 2018;  
Amended Eff. July 1, 2022.*

**21 NCAC 58B .0301 PROOF OF CANCELLATION**

- (a) The postmark date affixed to any written notice of a purchaser's intent to cancel a timeshare purchase shall be presumed by the Commission to be the date the notice was mailed to the developer. Evidence tending to rebut this presumption shall be admissible at a hearing before the Commission.
- (b) Upon receipt of a purchaser's written notice of intent to cancel a timeshare purchase, the developer, or the developer's agent or representative, shall retain the notice and any enclosure, envelope, or other cover in the developer's files, and shall produce the file upon the Commission's request.
- (c) When there is more than one developer at a timeshare program and a purchaser gives written notice of intent to cancel a timeshare purchase that is received by a developer or sales staff other than the one from whom the timeshare was purchased, the developer or sales staff receiving such notice shall promptly deliver it to the proper developer who shall then honor the notice if it was timely sent by the purchaser.

*History Note: Authority G.S. 93A-45; 93A-51; 93A-54(f);  
Eff. September 1, 1984;  
Amended Eff. October 1, 2000; August 2, 1993; February 1, 1989;  
Pursuant to G.S. 150B-21.3A, rule is necessary without  
substantive public interest Eff. May 1, 2018;  
Amended Eff. July 1, 2022.*

**21 NCAC 58B .0401 RETENTION OF TIMESHARE RECORDS**

- (a) A developer shall maintain or cause to be maintained complete timeshare records for a period of not less than three years after the completion or termination of a timeshare sale, rental, or exchange.
- (b) Timeshare records shall include, at a minimum, copies of the following:
- (1) offers to purchase;
  - (2) applications and contracts to purchase;
  - (3) rent or exchange timeshares;
  - (4) records of deposits;
  - (5) maintenance and disbursement of funds required to be held in trust;
  - (6) receipts;
  - (7) notices of cancellations;
  - (8) compensation of timeshare salespersons;
  - (9) public offering statement and summary; and
  - (10) any other records pertaining to the timeshare transaction or termination.
- (c) Timeshare records shall be made available for inspection and reproduction to the Commission or its authorized representatives without prior notice.

*History Note: Authority G.S. 93A-3(c); 93A-51; 93A-54;  
Eff. September 1, 1984;  
Amended Eff. October 1, 2000;  
Pursuant to G.S. 150B-21.3A, rule is necessary without  
substantive public interest Eff. May 1, 2018;  
Amended Eff. July 1, 2022.*

**21 NCAC 58B .0402 TIMESHARE AGENCY AGREEMENTS AND DISCLOSURE**

Timeshare sales transactions conducted by brokers on behalf of a developer are subject to 21 NCAC 58A .0104.

*History Note: Authority G.S. 93A-3(c); 93A-51;  
Eff. August 1, 1998;  
Pursuant to G.S. 150B-21.3A, rule is necessary without  
substantive public interest Eff. May 1, 2018;  
Amended Eff. July 1, 2022.*

**21 NCAC 58B .0501 TIMESHARE TRUST FUNDS**

- (a) Except as otherwise permitted by G.S. 93A-45(d), all monies received by a developer or a timeshare salesperson in connection with a timeshare sales transaction shall be deposited into a trust or escrow account immediately following receipt and shall remain in such account for ten days from the date of sale or cancellation by the purchaser, whichever first occurs.
- (b) All monies received in connection with a timeshare transaction shall be delivered immediately to the program broker.

*History Note: Authority G.S. 93A-45; 93A-51;  
Eff. September 1, 1984;  
Amended Eff. April 1, 2006; October 1, 2000; February 1, 1989;  
July 1, 1988; February 1, 1988;  
Pursuant to G.S. 150B-21.3A, rule is necessary without  
substantive public interest Eff. May 1, 2018;  
Amended Eff. July 1, 2022.*

**21 NCAC 58B .0601 DESIGNATION OF PROGRAM BROKER**

(a) The developer shall designate a program broker for each registered timeshare program. The developer shall file with the Commission an Affidavit of Timeshare Program Broker available on the Commission's website and shall set forth the timeshare program's:

- (1) name and registration number;
- (2) program broker's name, business and email address, real estate license number, telephone number, and notarized signature.

(b) The developer shall file with the Commission a new Affidavit of Timeshare Program Broker within 10 days of any change in the program broker.

(c) Brokers licensed pursuant to 21 NCAC 58A .1800 and provisional brokers as defined in G.S. 93A-4(a1) shall not be designated as a program broker.

*History Note: Authority G.S. 93A-9; 93A-41(24); 93A-51; 93A-58(d);*

*Eff. February 1, 1998;*

*Amended Eff. April 1, 2006; July 1, 2004;*

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

*Amended Eff. July 1, 2022.*

**21 NCAC 58B .0602 DUTIES OF THE PROGRAM BROKER**

(a) The program broker shall:

- (1) display the timeshare program registration certificate at the project;
- (2) ensure that each broker affiliated with the program has complied with Rules .0503 and .0504 of this Subchapter;
- (3) notify the Commission of any change in the developer or material change pursuant to Rule .0104(b) of this Subchapter;
- (4) deposit and maintain the trust or escrow account of the timeshare program and the records pertaining thereto;
- (5) retain and maintain the timeshare program's records pursuant to Rule .0401 of this Subchapter.

(b) The program broker shall review all contracts, public offering statements and other documents distributed to the timeshare program's purchasers to ensure that the documents comport with the requirements of the Article 4 of Chapter 93 of the North Carolina Statutes and the rules adopted by the Commission, and to ensure that true and accurate documents have been given to the purchasers.

(c) The program broker shall notify the Commission in writing of any change in his or her status as program broker within 10 days.

*History Note: Authority G.S. 93A-51; 93A-58(c);*

*Eff. February 1, 1988;*

*Amended Eff. April 1, 2006; October 1, 2000; February 1, 1989;*

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

*Amended Eff. July 1, 2022.*

**21 NCAC 58H .0210 LIMITATION, DENIAL, WITHDRAWAL, OR TERMINATION OF EDUCATION PROVIDER CERTIFICATION**

(a) The Commission may limit, deny, or withdraw certification of an education provider or suspend, revoke, or deny renewal of the certification of an education provider upon finding that an education provider:

- (1) was found by a court or government agency of competent jurisdiction to have violated any state or federal law;
- (2) made any false statements or presented any false, incomplete, or incorrect information in connection with an application;
- (3) failed to provide or provided false, incomplete, or incorrect information in connection with any report the education provider is required to submit to the Commission;
- (4) presented to its students or prospective students false or misleading information relating to its instructional program, to the instructional programs of other institutions, or related to employment opportunities;
- (5) collected money from students but refused or failed to provide the promised instruction;
- (6) failed to submit the per student fee as required by G.S. 93A-4(a2) or 93A-38.5(e).
- (7) refused at any time to permit authorized representatives of the Commission to inspect the education provider's facilities or audit its courses;
- (8) or education director violated the rules of this Subchapter or was disciplined by the Commission under G.S. 93A-6;
- (9) obtained or used, or attempted to obtain or use, in any manner or form, North Carolina real estate license examination questions;
- (10) failed to provide to the Commission, within 30 days of the Commission's request during an investigation or application process, a written plan describing the changes the education provider made or intends to make in its instructional program including instructors, course materials, methods of student evaluation, and completion standards to improve the performance of the education provider's students on the license examination;
- (11) provided the Commission a fee that was dishonored by a bank or returned for insufficient funds;
- (12) has had its Certificate of Authority revoked by the NC Secretary of State pursuant to G.S. 55-15-30;
- (13) has been subject to a revenue suspension or suspended by the NC Secretary of State pursuant to G.S. 105-230;
- (14) has been administratively dissolved by the NC Secretary of State pursuant to G.S. 57D-6-06;
- (15) failed to utilize course materials pursuant to Rule .0205 of this Section;

- (16) failed to submit reports pursuant to Rule .0207 of this Section;
- (17) provided false, incomplete, or misleading information relating to real estate licensing, education matters, or the broker's education needs or license status;
- (18) discriminated in its admissions policy or practice against any person on the basis of age, sex, race, color, national origin, familial status, handicap status, or religion; or
- (19) refused or failed to comply with the provisions of this Subchapter.

(b) A broker shall be subject to discipline pursuant to G.S. 93A-6 if the broker engages in dishonest, fraudulent, or improper conduct in connection with the operations of an education provider if that broker:

- (1) has an ownership interest in the education provider;
- (2) is the education director; or
- (3) is an instructor for an education provider.

(c) If an education provider's annual License Examination Performance Record fails to exceed 40 percent in each of the previous two license years and the education provider was certified by the Commission during the entire two years, the Commission shall limit the education provider's certification such that the education provider shall not offer prelicensing or postlicensing courses. Said limitation shall be effective July 1<sup>st</sup> of the calendar year following the Commission's determination.

The education provider shall be eligible to have the limitation removed one year after the limitation is imposed provided that the education provider has:

- (1) provided a written plan describing the changes the education provider has made or intends to make in its instructional program to improve the performance of the students on the license examination;
- (2) consulted with a designated Commission staff member to review the written plan and needs for improvement; and
- (3) employed an instructor with no limitations to teach prelicensing and postlicensing courses.

(d) A limited education provider is eligible to renew its certification; however, a renewal shall not remove the limitations provided under Paragraph (c) of this Rule.

(e) When ownership of a certified education provider is transferred and the education provider ceases to operate as the certified entity, the certification is not transferable and shall terminate on the effective date of the transfer. All courses shall be completed by the effective date of the transfer. The transferring owner shall report course completion(s) to the Commission. The new entity shall obtain an original certification for each location where the education provider will conduct courses as required by G.S. 93A-34 and Rule .0202 of this Section prior to advertising courses, registering students, accepting tuition, conducting courses, or otherwise engaging in any education provider operations.

*History Note:* Authority G.S. 93A-4(d); 93A-34(c); 93A-35(c); 93A-38;

*Eff. July 1, 2017;*

*Amended Eff. July 1, 2022; July 1, 2021; July 1, 2020.*

**21 NCAC 58H .0303 LIMITATION, DENIAL, OR WITHDRAWAL OF INSTRUCTOR APPROVAL**

(a) The Commission may limit, deny, or withdraw approval of any instructor applicant or approved instructor upon finding that the instructor or instructor applicant:

- (1) has failed to meet the criteria for approval described in Rule .0302 of this Section or the criteria for renewal of approval described in Rule .0306 of this Section at the time of application or at any time during an approval period;
- (2) made any false statements or presented any false, incomplete, or incorrect information in connection with an application for approval or renewal of approval or any report that is required to be submitted to the Commission;
- (3) has failed to submit to the Commission any report, course examination, or video recording required by these Rules;
- (4) has failed to demonstrate the ability to teach a Prelicensing, Postlicensing, or Update course in a manner consistent with the course materials;
- (5) taught a Prelicensing course and failed to provide to the Commission, within 30 days of the Commission's request during an investigation or application process, a written plan describing the changes the instructor has made or intends to make in his or her instructional program to improve the performance of the instructor's students on the license examination;
- (6) has been convicted of, pleaded guilty to, or pleaded no contest to, a misdemeanor or felony violation of state or federal law by a court of competent jurisdiction;
- (7) has been found by a court or government agency of competent jurisdiction to have violated any state or federal regulation prohibiting discrimination;
- (8) has obtained, used, or attempted to obtain or use, in any manner or form, North Carolina real estate license examination questions except that the instructor or instructor applicant may sit for their own initial examination for licensure;
- (9) has failed to take steps to protect the security of end-of-course examinations;
- (10) failed to take any corrective action set out in the plan described in Subparagraph (a)(5) of this Rule or as otherwise requested by the Commission;
- (11) engaged in any other improper, fraudulent, or dishonest conduct;
- (12) failed to utilize course materials pursuant to Rule .0205 of this Subchapter;
- (13) has taught or conducted a course in any manner that discriminated against any person on the

- basis of age, sex, race, color, national origin, familial status, handicap status, or religion; or
- (14) failed to comply with any other provisions of this Subchapter.

(b) If an instructor's annual License Examination Performance Record fails to exceed 40 percent in each of the previous two license years and the instructor was approved by the Commission during the entire previous two years, the Commission shall limit the instructor's approval such that the instructor shall not teach prelicensing or postlicensing courses. Said limitation shall be effective July 1<sup>st</sup> of the calendar year following the Commission's determination.

The instructor shall be eligible to have the limitation removed one year after the limitation is imposed provided that the instructor has:

- (1) provided a written plan describing the changes the instructor has made or intends to make in

his or her instructional program to improve the performance of the students on the license examination;

- (2) consulted with a designated Commission staff member to review the written plan and needs for improvement; and

- (3) attended the Commission's New Instructor Seminar.

(c) A limited instructor is eligible to renew an instructor approval; however, a renewal shall not remove the limitations provided under Paragraph (b) of this Rule.

*History Note:* Authority G.S. 93A-4; 93A-33; 93A-34;

*Eff.* July 1, 2017;

*Amended Eff.* July 1, 2022; July 1, 2021; July 1, 2020.

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## **RULES REVIEW COMMISSION**

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*This Section contains information for the meeting of the Rules Review Commission July 21, 2022 at 1711 New Hope Church Road, RRC Commission 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. Specific instructions and addresses may be obtained from the Rules Review Commission at 984-236-1850. Anyone wishing to address the Commission should notify the RRC staff and the agency no later than 5:00 p.m. of the 2<sup>nd</sup> business day before the meeting. Please refer to RRC rules codified in 26 NCAC 05.*

### **RULES REVIEW COMMISSION MEMBERS**

#### **Appointed by Senate**

Jeanette Doran (Chair)  
Robert A. Bryan, Jr. (2<sup>nd</sup> Vice Chair)  
Margaret Currin  
Jeff Hyde  
Robert A. Rucho

#### **Appointed by House**

Andrew P. Atkins (1st Vice Chair)  
Wayne R. Boyles, III  
Barbara A. Jackson  
Randy Overton  
Paul Powell

#### **COMMISSION COUNSEL**

Brian Liebman 984-236-1948  
Lawrence Duke 984-236-1938  
William W. Peaslee 984-236-1939

### **RULES REVIEW COMMISSION MEETING DATES**

July 21, 2022 September 15, 2022  
August 18, 2022 October 20, 2022

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### **AGENDA**

#### **RULES REVIEW COMMISSION**

**Thursday, July 21, 2022, 9:00 A.M.**

**1711 New Hope Church Rd., Raleigh, NC 27609**

- I. Ethics reminder by the chair as set out in G.S. 138A-15(e)
- II. Approval of the minutes from the last meeting
- III. Follow-up matters
  - A. Board of Agriculture - 02 NCAC 52J .0101, .0102, .0103, .0104, .0105, .0201, .0202, .0203, .0204, .0205, .0206, .0207, .0208, .0209, .0210, .0301, .0302, .0303, .0304, .0401, .0402, .0403, .0404, .0405, .0406, .0407, .0408, .0409, .0410, .0411, .0412, .0413, .0414, .0415, .0416, .0417, .0418, .0419, .0501, .0701, .0702, .0703, .0704, .0705, .0801, .0802, .0803, .0901, .0902 (Peaslee)
  - B. Medical Care Commission - 10A NCAC 13B .3801, .3903, .4103, .4104, .4106, .4305, .4603, .4801, .4805, .5102, .5105, .5406, .5408, .5411 (Liebman)
  - C. Criminal Justice Education and Training Standards Commission - 12 NCAC 09G .0205 (Liebman)
  - D. Environmental Management Commission - 15A NCAC 02B .0208, .0212, .0214, .0215, .0216, .0218, (Duke)
  - E. Environmental Management Commission - 15A NCAC 02H .1301, .1401, .1402, .1403, .1404, .1405 (Liebman)
  - F. Environmental Management Commission - 15A NCAC 02Q .0103, .0503, .0504, .0505, .0507, .0508, .0509, .0514, .0516, .0518, .0521, .0522, .0525, .0526 (Duke)
  - G. Coastal Resources Commission - 15A NCAC 07H .0104, .0208, .0304, .0305, .0306, .0308, .0309, .0310, .1205, .1801; 07J .0403, .0404, .1201, .1202, .1203, .1204, .1205, .1206, .1301, .1302, .1303; 07K .0208; 07M .0301, .0302, .0303, .0306, .0307, .0308, .0310 (Duke)
  - H. Wildlife Resources Commission - 15A NCAC 10D .0103, .0209, .0226, .0229, .0230, .0239, .0240, .0243, .0260, .0276 (Duke)
- IV. Review of Filings (Permanent Rules) for rules filed between May 23, 2022 through June 20, 2022
  - DHHS - Division of Health Benefits (Liebman)
  - Sheriffs' Education and Training Standards Commission (Peaslee)

- Alarm Systems Licensing Board (Liebman)
- Coastal Resources Commission - 07H .0500, .0600, 07I, 07J (Liebman)
- Coastal Resources Commission - 07H .1300 - .2700 (Duke)
- Coastal Resources Commission – 07L, M (Peaslee)
- Board of Physical Therapy Examiners (Peaslee)
- Board of Recreational Therapy Licensure (Liebman)

- V. Review of Log of Filings (Temporary Rules) for any rule filed within 15 business days prior to the RRC Meeting
- VI. Existing Rules Review
- VII. Commission Business
- Next meeting: August 18, 2022
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**Commission Review**  
*Log of Permanent Rule Filings*  
**May 23, 2022 through June 20, 2022**

**HHS - HEALTH BENEFITS, DIVISION OF**

The rules in Subchapter 22Q concern the distribution of federal disproportionate share adjustment receipts arising from certified public expenditures.

<u>Scope</u>	10A NCAC 22Q .0101
Adopt*	
<u>Definitions</u>	10A NCAC 22Q .0102
Adopt*	
<u>Distributions</u>	10A NCAC 22Q .0103
Adopt*	
<u>Certifying Hospital Distribution</u>	10A NCAC 22Q .0104
Adopt*	
<u>Certifying Hospitals' Outpatient Costs</u>	10A NCAC 22Q .0105
Adopt*	
<u>Certifying Hospitals' Proportionate Share</u>	10A NCAC 22Q .0106
Adopt*	

The rules in Subchapter 22R concern the distribution of hospital uncompensated care fund.

<u>Scope</u>	10A NCAC 22R .0101
Adopt*	
<u>Definitions</u>	10A NCAC 22R .0102
Adopt*	
<u>Eligible Hospital</u>	10A NCAC 22R .0103
Adopt*	
<u>Eligible Outpatient Costs</u>	10A NCAC 22R .0104
Adopt*	
<u>Distribution of Available Funds</u>	10A NCAC 22R .0105
Adopt*	

**SHERIFFS' EDUCATION AND TRAINING STANDARDS COMMISSION**

The rules in Subchapter 10B govern the commission organization and procedure (.0100); enforcement rules (.0200); minimum standards for employment as a justice officer (deputy or jailer) (.0300); certification of justice officers (.0400); standards and accreditation for justice officers schools, training programs, and the instructors (.0500-.0900); certificate

and awards programs for sheriffs, deputies, justice officers, jailers, reserve officers, and telecommunicators (.1000-.1700); in-service training (.2000); and firearms in-service training and re-qualification (.2100).

Responsibilities: School Directors, Detention Officers  
Amend\*

12 NCAC 10B .0704

## **ALARM SYSTEMS LICENSING BOARD**

The rules in Chapter 17 are from the N.C. Alarm Systems Licensing Board and cover the organization and general provisions (.0100); provisions for licensees (.0200); provisions for registrants (.0300); the recovery fund (.0400); and continuing education for licensees (.0500).

Application for License  
Amend\*

14B NCAC 17 .0201

Application for Registration  
Amend\*

14B NCAC 17 .0301

## **COASTAL RESOURCES COMMISSION**

The rules in Subchapter 7H are the state guidelines for areas of environmental concern (AECs) including introduction and general comments (.0100); the estuarine system (.0200); ocean hazard areas (.0300); public water supplies (.0400); natural and cultural resource areas (.0500); development standards (.0600); general permits for construction or maintenance of bulkheads and the placement of riprap for shoreline protection in estuarine and public trust waters (.1100); piers, docks and boat houses in estuarine and public trust waters (.1200); general permit to construct boat ramps along estuarine and public trust shorelines and into estuarine and public trust waters (.1300); groins in estuarine and public trust waters (.1400); excavation within or connecting to existing canals, channels, basins, or ditches in estuarine waters, public trust waters, and estuarine shoreline AECs (.1500); aerial and subaqueous utility lines with attendant structures in coastal wetlands, estuarine waters, public trust waters and estuarine shorelines (.1600); emergency work requiring a CAMA or a dredge and fill permit (.1700); beach bulldozing landward of the mean high-water mark in the ocean hazard AEC (.1800); general permit to allow for temporary structures within the estuarine and ocean AECs (.1900); authorizing minor modifications and repair to existing pier/mooring facilities in estuarine and public trust waters and ocean hazard areas (.2000); construction of sheetpile sill for shoreline protection in estuarine and public trust waters (.2100); construction of freestanding moorings in established waters and public trust areas (.2200); replacement of existing bridges and culverts in estuarine waters, estuarine shorelines, public trust areas and coastal wetlands (.2300); placement of riprap for wetland protection in estuarine and public trust waters (.2400); emergency general permit, to be initiated at the discretion of the Secretary of the Department of Environment and Natural Resources for replacement of structures; the reconstruction of primary or frontal dune systems; and the maintenance excavation of existing canals, basins, channels, or ditches, damaged, destroyed, or filled in by hurricanes or tropical storms, provided all replacement, reconstruction and maintenance excavation activities conform to all current standards (.2500); construction of wetland, stream and buffer mitigation sites by the North Carolina Ecosystem Enhancement Program or the North Carolina Wetlands Restoration Program (.2600); and the construction of riprap sills for wetland enhancement in estuarine and public trust waters (.2700).

General  
Readopt without Changes\*

15A NCAC 07H .0501

Significance  
Readopt without Changes\*

15A NCAC 07H .0502

Nomination and Designation Procedures  
Readopt without Changes\*

15A NCAC 07H .0503

AECs Within Category  
Readopt without Changes\*

15A NCAC 07H .0504

Coastal Areas that Sustain Remnant Species  
Readopt without Changes\*

15A NCAC 07H .0505

Coastal Complex Natural Areas  
Readopt without Changes\*

15A NCAC 07H .0506

Unique Coastal Geologic Formations

15A NCAC 07H .0507

Readopt without Changes*	
<u>Use Standards</u>	15A NCAC 07H .0508
Readopt without Changes*	
<u>Significant Coastal Archeological Resources</u>	15A NCAC 07H .0509
Readopt without Changes*	
<u>Significant Coastal Historic Architectural Resources</u>	15A NCAC 07H .0510
Readopt without Changes*	
<u>No Violation of any Rule</u>	15A NCAC 07H .0601
Readopt without Changes*	
<u>Pollution of Waters</u>	15A NCAC 07H .0602
Readopt without Changes*	
<u>Minimum Altitudes</u>	15A NCAC 07H .0603
Readopt without Changes*	
<u>Noise Pollution</u>	15A NCAC 07H .0604
Readopt without Changes*	
<u>Purpose</u>	15A NCAC 07H .1301
Readopt without Changes*	
<u>Approval Procedures</u>	15A NCAC 07H .1302
Readopt without Changes*	
<u>Permit Fee</u>	15A NCAC 07H .1303
Readopt without Changes*	
<u>General Conditions</u>	15A NCAC 07H .1304
Readopt without Changes*	
<u>Specific Conditions</u>	15A NCAC 07H .1305
Readopt without Changes*	
<u>Purpose</u>	15A NCAC 07H .1401
Readopt without Changes*	
<u>Approval Procedures</u>	15A NCAC 07H .1402
Readopt without Changes*	
<u>Permit Fee</u>	15A NCAC 07H .1403
Readopt without Changes*	
<u>General Conditions</u>	15A NCAC 07H .1404
Readopt without Changes*	
<u>Specific Conditions</u>	15A NCAC 07H .1405
Readopt without Changes*	
<u>Purpose</u>	15A NCAC 07H .1501
Readopt without Changes*	
<u>Approval Procedures</u>	15A NCAC 07H .1502
Readopt without Changes*	
<u>Application Fee</u>	15A NCAC 07H .1503
Readopt without Changes*	
<u>General Conditions</u>	15A NCAC 07H .1504
Readopt without Changes*	
<u>Specific Conditions</u>	15A NCAC 07H .1505
Readopt without Changes*	
<u>Purpose</u>	15A NCAC 07H .1601
Readopt without Changes*	
<u>Approval Procedures</u>	15A NCAC 07H .1602
Readopt without Changes*	
<u>Permit Fee</u>	15A NCAC 07H .1603
Readopt without Changes*	
<u>General Conditions</u>	15A NCAC 07H .1604

Readopt without Changes*	
<u>Specific Conditions</u>	15A NCAC 07H .1605
Readopt without Changes*	
<u>Specific Conditions</u>	15A NCAC 07H .1805
Amend*	
<u>Purpose</u>	15A NCAC 07H .2001
Readopt without Changes*	
<u>Approval Procedures</u>	15A NCAC 07H .2002
Readopt without Changes*	
<u>Permit Fee</u>	15A NCAC 07H .2003
Readopt without Changes*	
<u>General Conditions</u>	15A NCAC 07H .2004
Readopt without Changes*	
<u>Specific Conditions</u>	15A NCAC 07H .2005
Readopt without Changes*	
<u>Purpose</u>	15A NCAC 07H .2101
Readopt without Changes*	
<u>Approval Procedures</u>	15A NCAC 07H .2102
Readopt without Changes*	
<u>Permit Fee</u>	15A NCAC 07H .2103
Readopt without Changes*	
<u>General Conditions</u>	15A NCAC 07H .2104
Readopt without Changes*	
<u>Specific Conditions</u>	15A NCAC 07H .2105
Readopt without Changes*	
<u>Purpose</u>	15A NCAC 07H .2201
Readopt without Changes*	
<u>Approval Procedures</u>	15A NCAC 07H .2202
Readopt without Changes*	
<u>Permit Fee</u>	15A NCAC 07H .2203
Readopt without Changes*	
<u>General Conditions</u>	15A NCAC 07H .2204
Readopt without Changes*	
<u>Specific Conditions</u>	15A NCAC 07H .2205
Readopt without Changes*	
<u>Purpose</u>	15A NCAC 07H .2301
Readopt without Changes*	
<u>Approval Procedures</u>	15A NCAC 07H .2302
Readopt without Changes*	
<u>Permit Fee</u>	15A NCAC 07H .2303
Readopt without Changes*	
<u>General Conditions</u>	15A NCAC 07H .2304
Readopt without Changes*	
<u>Specific Conditions</u>	15A NCAC 07H .2305
Readopt without Changes*	
<u>Purpose</u>	15A NCAC 07H .2401
Readopt without Changes*	
<u>Approval Procedures</u>	15A NCAC 07H .2402
Readopt without Changes*	
<u>Permit Fee</u>	15A NCAC 07H .2403
Readopt without Changes*	
<u>General Conditions</u>	15A NCAC 07H .2404

Readopt without Changes*	
<u>Specific Conditions</u>	15A NCAC 07H .2405
Readopt without Changes*	
<u>Purpose</u>	15A NCAC 07H .2601
Readopt without Changes*	
<u>Approval Procedures</u>	15A NCAC 07H .2602
Readopt without Changes*	
<u>Permit Fees</u>	15A NCAC 07H .2603
Readopt without Changes*	
<u>General Conditions</u>	15A NCAC 07H .2604
Readopt without Changes*	
<u>Specific Conditions</u>	15A NCAC 07H .2605
Readopt without Changes*	
<u>Purpose</u>	15A NCAC 07H .2701
Readopt without Changes*	
<u>Approval Procedures</u>	15A NCAC 07H .2702
Readopt without Changes*	
<u>Permit Fee</u>	15A NCAC 07H .2703
Readopt without Changes*	
<u>General Conditions</u>	15A NCAC 07H .2704
Readopt without Changes*	
<u>Specific Conditions</u>	15A NCAC 07H .2705
Readopt without Changes*	

The rules in Subchapter 7I concern the secretary's grant criteria and procedures for local implementation and enforcement programs under the Coastal Area Management Act and include purpose (.0100); policy and standards (.0200); application procedures (.0300); generally applicable standards (.0400); local implementation and enforcement plans (.0500); amendment of local management plans (.0600); and failure to enforce and administer plans (.0700).

<u>Local Ordinance Required</u>	15A NCAC 07I .0204
Readopt without Changes*	
<u>Application Process</u>	15A NCAC 07I .0302
Readopt without Changes*	
<u>Grant Administration</u>	15A NCAC 07I .0305
Readopt without Changes*	
<u>Grant Conditions</u>	15A NCAC 07I .0306
Readopt without Changes*	
<u>Program Costs</u>	15A NCAC 07I .0401
Readopt without Changes*	
<u>Ineligible Activities</u>	15A NCAC 07I .0402
Readopt without Changes*	
<u>Application Fees</u>	15A NCAC 07I .0406
Readopt without Changes*	
<u>Record of Hearings and Comments</u>	15A NCAC 07I .0504
Readopt without Changes*	
<u>Content of Plan</u>	15A NCAC 07I .0505
Readopt without Changes*	
<u>Allocation of Authority</u>	15A NCAC 07I .0506
Readopt without Changes*	
<u>Local Permit Officer</u>	15A NCAC 07I .0507
Readopt without Changes*	
<u>Consideration of Application by Permit Officer</u>	15A NCAC 07I .0508
Readopt without Changes*	

<u>Notice of Civil Action</u>	15A NCAC 07I .0509
Readopt without Changes*	
<u>Commission Review and Acceptance of the Local Plan</u>	15A NCAC 07I .0510
Readopt without Changes*	
<u>Commitment to Adopt Local Management Plan as Ordinance</u>	15A NCAC 07I .0511
Readopt without Changes*	
<u>Notice and Public Hearing Requirement</u>	15A NCAC 07I .0601
Readopt without Changes*	
<u>Coastal Resources Commission Approval</u>	15A NCAC 07I .0602
Readopt without Changes*	
<u>Sanction for Violations by the Local Permit-Letting Agency</u>	15A NCAC 07I .0701
Readopt without Changes*	
<u>When an Action Exceeds the Local Authority</u>	15A NCAC 07I .0702
Readopt without Changes*	

The rules in Subchapter 7J concern procedures for handling major development permits, variance requests, appeals from minor development permit decisions and declaratory rulings. They include definitions (.0100); permit application and procedures (.0200); hearing procedures (.0300); final approval and enforcement (.0400); general permits (.0500); declaratory rulings and petitions for rulemaking (.0600); procedures for considering variance petitions (.0700); general permit procedure (.1100); beach management plan approval procedures (.1200); and development line procedures (.1300).

<u>General Definitions</u>	15A NCAC 07J .0102
Readopt without Changes*	
<u>Permit Required</u>	15A NCAC 07J .0201
Readopt without Changes*	
<u>Preparation of Work Plan</u>	15A NCAC 07J .0203
Readopt without Changes*	
<u>Processing the Application</u>	15A NCAC 07J .0204
Readopt without Changes*	
<u>Public Notice of the Proposed Development</u>	15A NCAC 07J .0206
Readopt without Changes*	
<u>Agency Review/Comments: Major Development/Dredge and Fill</u>	15A NCAC 07J .0207
Readopt without Changes*	
<u>Permit Conditions</u>	15A NCAC 07J .0208
Readopt without Changes*	
<u>Issuance of Permits</u>	15A NCAC 07J .0209
Readopt without Changes*	
<u>Replacement of Existing Structures</u>	15A NCAC 07J .0210
Readopt without Changes*	
<u>Non-Conforming Development</u>	15A NCAC 07J .0211
Readopt without Changes*	
<u>Who is Entitled to a Contested Case Hearing</u>	15A NCAC 07J .0301
Readopt without Changes*	
<u>Petition for Contested Case Hearing</u>	15A NCAC 07J .0302
Readopt without Changes*	
<u>Settlement</u>	15A NCAC 07J .0312
Readopt without Changes*	
<u>Procedure for Requesting Declaratory Rulings</u>	15A NCAC 07J .0602
Readopt without Changes*	
<u>Procedures: Considering Requests for Declaratory Rules</u>	15A NCAC 07J .0603
Readopt without Changes*	
<u>Federal Activities</u>	15A NCAC 07J .0604
Readopt without Changes*	

<u>Petitions for Rulemaking</u>	15A NCAC 07J .0605
Readopt without Changes*	
<u>Variance Petitions</u>	15A NCAC 07J .0701
Readopt without Changes*	
<u>Staff Review of Variance Petitions</u>	15A NCAC 07J .0702
Readopt without Changes*	
<u>Procedures for Deciding Variance Petitions</u>	15A NCAC 07J .0703
Readopt without Changes*	

The rules in Subchapter 7L concern local planning and management grants including purpose and authority (.0100); general standards (.0500); application process (.0600); and grant administration.

<u>Priorities for Funding Land Use Plans and Implementation ...</u>	15A NCAC 07L .0503
Readopt without Changes*	

The rules in Subchapter 7M concern general policy guidelines for the coastal area including purpose and authority (.0100); shoreline erosion response policies (.0200); shorefront access policies (.0300); coastal energy policies (.0400); post-disaster policies (.0500); floating structure policies (.0600); mitigation policy (.0700); coastal water quality policies (.0800); policies on use of coastal airspace (.0900); policies on water and wetland based target areas for military training activities (.1000); policies on beneficial use and availability of materials resulting from the excavation or maintenance of navigational channels (.1100); and policies on ocean mining (.1200).

<u>Declaration of General Policy</u>	15A NCAC 07M .0201
Readopt without Changes*	
<u>Policy Statements</u>	15A NCAC 07M .0202
Readopt without Changes*	
<u>Declaration of General Policy</u>	15A NCAC 07M .0401
Readopt without Changes*	
<u>Definitions</u>	15A NCAC 07M .0402
Readopt without Changes*	
<u>Policy Statements</u>	15A NCAC 07M .0403
Readopt without Changes*	
<u>Policy Statements</u>	15A NCAC 07M .0503
Readopt without Changes*	
<u>Declaration of General Policy</u>	15A NCAC 07M .0601
Readopt without Changes*	
<u>Definitions</u>	15A NCAC 07M .0602
Readopt without Changes*	
<u>Policy Statements</u>	15A NCAC 07M .0603
Readopt without Changes*	
<u>Declaration of General Policy</u>	15A NCAC 07M .0701
Readopt without Changes*	
<u>Definitions</u>	15A NCAC 07M .0702
Readopt without Changes*	
<u>Mitigation Candidacy</u>	15A NCAC 07M .0703
Readopt without Changes*	
<u>Policy Statements</u>	15A NCAC 07M .0704
Readopt without Changes*	
<u>Review Procedures</u>	15A NCAC 07M .0705
Readopt without Changes*	
<u>Declaration of General Policies</u>	15A NCAC 07M .0801
Readopt without Changes*	
<u>Policy Statements</u>	15A NCAC 07M .0802
Readopt without Changes*	

<u>Policy Statements</u> Readopt without Changes*	15A NCAC 07M .0902
<u>Declaration of General Policy</u> Readopt without Changes*	15A NCAC 07M .1001
<u>Policy Statements</u> Readopt without Changes*	15A NCAC 07M .1002
<u>Declaration of General Policy</u> Readopt without Changes*	15A NCAC 07M .1101
<u>Policy Statements</u> Readopt without Changes*	15A NCAC 07M .1102
<u>Declaration of General Policy</u> Readopt without Changes*	15A NCAC 07M .1201
<u>Policy Statements</u> Readopt without Changes*	15A NCAC 07M .1202

### **PHYSICAL THERAPY EXAMINERS, BOARD OF**

The rules in Subchapter 48B concern types of licenses.

<u>Licenses by Endorsement</u> Amend*	21 NCAC 48B .0102
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The rules in Subchapter 48E deal with the requirements for application for licensure (.0100).

<u>Examination Scores</u> Repeal*	21 NCAC 48E .0104
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The rules in Subchapter 48F concern certificates, fees, investigation, and record of licensees.

<u>Licensure Certificate</u> Amend*	21 NCAC 48F .0101
<u>Investigations</u> Repeal*	21 NCAC 48F .0103

The rules in Subchapter 48G concern retention of license including licensure renewal (.0100); lapsed licenses (.0200); refusal to renew or grant license suspension or revocation (.0300); probation or warning (.0400); contested case hearings (.0500); and disciplinary action (.0600).

<u>Definitions</u> Amend*	21 NCAC 48G .0105
<u>Revival of Lapsed License</u> Amend*	21 NCAC 48G .0203
<u>Complaints and Investigations</u> Amend*	21 NCAC 48G .0504

### **RECREATIONAL THERAPY LICENSURE, BOARD OF**

The rules in Chapter 65 cover the practice of recreational therapy including general provisions (.0100); requirements for practice (.0200); requirements for licensure (.0300); application (.0400); fees (.0500); license renewal requirements (.0600); reinstatement (.0700); inactive status (.0800); reciprocity (.0900); and revocation, suspension or denial of licensure (.1000).

<u>Minimum Level of Education and Competency for Licensed Re...</u> Amend*	21 NCAC 65 .0301
<u>Licensure Fees</u> Amend*	21 NCAC 65 .0501

Reinstatement of Lapsed License  
Amend\*

21 NCAC 65 .0701