

NORTH CAROLINA REGISTER

VOLUME 38 • ISSUE 01 • Pages 1 – 79

July 3, 2023

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Rule Notices, Filings, Register, Deadlines, Copies of Proposed Rules, etc.

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NORTH CAROLINA REGISTER
Publication Schedule for January 2023 – December 2023

| 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 th day from publication in the Register |
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| 37:14 | 01/17/23 | 12/20/22 | 02/01/23 | 03/20/23 | 04/20/23 | 05/18/2023 | 06/01/23 | 10/14/23 |
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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 26, 2023

EXECUTIVE ORDER NO. 281

DISASTER DECLARATION FOR THE TOWN OF ELKIN IN SURRY COUNTY

WHEREAS, the North Carolina Emergency Management Act, Chapter 166A of the North Carolina General Statutes, authorizes the issuance of a disaster declaration for an emergency area as defined in N.C. Gen. Stat. § 166A-19.3(7) that has been impacted by a Type I disaster as defined in N.C. Gen. Stat. § 166A-19.21(b)(1); and

WHEREAS, on April 28, 2023, the Town of Elkin (hereinafter “the Town” or “Elkin”) in Surry County, North Carolina experienced damages from straight-line winds and a tornado; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.22 and Elkin, N.C., Ord. § 33.02 (1970), the Mayor of Elkin declared a state of emergency on May 1, 2023, and pursuant to N.C. Gen. Stat. § 166A-19.22 the Chair of the Board of Commissioners for Surry County declared a state of emergency on May 1, 2023; and

WHEREAS, due to the impacts of the events, local and state emergency management officials conducted a joint preliminary damage assessment on May 8, 2023, for Elkin; and

WHEREAS, Elkin has incurred more than \$10,000 in disaster-related damages, the damages exceed one (1) percent of the Town’s operating budget, Elkin has a current Hazard Mitigation plan in place through Northern Piedmont Regional Hazard Mitigation Plan and participates in the National Flood Insurance Program; and

WHEREAS, the President of the United States has not declared a Robert T. Stafford Disaster Relief and Emergency Assistance Act (hereinafter “Stafford Act”), as amended (42 U.S.C. § 5121-5206), declaration; and

WHEREAS, Elkin would not qualify based on the preliminary damage assessment for Federal Public Assistance according to the requirements of 44 C.F.R. § 206.48; and

WHEREAS, pursuant to N.C. Gen. Stat. §§ 166A-19.21(a)-(b), the criteria for a Type I disaster are met if: (a) the Secretary of the North Carolina Department of Public Safety has provided a preliminary damage assessment to the undersigned and the General Assembly; (b) local state of emergency declarations have been issued pursuant to N.C. Gen. Stat. § 166A-19.22 in the areas impacted by the Type I disaster and have been forwarded to the undersigned; (c) the preliminary damage assessment meets or exceeds the State infrastructure criteria set out in N.C. Gen. Stat. § 166A-19.41(b)(2)a; and (d) a major disaster declaration by the President of the United States pursuant to the Stafford Act has not been declared; and

WHEREAS, the undersigned has determined that a Type I disaster, as defined in N.C. Gen. Stat. § 166A-19.21(b)(1), exists in the State of North Carolina in the Town of Elkin in Surry County, North Carolina; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.41(b), if a Type I disaster is declared, the undersigned may make state funds available for emergency assistance in the form of individual assistance and public assistance for recovery from those disasters for which federal assistance under the Stafford Act is either not available or does not adequately meet the needs of residents in the emergency area.

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.

For purposes of this Executive Order only, the emergency area as defined in N.C. Gen. Stat. § 166A-19.3(7), is the Town of Elkin in Surry County, North Carolina ("the Emergency Area").

Section 2.

Pursuant to N.C. Gen. Stat. § 166A-19.21(b)(1), a Type I disaster is hereby declared for the Emergency Area.

Section 3.

I authorize state disaster assistance in the form of public assistance grants to the eligible local governments located within the emergency area that meet the terms and conditions under N.C. Gen. Stat. § 166A-19.41(b)(2). The public assistance grants are for the following:

- a. Debris clearance.
- b. Emergency protective measures.

Section 4.

I hereby order that this declaration be (a) distributed to the news media and other organizations calculated to bring its contents to the attention of the public; (b) promptly filed with the Secretary of the North Carolina Department of Public Safety, the North Carolina Secretary of State, and the Surry County Clerk of Superior Court; and (c) distributed to others as necessary to ensure proper implementation of this declaration.

Section 5.

Pursuant to N.C. Gen. Stat. § 166A-19.21(c)(1), this Type I disaster declaration shall expire sixty (60) days after issuance unless renewed by the Governor or the General Assembly. Such renewals may be made in increments of thirty (30) days each, not to exceed a total of 120 days from the date of first issuance.

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 26th day of May in the year of our Lord two thousand and twenty-three.

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 08 – STATE BOARD OF ELECTIONS

Notice is hereby given in accordance with G.S. 150B-21.2 that the State Board of Elections intends to adopt the rule cited as 08 NCAC 04 .0308.

Link to agency website pursuant to G.S. 150B-19.1(e):
<https://www.ncsbe.gov/about-elections/legal-resources/rulemaking>

Proposed Effective Date: January 1, 2024

Public Hearing:

Date: July 20, 2023

Time: 11:00 a.m.

Location:

<https://ncgov.webex.com/ncgov/j.php?MTID=mdf922585b2342caed60e98e1a291ff4f>

Reason for Proposed Action: *The State Board proposes a rule to govern the procedures for individuals, who are authorized by statute, to examine highly sensitive voting system information that is maintained in an escrow account for the State Board. The escrowed information includes proprietary and highly sensitive information for the State's certified voting systems, including the source code for the voting machines and election management systems. Access to this information, under the right conditions, could allow someone to replicate a voting system (or portions of it) from scratch, or identify weaknesses that could be exploited to potentially compromise the results of an election. Due to the sensitive nature of the escrowed information, the proposed rule is designed to ensure that authorized individuals may review this information without risking the disclosure of proprietary or competitive information belonging to vendors or the disclosure of features of voting systems that could be exploited by malicious actors. Since North Carolina is one of many states that use the same or similar voting systems, the access that the State provides through this process has implications for the security and integrity of elections nationwide. Highlighting this concern, the U.S. Department of Homeland Security has designated elections infrastructure, including voting systems, as critical national infrastructure. This designation is a recognition of the critical role that having a secure election system plays in preserving our democracy and our national sovereignty.*

Comments may be submitted to: Rulemaking Coordinator, PO Box 27255, Raleigh, NC 27611-7255; email rulemaking.sboe@ncsbe.gov

Comment period ends: September 1, 2023

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 04 - VOTING EQUIPMENT

SECTION .0300 – APPROVAL AND OPERATION OF VOTING SYSTEMS

08 NCAC 04 .0308 AUTHORIZED ACCESS TO VOTING SYSTEM INFORMATION IN ESCROW

(a) Subject to the provisions of this Rule, upon written request from a person or entity authorized under G.S. 163-165.7(a)(6) to a vendor of a certified voting system in this state, the vendor shall make available for review and examination any information placed in escrow under G.S. 163-165.9A to an authorized person. The person or entity making the request shall simultaneously provide a copy of the request to the State Board. Any request from the State chairs of a political party recognized under G.S. 163-96 shall be made no later than 90 days before the start of one-stop absentee voting in the state. This Rule does not address or restrict the pre-certification review of a vendor's source code under G.S. 163-165.7(e).

(b) Authorized Persons. Only authorized persons may review and examine the information placed in escrow by a voting system vendor. For the purpose of this Rule, "authorized person" means a person who:

- (1) Is an agent:
 - (A) designated by majority vote in a public meeting by the State Board or a

- purchasing county's board of commissioners;
 - (B) designated in writing by the chair of a political party recognized under G.S. 163-96; or
 - (C) designated in writing by the Secretary of Department of Information Technology. No more than three people may be designated by an authorized entity under G.S. 163-165.7(f)(9);
- (2) Has submitted to a criminal history record check, to be facilitated by the State Board, as provided for in G.S. 163-27.2(b) and has not been convicted of a disqualifying offense. Disqualifying offenses shall be all felonies, and any misdemeanors that involve theft, deception, the unlawful concealment or dissemination of information, falsification or destruction of records, or the unlawful access to information or facilities. The requirement to submit to a criminal history record check does not apply to State employees who have already submitted to a criminal history record check for State employment;
- (3) Has submitted to the State Board a résumé detailing the person's experience with voting systems and information technology, to include any training or experience pertaining to computer code development or analysis;
- (4) Has submitted to the State Board a sworn affidavit, under penalty of perjury, attesting that the person:
 - (A) has never been found by a court of law, administrative body, or former or current employer to have disclosed without authorization confidential information that the person had access to;
 - (B) has never been, either in their private capacity or in any capacity as an agent for another person or entity, subject to any civil or criminal claims alleging misappropriation of a trade secret, violation of confidentiality agreement or nondisclosure agreement, copyright infringement, patent infringement, or unauthorized disclosure of any information protected from disclosure by law, except to the extent any such claims were dismissed with prejudice and not pursuant to a settlement agreement;
 - (C) has never had a security clearance issued by a federal agency revoked for any reason other than expiration of the clearance;
- (D) if granted access to review and examine the information placed in escrow:
 - (i) will not disclose or reveal any proprietary information to which the Authorized Person is granted access, pursuant to G.S. 132-1.2, to any person outside of the individuals or entities identified in G.S. 163-165.7(a)(6), testing and certification program staff at the U.S. Election Assistance Commission, or election infrastructure security staff for the U.S. Department of Homeland Security's Cybersecurity and Infrastructure Security;
 - (ii) will not disclose or reveal any feature, component, or perceived flaw or vulnerability of the information placed in escrow by a voting system vendor, pursuant to G.S. 132-1.7(a2), G.S. 132-1.7(b), and G.S. 132-6.1(c), to any person outside of other persons authorized under this Rule, the State Board, the vendor, testing and certification program staff at the U.S. Election Assistance Commission, or election infrastructure security staff for the U.S. Department of Homeland Security's Cybersecurity and Infrastructure Security;
 - (iii) will submit copies of any notes taken during the examination of the information in escrow to the State Board;
 - (iv) acknowledges that, should the person disclose without authorization any information placed in escrow that is protected under state or federal law, the person will be subject to any remedies provided by law for such unauthorized disclosure, which could include monetary damages; and
 - (v) will provide the vendor and the State Board with prompt

written notice if the person becomes or is likely to be compelled by law to disclose any of the escrow information, will cooperate with the vendor and the State Board to obtain a protective order or other appropriate remedy, and, in the event any escrow information must be disclosed pursuant to legal compulsion, will disclose only the portion of information that the person is legally required to disclose in the written opinion of its counsel; and

(5) Has consented in writing to searches of their person and effects, similar in nature to searches that members of the public submit to when entering the office buildings of the General Assembly, to be conducted upon entry into the secure facility described in Subparagraph (d)(1) of this Rule; and

(6) Is a citizen of the United States.

(c) Within 30 days of meeting the definition of an authorized person in Paragraph (b) of this Rule, the Executive Director of the State Board shall issue a written authorization to the person or entity making the request under Paragraph (a) of this Rule to review and examine information placed in escrow by a voting system vendor. The authorization shall be presented by the person or entity to the vendor prior to gaining access to such information under this Rule.

(d) Conditions of Access. When providing access to information in escrow pursuant to this Rule, the State Board and vendor shall ensure the following conditions are met:

(1) The information in escrow shall be made available by the vendor on up to three computers provided by the vendor (one for each potentially designated agent under G.S. 163-165.7(f)(9)) that are not connected to any network and are located within a secure facility, as described in Part (d)(3)(A) of this Rule, designated by the State Board of Elections. Such computers shall be preloaded with software tools necessary for use in viewing, searching, and analyzing the information subject to review, including tools permitting automated source code review that are preapproved by the vendor and the State Board. Such computers shall have the following access controls:

(A) Credentials shall be traceable to individuals. Generic login accounts are not authorized. Sharing of accounts and reuse of credentials is prohibited. Each user must have their own assigned login account.

(B) Only one administrative account shall be present on the system to allow for the initial provisioning of necessary applications and setup of security controls.

(C) Where passwords are used to authenticate authorized individuals, login accounts shall use complex passwords. A sufficiently complex password is one that is not based on common dictionary words and includes no fewer than 10 characters, and includes at least one uppercase letter, one lowercase letter, one number, and a special character.

(D) Screen lock times shall be set to no longer than 10 minutes. All computers shall be locked or logged out from whenever they are not being attended and used.

(E) The entire hard drive on any computer must have full disk encryption. Where possible, the minimum encryption level shall be AES-256.

(F) After the information subject to review and software tools for viewing are loaded on the computers, all ports shall be sealed with tamper-evident seals.

(G) After the ports are sealed, no input/output or recording devices may be connected to the computers. The State Board shall provide for the secure storage of any equipment used for the duration of the review.

(2) The computers shall be air-gapped and shall not be connected to a network, and any feature allowing connection to a network shall be disabled. Prohibited network connections include the Internet, intranet, fax, telephone line, networks established via modem, or any other wired or wireless connection.

(3) The secure facility designated by the State Board under Subparagraph (1) of this Paragraph is the specific location where the computing equipment will be stored and the review conducted, and may be a secured portion of a building. All conduct within the facility shall meet the following conditions:

(A) For the entire review period, the facility must be secured from access by any person not designated under Subparagraph (b)(1), Part (d)(3)(F), and Subparagraph (d)(7) of this Rule.

(B) Only individuals authorized under Subparagraph (b)(1), Part (d)(3)(F), and Subparagraph (d)(7) of this Rule may enter the facility. Such individuals must present government-

- issued photo identification upon initial entry, and may be asked to show identification multiple times throughout the review period.
- (C) Each time an individual accesses the facility, the State Board or its designee shall record the name of the individual, the time of their entry, the time of their departure, and a description of any materials brought in or out of the facility.
- (D) All equipment used in the review, as specified in Subparagraph (d)(1) of this Rule, must remain in the facility during the review period.
- (E) No authorized person pursuant to this Rule may possess any removable media device, cell phone, computer, tablet, camera, wearable, or other outside electronic device within the facility where the person is accessing information in escrow. No authorized person may attempt to connect the computers used in the review to any network.
- (F) State personnel who are designated by the Executive Director of the State Board of Elections and who also satisfy the conditions set forth in Subparagraphs (b)(2) through (b)(5) of this Rule shall have access to the facility where the review is being conducted at all times, to monitor the process and ensure that all requirements of this Rule are complied with. Persons entering the facility shall submit to inspection, as provided for in Subparagraph (b)(5) of this Rule, and shall be denied entry if they possess any unauthorized devices. State personnel designated pursuant to this subsection shall inspect the computers used in the review before and after the review for compliance with Subparagraphs (d)(1) and (d)(2) of this Rule.
- (4) Authorized persons are permitted to perform manual source code review and use code analysis tools, as provided in Subparagraph (1) of this Paragraph, to analyze the source code. This source code review shall be performed using "read only" access and any authorized person shall not interact with or perform testing of the software components.
- (5) Any review performed pursuant to this Rule shall occur during the State Board's regular business hours and shall last no longer than ten business days. Such review shall not occur during the period from the start of one-stop

- absentee voting through the conclusion of statewide canvassing of the vote.
- (6) Authorized persons and the vendor are each responsible for bearing their own costs in conducting the review pursuant to G.S. 163-165.7(a)(6).
- (7) Up to three representatives of the vendor may be designated in writing by a corporate executive of the vendor to supervise the review at all times. Such representatives shall not interfere with the review and shall be afforded a reasonable opportunity to inspect the facility for compliance with these conditions prior to the review commencing. State Board staff designated under Subparagraph (3) of this Paragraph shall monitor the review, without obstructing the review process.
- (e) Dispute Resolution. Any dispute that arises between an authorized person and a vendor concerning the execution of review pursuant to this Rule may be presented to the State Board of Elections in the form of a petition seeking relief. The party seeking such relief shall serve their petition on the opposing party, and the opposing party shall have 14 days to respond. The State Board shall make a decision on the petition based on the written submissions, or it may schedule a hearing to consider the petition.

Authority G.S. 132-1.2; 132-1.7; 132-6.1; 163-22; 163-27.2; 163-165.7; 163-165.9A; 163-166.7; 163-275; 42 U.S.C. 5195c.

TITLE 10A – DEPARTMENT OF HEALTH AND HUMAN SERVICES

Notice is hereby given in accordance with G.S. 150B-21.2 that the Commission for Mental Health/DD/SAS intends to amend the rules cited as 10A NCAC 27G .0104 and 28A .0102.

Link to agency website pursuant to G.S. 150B-19.1(c): <https://www.ncdhhs.gov/divisions/mental-health-developmental-disabilities-and-substance-abuse/commis>

Proposed Effective Date: *January 1, 2024*

Instructions on How to Demand a Public Hearing: *(must be requested in writing within 15 days of notice): To request a public hearing, submit your written request for a public hearing on to dmhddsarules@dhhs.nc.gov within 15 days after the notice of text is published.*

Reason for Proposed Action: *These rules are being amended to permit years of experience obtained pre- or post – degree to be considered in one being credentialed a Qualified Professional; update language consistent with the Addictions Specialist Professional Practice Board; include definitions of Family Partner and Direct Support Professional; and clarify the applicability of the registration requirement previously referenced in the rule(s).*

Comments may be submitted to: Denise Baker, 3001 MSC, Raleigh, NC 27699-3001; email dmhddsarules@dhhs.nc.gov

Comment period ends: September 1, 2023

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 (>= \$1,000,000)
Approved by OSBM
No fiscal note required

CHAPTER 27 - MENTAL HEALTH, COMMUNITY FACILITIES AND SERVICES

SUBCHAPTER 27G - RULES FOR MENTAL HEALTH, DEVELOPMENTAL DISABILITIES, AND SUBSTANCE ABUSE FACILITIES AND SERVICES

SECTION .0100 - GENERAL INFORMATION

10A NCAC 27G .0104 STAFF DEFINITIONS

The following credentials and qualifications apply to staff described in this Subchapter:

- (1) "Associate Professional (AP)" within the mental health, developmental disabilities and substance abuse services (mh/dd/sas) system of care means an individual who is either a:
(a) graduate of a college or university with a masters degree in a human service field with less than one year of full-time, post-graduate degree accumulated mh/dd/sa experience with the population served, or a substance abuse professional with less than one year of full-time, post-graduate degree accumulated supervised experience in alcoholism and drug abuse counseling. Supervision shall be provided by a qualified professional with the

population served until the individual meets one year of experience. The supervisor and the employee shall develop an individualized supervision plan upon hiring. The parties shall review the plan annually; or
(b) graduate of a college or university with a bachelor's degree in a human service field with less than two years of full-time, post-bachelor's degree accumulated mh/dd/sa experience with the population served, or a substance abuse professional with less than two years of full-time, post-bachelor's degree accumulated supervised experience in alcoholism and drug abuse counseling. Supervision shall be provided by a qualified professional with the population served until the individual meets two years of experience. The supervisor and the employee shall develop an individualized supervision plan upon hiring. The parties shall review the plan annually; or
(c) graduate of a college or university with a bachelor's degree in a field other than human services with less than four years of full-time, post-bachelor's degree accumulated mh/dd/sa experience with the population served, or a substance abuse professional with less than four years of full-time, post-bachelor's degree accumulated supervised experience in alcoholism and drug abuse counseling. Supervision shall be provided by a qualified professional with the population served until the individual meets four years of experience. The supervisor and the employee shall develop an individualized supervision plan upon hiring. The parties shall review the plan annually; or
(d) registered nurse who is licensed to practice in the State of North Carolina by the North Carolina Board of Nursing with less than four years of full-time accumulated experience in mh/dd/sa with the population served. Supervision shall be provided by a qualified professional with the population served until the individual meets four years of experience. The supervisor and the employee shall develop an individualized supervision plan upon hiring. The parties shall review the plan annually.

- (2) "Certified clinical supervisor (CCS)" means an individual who is certified as such by the North Carolina Addictions Specialist Substance Abuse Professional Practice Board.
- (3) "Certified criminal justice addictions professional (CCJP)" means an individual who is certified as such by the North Carolina Addictions Specialist Substance Abuse Professional Practice Board.
- (4) "~~Certified substance abuse counselor (CSAC)~~ alcohol and drug counselor" means an individual who is certified as such by the North Carolina Addictions Specialist Substance Abuse Professional Certification Practice Board.
- (5) "~~Certified substance abuse prevention consultant (CSAPC)~~ specialist" means an individual who is certified as such by the North Carolina Addictions Specialist Substance Abuse Professional Practice Board.
- (6) "Clinical" means having to do with the ~~active direct treatment/habilitation~~ treatment or habilitation of a client.
- (7) "Clinical staff member" means a qualified professional or associate professional who provides ~~active direct treatment/habilitation~~ treatment or habilitation to a client.
- (8) "~~Clinical/professional~~ Clinical or professional supervision" means regularly scheduled assistance by a qualified professional or associate professional to a staff member who is providing direct, therapeutic intervention to a client or clients. The purpose of clinical supervision is to ensure that each client receives treatment or habilitation ~~which that~~ is consistent with accepted standards of practice and the needs of the client.
- (9) "Clinical social worker" means a social worker who is licensed as such by the N.C. Social Work Certification and Licensure Board.
- (10) "Direct Support Professional" means an individual who has a GED or high school diploma hired to provide intellectual disability, developmental disability, or traumatic brain injury services. Supervision shall be provided by a qualified professional with experience with the population served. The supervisor and the employee shall develop an individualized supervision plan upon hiring and shall review it annually thereafter.
- ~~(10)~~(11) "Director" means the individual who is responsible for the operation of the facility.
- (12) "Family Partner" means an individual hired to provide direct engagement, support, and advocacy to the family of each child and adolescent served in a Psychiatric Residential Treatment Facility. A Family Partner shall meet the criteria for a Paraprofessional as defined in this Rule, have lived experience as a primary caregiver for a child or adolescent with a mental health disorder, a substance use disorder, intellectual disorder, or developmental disability. A Family Partner shall achieve certification as a Family Peer Specialist by the National Federation of Families for Children with Mental Illness within 18 months of hire and shall maintain active certification while in this role.
- ~~(11)~~(13) "Licensed Clinical Addictions Specialist (LCAS)" means an individual who is licensed as such by the North Carolina Addictions Specialist Substance Abuse Professional Practice Board.
- ~~(12)~~(14) "Licensed clinician" means an individual with ~~full~~ clinical licensure awarded by the State of North Carolina, as a physician, licensed psychologist, licensed psychological associate, licensed clinical social worker, licensed professional counselor, licensed marriage and family therapist, or licensed clinical addictions specialist. "Licensed clinician" also includes an individual with ~~full~~ clinical licensure and certification as a certified clinical nurse specialist in psychiatric mental health advanced practice, or a certified nurse practitioner in psychiatric mental health advanced practice.
- ~~(13)~~(15) "Licensed Clinical Mental Health professional counselor (LPC)" (LCMHC)" means a counselor who is licensed as such by the North Carolina Board of Licensed Clinical Mental Health Professional Counselors.
- ~~(14)~~(16) "Nurse" means a person licensed to practice in the State of North Carolina either as a registered nurse or as a licensed practical nurse.
- ~~(15)~~(17) "Paraprofessional" within the mh/dd/sas system of care means an individual who, with the exception of staff providing respite services or personal care services, has a GED or high school diploma; ~~those or no GED or high school diploma~~, employed prior to November 1, 2001 to provide a mh/dd/sa ~~service. service are not required to have a GED or high school diploma.~~ Supervision shall be provided by a qualified professional or associate professional with the population served. The supervisor and the employee shall develop an individualized supervision plan upon hiring. The parties shall review the plan annually.
- ~~(16)~~(18) "Psychiatrist" means an individual who is licensed to practice medicine in the State of North Carolina and who has completed a training program in psychiatry accredited by the Accreditation Council for Graduate Medical Education.
- ~~(17)~~(19) "Psychologist" means an individual who is licensed to practice psychology in the State of North Carolina as either a licensed psychologist or a licensed psychological associate.

~~(18)~~(20) "Qualified client record manager" means an individual who is a graduate of a curriculum accredited by the Council on Medical Education and Registration of the American Health Information Management Association and who is currently registered or accredited by the American Health Information Management Association.

~~(19)~~(21) "Qualified professional" means, within the mh/dd/sas system of ~~care~~; care either:

- (a) an individual who holds a license, provisional license, or certificate ~~certificate, registration or permit~~ issued by the governing board regulating a human service profession, ~~except~~ including a registered nurse who is licensed to practice in the State of North Carolina by the North Carolina Board of Nursing who also has four years of full-time accumulated experience in mh/dd/sa with the population served; ~~or~~
- (b) a graduate of a college or university with a Masters degree in a human service field and has one year of full-time, pre- or post-graduate degree accumulated supervised mh/dd/sa experience with the population served, or a substance abuse professional who has one year of full-time, pre- or post-graduate degree accumulated supervised experience in alcoholism and drug abuse counseling; ~~or~~
- (c) a graduate of a college or university with a bachelor's degree in a human service field and has two years of full-time, pre- or post-bachelor's degree accumulated supervised mh/dd/sa experience with the population served, or a substance abuse professional who has two years of full-time, pre- or post-bachelor's degree accumulated supervised experience in alcoholism and drug abuse counseling; or
- (d) a graduate of a college or university with a bachelor's degree in a field other than human services and has four years of full-time, pre- or post-bachelor's degree accumulated supervised mh/dd/sa experience with the population served, or a substance abuse professional who has four years of full-time, pre- or post-bachelor's degree accumulated supervised experience in alcoholism and drug abuse counseling.

~~(20)~~(22) "Qualified substance abuse prevention professional (QSAPP)" ~~means~~, within the mh/dd/sas system of ~~care~~; care, means either:

- (a) a graduate of a college or university with a masters degree in a human service field and has one year of full-time, post-graduate degree accumulated supervised experience in substance abuse prevention; ~~or~~
- (b) a graduate of a college or university with a bachelor's degree in a human service field and has two years of full-time, post-bachelor's degree accumulated supervised experience in substance abuse prevention; ~~or~~
- (c) a graduate of a college or university with a bachelor's degree in a field other than human services and has four years of full-time, post bachelor's degree accumulated supervised experience in substance abuse prevention; or
- (d) a substance abuse prevention professional who is certified as a Certified ~~Substance Abuse Prevention Consultant (CSAPC) Specialist~~ by the North Carolina Addictions Specialist Substance Abuse Professional Practice Board.

Authority G.S. 122C-3; 122C-25; 122C-26; 143B-147; S.L. 2017-32; 2019-240.

CHAPTER 28 – MENTAL HEALTH: STATE OPERATED FACILITIES AND SERVICES

SUBCHAPTER 28A - COMMITTEES AND PROCEDURES

SECTION .0100 – SCOPE AND DEFINITIONS

10A NCAC 28A .0102 DEFINITIONS

(a) In addition to the definitions contained in this Rule, the terms defined in G.S. 122C-3, 122C-4 and 122C-53(f) also apply to all rules in Subchapters 28A, 28B, 28C, and 28D of this Chapter.

(b) As used in the rules in Subchapters 28A, 28B, 28C, and 28D of this Chapter, the following terms have the meanings specified:

- (1) "Abuse" means the same as defined in 42 CFR Part 488 Subpart E, which is incorporated by reference, including subsequent amendments, infliction of physical or mental pain or injury by other than accidental means; or unreasonable confinement; or the deprivation by an employee of services which are necessary to the mental and physical health of the client. Temporary discomfort that is part of an approved and documented treatment plan or use of a documented emergency procedure shall not be considered abuse.
- (2) "Associate Professional (AP)" within the mental health, developmental disabilities and

substance abuse services (mh/dd/sas) system of care means an individual who is either a:

- (A) graduate of a college or university with a Masters degree in a human service field with less than one year of full-time, post-graduate degree accumulated mh/dd/sa experience with the population served, or a substance abuse professional with less than one year of full-time, post-graduate degree accumulated supervised experience in alcoholism and drug abuse counseling. Upon hiring, an individualized supervision plan shall be developed and supervision shall be provided by a qualified professional with the population served until the individual meets one year of experience; ~~or~~
- (B) graduate of a college or university with a bachelor's degree in a human service field with less than two years of full-time, post-accumulated mh/dd/sa experience with the population served, or a substance abuse professional with less than two years of full-time, post-bachelor's degree accumulated supervised experience in alcoholism and drug abuse counseling. Upon hiring, an individualized supervision plan shall be developed and reviewed annually. Supervision shall be provided by a qualified professional with the population served until the individual meets two years of experience; ~~or~~
- (C) graduate of a college or university with a bachelor's degree in a field other than human services with less than four years of full-time, post bachelor's degree accumulated mh/dd/sa experience with the population served, or a substance abuse professional with less than four years of full-time, post-bachelor's degree accumulated supervised experience in alcoholism and drug abuse counseling. Upon hiring, an individualized supervision plan shall be developed and reviewed annually. Supervision shall be provided by a qualified professional with the population served until the individual meets four years of experience; or
- (D) registered nurse who is licensed to practice in the State of North Carolina by the North Carolina Board of Nursing with less than four years of full-time accumulated experience in

mh/dd/sa with the population served. Upon hiring, an individualized supervision plan shall be developed and reviewed annually. Supervision shall be provided by a qualified professional with the population served until the individual meets four years of experience.

- (3) "Basic necessities" mean the essential items or substances needed to support life and health which include, but are not limited to, a nutritionally sound diet balanced during three meals per day, access to water and bathroom facilities at frequent intervals, seasonable clothing, medications to control seizures, diabetes and other like physical health conditions, and ~~frequent~~ access to social contacts.
- (4) "Certified clinical supervisor (CCS)" means an individual who is certified as such by the North Carolina Addictions Specialist Professional Practice Substance Abuse Professional Certification Board.
- (5) "~~Certified substance abuse counselor (CSAC)~~ alcohol and drug counselor" means an individual who is certified as such by the North Carolina Addictions Specialist Substance Abuse Professional Practice Certification Board.
- (6) "~~Client~~" has the same meaning assigned in G.S. 133C-3. "~~Client~~" may also be referred to as a patient or resident.
- ~~(6)~~(7) "~~Client record~~" means any record made of confidential ~~information~~. information as defined G.S. 122C-3.
- ~~(7)~~(8) "Clinical Director" means Medical Director, Director of Medical Services or such person acting in the position of Clinical Director, or his designee.
- ~~(8)~~(9) "Clinically competent" means authorization by the State Facility Director for a qualified professional to provide specific ~~treatment/habilitation~~ treatment or habilitation services to clients based on the professional's education, training, experience, competence and judgment.
- ~~(9)~~(10) "Consent" means concurrence by a client or his legally responsible person following receipt of information from the qualified professional who will administer the proposed treatment or procedure. Informed consent implies that the client or his legally responsible person was provided with information concerning proposed treatment, including both benefits and risks, in order to make an educated decision with regard to such treatment.
- ~~(10)~~(11) "Dangerous articles or substances" mean, but are not limited to, any weapon or potential weapon, heavy blunt object, sharp objects,

- potentially harmful chemicals, or drugs of any sort, including alcohol.
- (12) "Division" means the Division of State Operated Healthcare Facilities.
- ~~(11)~~(13) "Division Director" means the Director of the Division or his designee.
- ~~(12)~~(14) "Emergency" means a situation in a state facility in which a client is in imminent danger of causing abuse or injury to self or others, or when substantial property damage is occurring as a result of unexpected and severe forms of inappropriate behavior, and rapid intervention by the staff is needed. ~~[See Subparagraph (b)(25) of this Rule for definition of medical emergency].~~
- ~~(13)~~(15) "Emergency surgery" means an operation or surgery performed in a medical emergency ~~[as emergency, as defined in Subparagraph (b)(25) of this Rule]~~ Rule, where informed consent cannot be obtained from an authorized person, as specified in G.S. 90-21.13, because the delay would seriously worsen the physical condition or endanger the life of the client.
- ~~(14)~~(16) "Exclusionary time-out" means the removal of a client to a separate area or room from which exit is not barred for the purpose of modifying behavior.
- ~~(15)~~(17) "Exploitation" means the same as defined in 42 CFR Part 483 Subpart B, which is incorporated by reference, including subsequent amendments. ~~use of a client or her/his resources, including borrowing, taking or using personal property with or without her/his permission for another person's profit, business or advantage.~~
- ~~(16)~~(18) "Forensic Division" means the ~~unit~~ units at Dorothea Dix Hospital any State hospital designated in accordance with G.S. 122C-252 which serves clients who are:
- (A) admitted for the purpose of evaluation for capacity to proceed to trial;
 - (B) found not guilty by reason of insanity;
 - (C) determined incapable of proceeding to ~~trial; or trial.~~
 - ~~(D) deemed to require a more secure environment to protect the health, safety and welfare of clients, staff and the general public.~~
- ~~(17)~~(19) "Grievance" means a verbal or written complaint by or on behalf of a client concerning a situation that occurred within the jurisdiction of the state facility. A grievance does not include complaints that can be resolved without delay by staff present. A complaint that is not resolved shall be filed and processed in accordance with the requirements of 10A NCAC 28B .0203.
- ~~(18)~~(20) "Human Rights Committee" means a committee, appointed by the Secretary, to act in a capacity regarding the protection of client rights.
- ~~(19)~~(21) "Independent psychiatric consultant" means a licensed psychiatrist not on the staff of the state facility in which the client is being treated. The psychiatrist may be in private practice, ~~or~~ be employed by another state facility, or be employed by a facility other than a state facility as defined in G.S. 122C-3(14).
- ~~(20)~~(22) "Interpreter services" means specialized communication services provided for the hearing impaired by interpreters certified by the National Registry of Interpreters for the Deaf or the National Association of the Deaf.
- ~~(21)~~(23) "Involuntary client" means a person admitted to any regional psychiatric hospital or ~~alcohol rehabilitation center~~ alcohol and drug abuse treatment center under the provisions of Article 5, Parts 7, 8 or 9 of G.S. 122C and ~~includes~~ includes, but ~~it~~ is not limited ~~to~~ to, clients detained pending a district court hearing and clients involuntarily committed after a district court hearing. This term shall also include individuals who are defendants in criminal actions and are being evaluated in a state facility for mental responsibility or mental competency as a part of such criminal proceedings as specified in G.S. ~~15A-1002~~ 15A-1002, unless a valid order providing otherwise is issued from a court of competent ~~jurisdiction~~ jurisdiction, and the civil commitment of defendants found not guilty by reason of insanity as specified in G.S. 15A-1321.
- ~~(22)~~(24) "Isolation time-out" means the removal of a client to a separate room from which exit is barred ~~but which is not locked and~~ where there is ~~continuous~~ direct, uninterrupted supervision by staff for the purpose of modifying behavior. "Isolation time-out" does not include precautions intended to prevent transmission of a communicable disease.
- (25) "Licensed Clinical Addiction Specialist (LCAS)" means an individual who is certified as such by the North Carolina Addictions Specialist Professional Practice Board.
- ~~(23)~~(26) "Licensed Clinical Mental health professional counselor ~~(LPC)~~" (LCMHC)" means a counselor who is licensed as such by the North Carolina Board of Licensed Clinical Mental Health Professional Counselors.
- ~~(24)~~(27) "Major physical injury" means damage caused to the body resulting in profuse bleeding or contusion of tissues; fracture of a bone; damage to internal organs; loss of consciousness; loss of normal neurological function (inability to move or coordinate movement); or any other painful condition caused by such injury.

- ~~(25)~~(28) "Medical emergency" means a situation where the client is unconscious, ill, or injured, and the ~~reasonably apparent~~ circumstances require ~~prompt immediate decisions and actions in~~ medical or other health care, care related decisions and actions to prevent the worsening of the necessity of immediate health care treatment is so reasonably apparent that any delay in the rendering of the treatment would seriously worsen the physical condition condition, or endanger the life life, of the client.
- ~~(26)~~(29) "Minimal risk research" means that the risks of harm anticipated in the proposed research are not greater, considering probability and magnitude, than those ~~ordinarily~~ encountered in daily life or during the performance of routine physical or psychological examinations or tests.
- ~~(27)~~(30) "Minor client" means a person under 18 years of age who ~~has not been married or who has not been emancipated by a decree issued by a court of competent jurisdiction or is not a member of the armed forces.~~
- (A) has not been married; or
- (B) has not been emancipated by a decree issued by a court of competent jurisdiction; or
- (C) is not a member of the armed forces.
- (31) "Misappropriation of resident property" means the same as defined by 42 CFR Part 488 Subpart E, incorporated by reference, including subsequent amendments.
- ~~(28)~~(32) "Neglect" means the same as defined by 42 CFR Part 488 Subpart E, incorporated by reference, including subsequent amendments. ~~failure to provide care or services necessary to maintain the mental and physical health of the client.~~
- ~~(29)~~(33) "Normalization" means the principle of helping the client to obtain an existence as close to normal as possible, taking into consideration the client's disabilities and potential, by making available to him patterns and conditions of everyday life that are as close as possible to the norms and patterns of the mainstream of society.
- ~~(30)~~(34) "Paraprofessional" within the mh/dd/sa system of care means an individual who, with the exception of staff providing respite services or personal care services, has a GED or high school diploma; an individual or no GED or high school diploma, employed prior to November 1, 2001 to provide a mh/dd/sa ~~service. service is not required to have a GED or high school diploma.~~ Upon hiring, an individualized supervision plan shall be developed and supervision shall be provided by a qualified professional or associate professional with the population served.

- ~~(31)~~(35) "Person standing in loco parentis" means one who has put himself in the place of a lawful parent by assuming the rights and obligations of a parent without formal adoption.
- ~~(32)~~(36) "Physical Restraint" means the application or use of any manual method of restraint that restricts freedom of movement, or the application or use of any physical or mechanical device that restricts freedom of movement or normal access to one's body, including material or equipment attached or adjacent to the client's body that he or she cannot easily remove. Holding a client in a therapeutic hold or any other manner that restricts his or her movement constitutes manual restraint for that client. Mechanical devices may restrain a client to a bed or chair, or may be used as ambulatory restraints. Examples of mechanical devices include cuffs, ankle straps, sheets or restraining shirts, arm splints, mittens and helmets. Excluded from this definition of physical restraint are physical guidance, gentle physical prompting techniques, escorting and therapeutic holds used solely for the purpose of escorting a client who is walking, soft ties used solely to prevent a medically ill client from removing intravenous tubes, indwelling catheters, cardiac monitor electrodes or similar medical devices, and prosthetic devices or assistive technology which are designed and used to increase client adaptive skills. Escorting means the temporary touching or holding of the hand, wrist, arm, shoulder or back for the purpose of inducing a client to walk to a safe location.
- ~~(33)~~(37) "Protective devices" means an intervention ~~which that~~ provides support for ~~weak and feeble~~ clients or enhances the safety of clients with specific medical or behavioral needs. behaviorally disordered clients. Such devices may include posey vests, geri-chairs or table top chairs to provide support and safety for clients with physical ~~handicaps;~~ disabilities; devices such as helmets and mittens for self-injurious behaviors; or devices such as soft ties used to prevent medically ill clients from removing intravenous tubes, indwelling catheters, cardiac monitor electrodes or similar medical devices. As provided in Rule .0207 of Subchapter 28D, the use of a protective device for behavioral control shall comply with the requirements specified in Rule .0203 of Subchapter 28D.
- ~~(34)~~(38) "Psychotropic medication" means medication with the primary function of treating mental illness, personality or behavior disorders. It includes, but is not limited to, antipsychotics, antidepressants, antianxiety agents and mood stabilizers.

~~(35)~~(39) "Qualified professional" means, within the mh/dd/sas system of care, an individual who ~~is~~ is either:

- (A) an individual who holds a license, provisional license, or certificate ~~certificate, registration or permit~~ issued by the governing board regulating a human service profession, ~~except~~ including a registered nurse who is licensed to practice in the State of North Carolina by the North Carolina Board of Nursing who also has four years of full-time accumulated experience in mh/dd/sa with the population served; ~~or~~
- (B) a graduate of a college or university with a Masters degree in a human service field and has one year of full-time, pre- or post-graduate degree accumulated supervised mh/dd/sa experience with the population served, or a substance abuse professional who has one-year of full-time, pre- or post-graduate degree accumulated supervised experience in alcoholism and drug abuse counseling; ~~or~~
- (C) a graduate of a college or university with a bachelor's degree in a human service field and has two years of full-time, pre- or post-bachelor's degree accumulated supervised mh/dd/sa experience with the population served, or a substance abuse professional who has two years of full-time, pre- or post-bachelor's degree accumulated supervised experience in alcoholism and drug abuse counseling; or
- (D) a graduate of a college or university with a bachelor's degree in a field other than human services and has four years of full-time, pre- or post-bachelor's degree accumulated mh/dd/sa experience with the population served, or a substance abuse professional who has four years of full-time, pre- or post-bachelor's degree accumulated supervised experience in alcoholism and drug abuse counseling.

~~(36)~~(40) "Regional alcohol and drug abuse treatment center" means a state facility for persons with a substance abuse disorder ~~substance abusers~~ as specified in G.S. 122C-181(a)(3).

~~(37)~~(41) "Regional ~~mental retardation~~ developmental disability center" means a state facility for the ~~mentally retarded~~ developmentally disabled as specified in G.S. 122C-181(a)(2).

~~(38)~~(42) "Regional psychiatric hospital" means a state facility for the mentally ill as specified in G.S. 122C-181(a)(1).

~~(39)~~(43) "Representative payee" means the person, group, or facility designated by a funding source, such as Supplemental Security Income (SSI), to receive and handle funds according to the guidelines of the source on behalf of a client.

~~(40)~~(44) "Research" means inquiry involving a trial or ~~special~~ observation made under conditions determined by the investigator to confirm or disprove an hypothesis or to explicate some principle or effect.

~~(41)~~(45) "Respite client" means a client admitted to a ~~mental retardation~~ developmental disability center or a neuromedical treatment center for a short-term period, ~~normally~~ not to exceed 30 days. The primary purpose of such admission is to provide a temporary interval of rest or relief for the client's regular caretaker.

~~(42)~~(46) "Responsible professional" shall have the meaning as specified in G.S. ~~122C-3~~ 122C-3; ~~except~~ the "responsible professional" shall also be a qualified professional as defined in Subparagraph (b)(35) of this Rule.

~~(43)~~(47) "Seclusion" means isolating a client in a separate locked room for the purpose of ~~controlling~~ managing a client's behavior. "Seclusion" does not include precautions intended to prevent transmission of a communicable disease. In the Forensic Service, Pretrial Evaluation Unit and the Forensic Treatment Program Maximum Security Ward in the ~~Spruill Building at Dorothea Dix~~ Central Regional Hospital, the use of locked rooms is not considered seclusion for clients with criminal charges who are:

- (A) undergoing pretrial evaluations ordered by a criminal court;
- (B) in treatment for restoration of capacity to proceed;
- (C) in treatment to reduce violence risk; or
- (D) considered to be an escape risk.

~~(44)~~(48) "State Facility Director" means the chief administrative officer or manager of a state facility or his designee.

~~(45)~~(49) "Strike" means, but is not limited to, hitting, kicking, slapping or beating whether done with a part of one's body or with an object.

~~(46)~~(50) "Timeout" means the removal of a client from other clients to another space within the same activity area for the purpose of modifying behavior.

~~(47)~~(51) "Treatment" means the act, method, or manner of habilitating or rehabilitating, caring for or managing a client's physical or mental problems.

~~(48)~~(52) "Treatment plan" means a written individual plan of treatment or habilitation for each client to be undertaken by the treatment team and includes any documentation of restriction of client's rights.

~~(49)~~(53) "Treatment team" means an interdisciplinary group of qualified professionals sufficient in number and variety by discipline to ~~adequately~~ assess and address the identified needs of the client.

~~(50)~~(54) "Unit" means an integral component of a state facility ~~distinctly~~ established for the delivery of one or more elements of service to which specific staff and space are assigned, and for which responsibility has been assigned to a director, supervisor, administrator, or manager.

~~(51)~~(55) "Voluntary client" means a person admitted to a state facility under the provisions of Article 5, Parts 2, 3, 4 or 5 of G.S. 122C.

Authority G.S. 122C-3; 122C-4; 122C-51; 122C-53(f); 143B-147; S.L. 2017-32; 2019-240.

TITLE 15A – DEPARTMENT OF ENVIRONMENTAL QUALITY

Notice is hereby given in accordance with G.S. 150B-21.2 that the Coastal Resources Commission intends to amend the rules cited as 15A NCAC 07H .0305, .1102, .1202, .1302, .1402, .1502, .2002, .2102, .2202, .2302, .2402 and .2702.

Link to agency website pursuant to G.S. 150B-19.1(c): <https://www.deq.nc.gov/permits-rules/rules-regulations/deq-proposed-rules/proposed-rules>

Proposed Effective Date: January 1, 2024

Public Hearing:

Date: August 24, 2023

Time: 1:15 p.m.

Location: Aloft Wilmington at Coastline Center, 501 Nutt Street, Wilmington, NC 28401

Reason for Proposed Action:

15A NCAC 07H .0305 - The Coastal Resources Commission is proposing to amend its administrative rules in order to require a minimum of two growing seasons before planted vegetation can be used for oceanfront setback determinations which will increase consistency in making these determinations for property owners and agency staff.

15A NCAC 07H .1102, .1202, .1302, .1402, .1502, .2002, .2102, .2202, .2302, .2402, .2702 - The proposed amendments extend the General Permit expiration date to 180 days for those permits that have an expiration date of less than 180 days and adds a substantial development clause allowing applicants to complete work begun prior to permit expiration. Additionally, the Commission inadvertently shortened the active permit period

from two years to 120 days in 15A NCAC 07H .2302 and have proposed an amendment to correct the error.

Comments may be submitted to: Braxton Davis, 400 Commerce Avenue, Morehead City, NC 28557; email Braxton.Davis@ncdenr.gov

Comment period ends: September 1, 2023

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 (>= \$1,000,000)
- Approved by OSBM
- No fiscal note required

CHAPTER 07 - COASTAL MANAGEMENT

SUBCHAPTER 07H - STATE GUIDELINES FOR AREAS OF ENVIRONMENTAL CONCERN

SECTION .0300 - OCEAN HAZARD AREAS

15A NCAC 07H .0305 DEFINITION AND DESCRIPTION OF LANDFORMS

This Rule describes natural and man-made features that are found within the ocean hazard area of environmental concern.

- (1) Ocean Beaches. Ocean beaches are lands consisting of unconsolidated soil materials that extend from the mean low water line landward to a point where either:
 - (a) the growth of vegetation occurs; or
 - (b) a distinct change in slope or elevation alters the configuration of the landform, whichever is farther landward.
- (2) Nearshore. The nearshore is the portion of the beach seaward of mean low water that is characterized by dynamic changes both in space and time as a result of storms.

- (3) Primary Dunes. Primary dunes are the first mounds of sand located landward of the ocean beaches having an elevation equal to the mean flood level (in a storm having a one percent chance of being equaled or exceeded in any given year) for the area plus six feet. Primary dunes extend landward to the lowest elevation in the depression behind that same mound of sand commonly referred to as the "dune trough".
- (4) Frontal Dunes. The frontal dune is the first mound of sand located landward of ocean beaches that has stable and natural vegetation present.
- (5) Vegetation Line. The vegetation line refers to the first line of stable and natural vegetation, which shall be used as the reference point for measuring oceanfront setbacks. This line represents the boundary between the normal dry-sand beach, which is subject to constant flux due to waves, tides, storms and wind, and the more stable upland areas. The vegetation line is generally located at or immediately oceanward of the seaward toe of the frontal dune or erosion escarpment. The Division of Coastal Management or Local Permit Officer shall determine the location of the stable and natural vegetation line based on visual observations of plant composition and density. If the vegetation has been planted, it may be considered stable when the majority of the plant stems are from continuous rhizomes rather than planted individual rooted sets. Planted vegetation may be considered natural when the majority of the plants are mature and additional species native to the region have been recruited, providing stem and rhizome densities that are similar to adjacent areas that are naturally occurring. In areas where there is no stable and natural vegetation present, this line may be established by interpolation between the nearest adjacent stable natural vegetation by on-ground observations or by aerial photographic interpretation. Planted vegetation must survive a minimum of two years from the date of planting before being assessed by the Division of Coastal Management or Local Permit Officer as stable and natural vegetation.
- (6) Pre-project Vegetation Line. In areas within the boundaries of a large-scale beach fill project, the vegetation line that existed within one year prior to the onset of project construction shall be defined as the "pre-project vegetation line". The "onset of project construction" shall be defined as the date sediment placement begins, with the exception of projects completed prior to the original effective date of this Rule, in which case the award of the contract date will be considered the onset of construction. A pre-

project vegetation line shall be established in coordination with the Division of Coastal Management using on-ground observation and survey or aerial imagery for all areas of oceanfront that undergo a large-scale beach fill project. Once a pre-project vegetation line is established, and after the onset of project construction, this line shall be used as the reference point for measuring oceanfront setbacks in all locations where it is landward of the vegetation line. In all locations where the vegetation line as defined in this Rule is landward of the pre-project vegetation line, the vegetation line shall be used as the reference point for measuring oceanfront setbacks. A pre-project vegetation line shall not be established where a pre-project vegetation line is already in place, including those established by the Division of Coastal Management prior to the effective date of this Rule. A record of all pre-project vegetation lines, including those established by the Division of Coastal Management prior to the effective date of this Rule, shall be maintained by the Division of Coastal Management for determining development standards as set forth in Rule .0306 of this Section. Because the impact of Hurricane Floyd in September 1999 caused significant portions of the vegetation line in the Town of Oak Island and the Town of Ocean Isle Beach to be relocated landward of its pre-storm position, the pre-project line for areas landward of the beach fill construction in the Town of Oak Island and the Town of Ocean Isle Beach, the onset of which occurred in 2000, shall be defined by the general trend of the vegetation line established by the Division of Coastal Management from June 1998 aerial orthophotography.

- (7) Beach Fill. Beach fill refers to the placement of sediment along the oceanfront shoreline. Sediment used solely to establish or strengthen dunes shall not be considered a beach fill project under this Rule. A "large-scale beach fill project" shall be defined as any volume of sediment greater than 300,000 cubic yards or any storm protection project constructed by the U.S. Army Corps of Engineers.
- (8) Erosion Escarpment. The normal vertical drop in the beach profile caused from high tide or storm tide erosion.
- (9) Measurement Line. The line from which the ocean hazard setback as described in Rule .0306(a) of this Section is measured in the unvegetated beach area of environmental concern as described in Rule .0304(3) of this Section. In areas designated pursuant to Rule .0304(3)(b) of this Section, the Division of

Coastal Management shall establish a measurement line by:

- (a) determining the average distance the pre-storm vegetation line receded at the closest vegetated site adjacent to the area designated by the Commission as the unvegetated beach AEC; and
- (b) mapping a line equal to the average recession determination in Part (a) of this Subparagraph, measured in a landward direction from the first line of stable and natural vegetation line on the most recent pre-storm aerial photography in the area designated as an unvegetated beach AEC.

Authority G.S. 113A-107; 113A-113(b)(6); 113A-124.

SECTION .1100 - GENERAL PERMIT FOR CONSTRUCTION OF BULKHEADS AND RIPRAP REVETMENTS FOR SHORELINE PROTECTION IN ESTUARINE AND PUBLIC TRUST WATERS AND OCEAN HAZARD AREAS

15A NCAC 07H .1102 APPROVAL PROCEDURES

(a) An applicant for a General Permit under this Subchapter shall contact the Division of Coastal Management and request approval for development.

(b) The applicant shall provide:

- (1) provide site location, dimensions of the project area, and the applicant's name and address, confirmation that the applicant has obtained a written statement, signed by the adjacent riparian property owners indicating that they have no objections to the proposed work; or
- (2) confirmation that the applicant has notified adjacent riparian property owners by certified mail of the proposed work. The notice shall instruct adjacent property owners to provide written comments on the proposed development to DCM within 10 days of receipt of the notice and indicate that no response shall be interpreted as no objection. DCM shall review all comments and determine, based on their relevance to the potential impacts of the proposed project, if the proposed project can be approved by a General Permit. If DCM determines that the project exceeds the guidelines established by the General Permit process provided in 15A NCAC 07J .1100, DCM shall notify the applicant that an application for a major development permit shall be required.

(c) No work shall begin until an on-site meeting is held with the applicant and a DCM representative so that the proposed alignment may be marked. A General Permit to proceed with the proposed development shall be issued if the DCM representative finds that the application meets all the requirements of this Rule.

Construction of the bulkhead or riprap revetment shall be completed within ~~120~~ 180 days of the issuance of the general permit or the authorization shall expire and it shall be necessary to re-examine the structure alignment to determine if the general permit may be reissued. Where substantial development has occurred as defined in 15A NCAC 07J .0404(b) and is continuing on the permitted project, the permitting authority shall grant a six-month extension to complete the development. If no development has begun, the authorization shall expire.

Authority G.S. 113A-107(a); 113A-107(b); 113A-113(b); 113A-118.1; 113A-124; 113A-118; 113A-120; 113-229.

SECTION .1200 - GENERAL PERMIT FOR CONSTRUCTION OF PIERS AND DOCKING FACILITIES: IN ESTUARINE AND PUBLIC TRUST WATERS AND OCEAN HAZARD AREAS

15A NCAC 07H .1202 APPROVAL PROCEDURES

(a) An applicant for a General Permit under this Subchapter shall contact the Division of Coastal Management and request approval for development.

(b) The applicant shall provide:

- (1) the site location, dimensions of the project area and name, and his or her address; and
- (2) confirmation that a written statement has been obtained signed by the adjacent riparian property owners indicating that they have no objections to the proposed work; or
- (3) confirmation that the adjacent riparian property owners have been notified by certified mail of the proposed work. The notice shall instruct adjacent property owners to provide any comments on the proposed development in writing for consideration by permitting officials to the Division of Coastal Management within 10 days of receipt of the notice and indicate that no response will be interpreted as no objection. Division staff shall review all comments and determine, based on their relevance to the potential impacts of the proposed project, if the proposed project can be approved by a General Permit. If Division staff finds that the comments are worthy of more in-depth review, the Division shall notify the applicant that he or she must submit an application for a major development permit.

(c) No work shall begin until an on-site meeting is held with the applicant and a Division of Coastal Management representative to review the proposed development. A permit to proceed with the proposed development shall be issued if the Division representative finds that the application meets all the requirements of this Subchapter. Construction shall be completed within ~~120~~ 180 days of the issuance of the general permit or the authorization shall expire and it shall be necessary to re-examine the proposed development to determine if the general permit may be reissued. Where substantial development has occurred as defined in 15A NCAC 07J .0404(b) and is continuing on the permitted project, the permitting authority shall grant a six-month extension to

complete the development. If no development has begun, the authorization shall expire.

(d) Any modification or addition to the permitted project shall require prior approval from the Division of Coastal Management.

Authority G.S. 113A-107(a); 113A-107(b); 113A-113(b); 113A-118.1; 113A-124.

SECTION .1300 – GENERAL PERMIT TO CONSTRUCT BOAT RAMPS ALONG ESTUARINE AND PUBLIC TRUST SHORELINES AND INTO ESTUARINE AND PUBLIC TRUST WATERS

15A NCAC 07H .1302 APPROVAL PROCEDURES

(a) An applicant for a General Permit under this Subchapter shall contact the Division of Coastal Management at the Regional Office indicated on the map located at <https://ncdenr.maps.arcgis.com/apps/webappviewer/index.html?id=1a5881ec85ca40679988982e02665b51> and request approval for development as defined in G.S. 113A-130(5).

(b) The applicant shall provide:

- (1) the site location, dimensions of the project area, and his or her name and address; and
- (2) confirmation that a written statement has been obtained, signed by the adjacent riparian property owners, indicating that they have no objections to the proposed work; or
- (3) confirmation that the adjacent riparian property owners have been notified by certified mail of the proposed work. The notice shall instruct adjacent property owners to provide any comments on the proposed development in writing to the Division of Coastal Management within ten days of receipt of the notice and indicate that no response by the adjacent property owners shall be interpreted as the adjacent property owners having no objection. Division staff shall review all comments and determine, based on their relevance to the potential impacts of the proposed project, if the proposed project can be approved by a General Permit. If Division staff finds that the comments are worthy of more in-depth review, the Division shall notify the applicant that he or she must submit an application for a major development permit.

(c) No work shall begin until an on-site meeting is held with the applicant and a Division of Coastal Management representative to review the proposed development. A permit to proceed with the proposed development shall be issued if the Division representative finds that the application meets all the requirements of this Subchapter. Construction permitted under this Section shall be completed within ~~±20~~ 180 days of permit issuance or such permit shall expire. If the applicant seeks a new permit under this Section, the Division of Coastal Management shall re-examine the proposed development to determine if the General Permit may be reissued. Where substantial development has occurred as defined in 15A NCAC 07J .0404(b) and is continuing on the permitted project, the permitting authority shall grant a six-month extension

to complete the development. If no development has begun, the authorization shall expire.

Authority G.S. 113A-107(a); 113A-107(b); 113A-113(b); 113A-118.1; 113A-124.

SECTION .1400 - GENERAL PERMIT FOR CONSTRUCTION OF GROINS IN ESTUARINE AND PUBLIC TRUST WATERS AND OCEAN HAZARD AREAS

15A NCAC 07H .1402 APPROVAL PROCEDURES

(a) An applicant for a General Permit under this Subchapter shall contact the Division of Coastal Management at the Regional Office indicated on the map located at <https://ncdenr.maps.arcgis.com/apps/webappviewer/index.html?id=1a5881ec85ca40679988982e02665b51> and request approval for development as defined in G.S. 113A-130(5).

(b) The applicant shall provide:

- (1) the site location, dimensions of the project area, and his or her name and address; and
- (2) confirmation that a written statement has been obtained, signed by the adjacent riparian property owners, indicating that they have no objections to the proposed work; or
- (3) confirmation that the adjacent riparian property owners have been notified by certified mail of the proposed work. The notice shall instruct adjacent property owners to provide any comments on the proposed development in writing to the Division of Coastal Management within 10 days of receipt of the notice and shall indicate that no response by the adjacent property owners shall be interpreted as the adjacent property owners having no objection. Division staff of Coastal Management shall review all comments and determine, based on their relevance to the potential impacts of the proposed project, if the proposed project can be approved by a General Permit. If Division staff finds that the comments are worthy of more in-depth review, the Division shall notify the applicant that he or she must submit an application for a major development permit.

(c) No work shall begin until an on-site meeting is held with the applicant and a Division of Coastal Management representative to review the proposed development. A permit to proceed with the proposed development shall be issued if the Division representative finds that the application meets all the requirements of this Subchapter. Construction permitted under this Section shall be completed within ~~±20~~ 180 days of permit issuance or such permit shall expire. If the applicant seeks a new permit under this Section, the Division of Coastal Management shall re-examine the proposed development to determine if the General Permit may be reissued. Where substantial development has occurred as defined in 15A NCAC 07J .0404(b) and is continuing on the permitted project, the permitting authority shall grant a six-month extension to complete the development. If no development has begun, the authorization shall expire.

(d) Any modification or addition to the authorized project shall require approval from the Division of Coastal Management in accordance with 15A NCAC 07J .0405.

Authority G.S. 113A-107(a); 113A-107(b); 113A-113(b); 113A-118.1; 113A-124.

SECTION .1500 - GENERAL PERMIT FOR EXCAVATION WITHIN OR CONNECTING TO EXISTING CANALS, CHANNELS, BASINS, OR DITCHES IN ESTUARINE WATERS, PUBLIC TRUST WATERS, AND COASTAL SHORELINE AECS

15A NCAC 07H .1502 APPROVAL PROCEDURES

(a) An applicant for a General Permit under this Subchapter shall contact the Division of Coastal Management at the Regional Office indicated on the map located at <https://ncdenr.maps.arcgis.com/apps/webappviewer/index.html?id=1a5881ec85ca40679988982e02665b51> and request approval for development as defined in G.S. 113A-130(5).

(b) The applicant shall provide:

- (1) the site location, dimensions of the project area, and his or her name and address; and
- (2) confirmation that a written statement has been obtained, signed by the adjacent riparian property owners, indicating that they have no objections to the proposed work; or
- (3) confirmation that the adjacent riparian property owners have been notified by certified mail of the proposed work. The notice shall instruct adjacent property owners to provide any comments on the proposed development in writing to the Division of Coastal Management within ten days of receipt of the notice and indicate that no response by the adjacent property owners will be interpreted as the adjacent property owners having no objection. Division staff shall review all comments and determine, based on their relevance to the potential impacts of the proposed project, if the proposed project can be approved by a General Permit. If Division staff finds that the comments are worthy of more in-depth review, the Division shall notify the applicant that he or she must submit an application for a major development permit.

(c) No work shall begin until an onsite meeting is held with the applicant and a Division of Coastal Management representative to review the proposed development. A Permit to proceed with the proposed development shall be issued if the Division representative finds that the application meets all the requirements of this Subchapter. Construction permitted under this Section shall be completed within ~~±20~~ 180 days of the date of permit issuance or such permit shall expire. If the applicant seeks a new permit under this Section, the Division of Coastal Management shall re-examine the proposed development to determine if the General Permit may be reissued. Where substantial development has occurred as defined in 15A NCAC 07J .0404(b) and is continuing on the permitted project, the permitting authority shall

grant a six-month extension to complete the development. If no development has begun, the authorization shall expire.

Authority G.S. 113A-107(a),(b); 113A-113(b); 113A-118.1; 113-229(c1).

SECTION .2000 - GENERAL PERMIT FOR AUTHORIZING MINOR MODIFICATIONS AND REPAIR TO EXISTING PIER/MOORING FACILITIES IN ESTUARINE AND PUBLIC TRUST WATERS AND OCEAN HAZARD AREAS

15A NCAC 07H .2002 APPROVAL PROCEDURES

(a) An applicant for a General Permit under this Subchapter shall contact the Division of Coastal Management at the Regional Office indicated on the map located at <https://ncdenr.maps.arcgis.com/apps/webappviewer/index.html?id=1a5881ec85ca40679988982e02665b51> and request approval for development as defined in G.S. 113A-130(5).

(b) The applicant shall provide:

- (1) information on site location, dimensions of the project area, and his or her name and address; and
- (2) confirmation that a written statement has been obtained, signed by the adjacent riparian property owners, indicating that they have no objections to the proposed work; or
- (3) confirmation that the adjacent riparian property owners have been notified by certified mail of the proposed work. The notice shall instruct adjacent property owners to provide any comments on the proposed development in writing for consideration by permitting officials to the Division of Coastal Management within 10 days of receipt of the notice and indicate that no response by the adjacent property owners will be interpreted as the adjacent property owners having no objection. Division staff shall review all comments and determine, based on their relevance to the potential impacts of the proposed project, if the proposed project can be approved by a General Permit. If Division staff finds that the comments are worthy of more in-depth review, the Division shall notify the applicant that he or she must submit an application for a major development permit.

(c) No work shall begin until an on-site meeting is held with the applicant and a Division of Coastal Management representative to review the proposed development. A permit to proceed with the proposed development shall be issued if the Division representative finds that the application meets all the requirements of this Subchapter. Construction permitted under this Section shall be completed within ~~±20~~ 180 days of permit issuance or such permit shall expire. If the applicant seeks a new permit under this Section, the Division of Coastal Management shall re-examine the proposed development to determine if the General Permit may be reissued. Where substantial development has occurred as defined in 15A NCAC 07J .0404(b) and is continuing on the permitted project, the permitting authority shall grant a six-month extension

to complete the development. If no development has begun, the authorization shall expire.

(d) Any modification or addition to the permitted project shall require approval from the Division of Coastal Management.

Authority G.S. 113A-107; 113A-118.1.

SECTION .2100 - GENERAL PERMIT FOR CONSTRUCTION OF SHEETPILE SILL FOR SHORELINE PROTECTION IN ESTUARINE AND PUBLIC TRUST WATERS AND OCEAN HAZARD AREAS

15A NCAC 07H .2102 APPROVAL PROCEDURES

(a) An applicant for a General Permit under this Subchapter shall contact the Division of Coastal Management at the Regional Office indicated on the map located at <https://ncdenr.maps.arcgis.com/apps/webappviewer/index.html?id=1a5881ec85ca40679988982e02665b51> and request approval for development as defined in G.S. 113A-130(5).

(b) The applicant shall provide:

- (1) information on site location, dimensions of the project area, and his or her name and address; and
- (2) confirmation that a written statement has been obtained, signed by the adjacent riparian property owners, indicating that they have no objections to the proposed work; or
- (3) confirmation that the adjacent riparian property owners have been notified by certified mail of the proposed work. The notice shall instruct adjacent property owners to provide any comments on the proposed development in writing to the Division of Coastal Management within 10 days of receipt of the notice and indicate that no response by the adjacent property owners shall be interpreted as the adjacent property owners having no objection. Division staff shall review all comments and determine, based on their relevance to the potential impacts of the proposed project, if the proposed project can be approved by a General Permit. If Division staff finds that the comments are worthy of more in-depth review, the Division shall notify the applicant that he or she must submit an application for a major development permit.

(c) No work shall begin until an on-site meeting is held with the applicant and a Division of Coastal Management representative to review the proposed development. A permit to proceed with the proposed development shall be issued if the Division representative finds that the application meets all the requirements of this Subchapter. Construction permitted under this Section shall be completed within ~~120~~ 180 days of the permit issuance or such permit shall expire. If the applicant seeks a new permit under this Section, the Division of Coastal Management shall re-examine the proposed development to determine if the General Permit may be reissued.

(d) Any modification or addition to the permitted project shall require approval from the Division of Coastal Management. Where substantial development has occurred as defined in 15A NCAC 07J .0404(b) and is continuing on the permitted project, the permitting authority shall grant a six-month extension to complete the development. If no development has begun, the authorization shall expire.

Authority G.S. 113A-107; 113A-118.1; 113A-118.1(a)(4).

SECTION .2200 – GENERAL PERMIT FOR CONSTRUCTION OF FREESTANDING MOORINGS AND BIRD NESTING POLES IN ESTUARINE WATERS AND PUBLIC TRUST AREAS AND OCEAN HAZARD AREAS

15A NCAC 07H .2202 APPROVAL PROCEDURES

(a) An applicant for a General Permit under this Subchapter shall contact the Division of Coastal Management at the Regional Office indicated on the map located at <https://ncdenr.maps.arcgis.com/apps/webappviewer/index.html?id=1a5881ec85ca40679988982e02665b51> and request approval for development as defined in G.S. 113A-130(5).

(b) The applicant shall provide:

- (1) information on site location, dimensions of the project area, and his or her name and address; and
- (2) confirmation that a written statement has been obtained, signed by the adjacent riparian property owners indicating that they have no objections to the proposed work; or
- (3) confirmation that the adjacent riparian property owners have been notified by certified mail of the proposed work. The notice shall instruct adjacent property owners to provide any comments on the proposed development in writing to the Division of Coastal Management within 10 days of receipt of the notice and indicate that no response by the adjacent property owners shall be interpreted as the adjacent property owners having no objection. Division staff shall review all comments and determine, based on their relevance to the potential impacts of the proposed project, if the proposed project can be approved by a General Permit. If Division staff finds that the comments are worthy of more in-depth review, the Division shall notify the applicant that he or she must submit an application for a major development permit.

(c) No work shall begin until an on-site meeting is held with the applicant and a Division of Coastal Management representative to review the proposed development. A permit to proceed with the proposed development shall be issued if the Division representative finds that the application meets all the requirements of this Subchapter. Construction permitted under this Section shall be completed within ~~120~~ 180 days of the permit issuance or such permit shall expire. If the applicant seeks a new permit under this Section, the Division of Coastal Management shall re-

examine the proposed development to determine if the General Permit may be reissued.

(d) Any modification or addition to the permitted project shall require prior approval from the Division of Coastal Management. Where substantial development has occurred as defined in 15A NCAC 07J .0404(b) and is continuing on the permitted project, the permitting authority shall grant a six-month extension to complete the development. If no development has begun, the authorization shall expire.

Authority G.S. 113A-107; 113A-118.1.

SECTION .2300 - GENERAL PERMIT FOR REPLACEMENT OF EXISTING BRIDGES AND CULVERTS IN ESTUARINE WATERS, ESTUARINE AND PUBLIC TRUST SHORELINES, PUBLIC TRUST AREAS, AND COASTAL WETLANDS

15A NCAC 07H .2302 APPROVAL PROCEDURES

(a) An applicant for a General Permit under this Subchapter shall contact the Division of Coastal Management at the Regional Office indicated on the map located at <https://ncdenr.maps.arcgis.com/apps/webappviewer/index.html?id=1a5881ec85ca40679988982e02665b51> and request approval for development as defined in G.S. 113A-130(5).

(b) The applicant shall provide:

- (1) the site location, dimensions of the project area, and his or her name and address; and
- (2) confirmation that a written statement has been obtained, signed by the adjacent riparian property owners, indicating that they have no objections to the proposed work; or
- (3) confirmation that the adjacent riparian property owners have been notified by certified mail of the proposed work. The notice shall instruct adjacent property owners to provide any comments on the proposed development in writing to the Division of Coastal Management within 10 days of receipt of the notice and indicate that no response by the adjacent property owners will be interpreted as the adjacent property owners having no objection. Division staff shall review all comments and determine, based on their relevance to the potential impacts of the proposed project, if the proposed project can be approved by a General Permit. If Division staff finds that the comments are worthy of more in-depth review, the Division shall notify the applicant that he or she must submit an application for a major development permit.

(c) No work shall begin until an onsite meeting is held with the applicant and a Division of Coastal Management representative to review the proposed development. A permit to proceed with the proposed development shall be issued if the Division representative finds that the application meets all the requirements of this Subchapter. Construction permitted under this Section shall be completed within ~~120 days~~ two years of permit issuance or such permit shall expire. If the applicant seeks a new permit

under this Section, the Division of Coastal Management shall re-examine the proposed development to determine if the General Permit may be reissued. Pursuant to G.S. 136-44.7B, permits issued to the North Carolina Department of Transportation for projects identified in the Transportation Improvement Program shall not expire.

(d) Any modification or addition to the permitted project shall require approval from the Division of Coastal Management.

Authority G.S. 113A-107; 113A-118.1; 113A-124.

SECTION .2400 - GENERAL PERMIT FOR PLACEMENT OF RIPRAP REVETMENTS FOR WETLAND PROTECTION IN ESTUARINE AND PUBLIC TRUST WATERS

15A NCAC 07H .2402 APPROVAL PROCEDURES

(a) An applicant for a General Permit under this Subchapter shall contact the Division of Coastal Management at the Regional Office indicated on the map located at <https://ncdenr.maps.arcgis.com/apps/webappviewer/index.html?id=1a5881ec85ca40679988982e02665b51> and request approval for development as defined in G.S. 113A-130(5).

(b) The applicant shall provide:

- (1) the site location, dimensions of the project area, and his or her name and address; and
- (2) confirmation that a written statement has been obtained, signed by the adjacent riparian property owners, indicating that they have no objections to the proposed work; or
- (3) confirmation that the adjacent riparian property owners have been notified by certified mail of the proposed work. The notice shall instruct adjacent property owners to provide any comments on the proposed development in writing to the Division of Coastal Management within 10 days of receipt of the notice and indicate that no response by the adjacent property owners shall be interpreted as the adjacent property owners having no objection. Division staff shall review all comments and determine, based on their relevance to the potential impacts of the proposed project, if the proposed project can be approved by a General Permit. If Division staff finds that the comments are worthy of more in-depth review, the Division shall notify the applicant that he or she must submit an application for a major development permit.

(c) No work shall begin until an on-site meeting is held with the applicant and a Division of Coastal Management representative to review the proposed development. A permit to proceed with the proposed development shall be issued if the Division representative finds that the application meets all the requirements of this Subchapter. Construction shall be completed within ~~120~~ 180 days of permit issuance or such permit shall expire. If the applicant seeks a new permit under this Section, the Division of Coastal Management shall re-examine the proposed development to determine if the General Permit may be reissued. Where

substantial development has occurred as defined in 15A NCAC 07J .0404(b) and is continuing on the permitted project, the permitting authority shall grant a six-month extension to complete the development. If no development has begun, the authorization shall expire.

(d) Any modification or addition to the permitted project shall require approval from the Division of Coastal Management.

Authority G.S. 113A-107; 113A-118.1.

SECTION .2700 – GENERAL PERMIT FOR THE CONSTRUCTION OF MARSH SILLS

15A NCAC 07H .2702 APPROVAL PROCEDURES

(a) An applicant for a General Permit under this Subchapter shall contact the Division of Coastal Management at the Regional Office indicated on the map located at <https://ncdenr.maps.arcgis.com/apps/webappviewer/index.html?id=1a5881ec85ca40679988982e02665b51> and request approval for development as defined in G.S. 113A-130(5).

(b) The applicant shall provide:

- (1) the site location, dimensions of the project area, and his or her name and address; and
- (2) confirmation that a written statement has been obtained, signed by the adjacent riparian property owners, indicating that they have no objections to the proposed work; or
- (3) confirmation that the adjacent riparian property owners have been notified by certified mail of the proposed work. The notice shall instruct adjacent property owners to provide any comments on the proposed development in writing for consideration to the Division of Coastal Management within 10 days of receipt of the notice and indicate that no response by the adjacent property owners will be interpreted as the adjacent property owners having no objection. Division staff shall review all comments and determine, based on their relevance to the potential impacts of the proposed project, if the proposed project can be approved by a General Permit. If Division staff finds that the comments are worthy of more in-depth review, the Division shall notify the applicant that he or she must submit an application for a major development permit.

(c) No work shall begin until an on-site meeting is held with the applicant and a Division of Coastal Management representative to review the proposed development. A permit to proceed with the proposed development shall be issued if the Division representative finds that the application meets all the requirements of this Subchapter. Construction permitted under this Section shall be completed within ~~120~~ 180 days of permit issuance or such permit shall expire. If the applicant seeks a new permit under this Section, the Division of Coastal Management shall re-examine the proposed development to determine if the General Permit may be reissued. Where substantial development has occurred as defined in 15A NCAC 07J .0404(b) and is continuing on the permitted project, the permitting authority shall grant a six-month extension

to complete the development. If no development has begun, the authorization shall expire.

(d) Any modification or addition to the permitted project shall require approval from the Division of Coastal Management.

Authority G.S. 113A-107; 113A-118.1.

TITLE 21 - OCCUPATIONAL LICENSING BOARDS AND COMMISSIONS

CHAPTER 36 – BOARD OF NURSING

Notice is hereby given in accordance with G.S. 150B-21.2 that the Board of Nursing intends to amend the rule cited as 21 NCAC 36 .0228.

Link to agency website pursuant to G.S. 150B-19.1(c): www.ncbon.com

Proposed Effective Date: *November 1, 2023*

Public Hearing:

Date: *August 8, 2023*

Time: *1:00 p.m.*

Location: *4516 Lake Boone Trail, Raleigh, NC 27607*

Reason for Proposed Action: *On April 1, 2023, 21 NCAC 36 .0228 Clinical Nurse Specialist Practice was published in the Administrative Code. The amended Rule eliminated the portfolio route for new CNS recognition and aligns with the requirements for Certified Registered Nurse Anesthetist, Certified Nurse Midwives and Nurse Practitioners. Following publication to the Administrative Code, staff discovered a typographical error in (g)(3)(C). While this does not change the intent of the Rule, the date requires correction. After consultation with the Codifier of Rules, the Board was advised to proceed through the rulemaking process to correct the error.*

Comments may be submitted to: *Angela Ellis, PO Box 2129, Raleigh, NC 27602-2129; email lawsrules@ncbon.com*

Comment period ends: *September 1, 2023*

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

SECTION .0200 – LICENSURE

21 NCAC 36 .0228 CLINICAL NURSE SPECIALIST PRACTICE

(a) Only a registered nurse who meets the qualifications outlined in Paragraph (b) of this Rule shall be approved by the Board as a clinical nurse specialist to perform advanced practice registered nursing activities listed in Paragraph (f) of this Rule.

(b) The Board shall approve an applicant who:

- (1) has an active, unencumbered license to practice as a registered nurse in North Carolina or a state that has adopted the Nurse Licensure Compact;
- (2) has an unrestricted previous approval, registration, or license as a clinical nurse specialist if previously approved, registered, or licensed as a clinical nurse specialist in another state, territory, or possession of the United States;
- (3) has successfully completed a master's or higher-level degree program that is accredited by a nursing accrediting body approved by the United States Secretary of Education or the Council for Higher Education Accreditation and meets the qualifications for clinical nurse specialist certification by an approved national credentialing body under Subparagraph (b)(4) of this Rule; and
- (4) has current certification as a clinical nurse specialist from a national credentialing body approved by the Board, as defined in Paragraph (h) of this Rule and 21 NCAC 36 .0120(33).

(c) An applicant certified as a clinical nurse specialist by a national credentialing body prior to January 1, 2007 who has maintained that certification and active clinical nurse specialist practice and holds a master's or higher degree in nursing or a related field shall be approved by the Board as a clinical nurse specialist.

(d) New graduates seeking first-time clinical nurse specialist approval in North Carolina shall hold a master's or higher-level degree or a post-graduate certificate from a clinical nurse specialist program accredited by a nursing accrediting body approved by the United States Secretary of Education or the Council for Higher Education Accreditation and shall meet all requirements in Subparagraph (b)(1) and Part (g)(3)(A) of this Rule.

(e) A certified clinical nurse specialist seeking Board approval who has never practiced as a clinical nurse specialist or has not practiced in more than two years shall complete a clinical nurse

specialist refresher course approved by the Board in accordance with 21 NCAC 36 .0220(o) and (p), consisting of common conditions and their management related to the clinical nurse specialist's area of education and certification. A clinical nurse specialist refresher course participant shall be granted limited clinical nurse specialist recognition that is specific to clinical activities taught in the refresher course.

(f) The scope of practice of a clinical nurse specialist shall incorporate the basic components of nursing practice as defined in Rule .0224 of this Section as well as the understanding and application of nursing principles at an advanced practice registered nurse level in the area of clinical nursing specialization in which the clinical nurse specialist is educationally prepared and for which competency is maintained, including:

- (1) assessing clients' health status, synthesizing and analyzing multiple sources of data, and identifying alternative possibilities as to the nature of a healthcare problem;
- (2) diagnosing and managing clients' acute and chronic health problems within the essential core competencies for professional nursing education;
- (3) assessing for and monitoring the usage and effect of pharmacologic agents within the essential core competencies for professional nursing education;
- (4) formulating strategies to promote wellness and prevent illness;
- (5) prescribing and implementing therapeutic and corrective non-pharmacologic nursing interventions;
- (6) planning for situations beyond the clinical nurse specialist's expertise and consulting with or referring clients to other health care providers as appropriate;
- (7) promoting and practicing in collegial and collaborative relationships with clients, families, other health care professionals, and individuals whose decisions influence the health of individual clients, families, and communities;
- (8) initiating, establishing, and using measures to evaluate health care outcomes and modify nursing practice decisions;
- (9) assuming leadership for the application of research findings for the improvement of health care outcomes; and
- (10) integrating education, consultation, management, leadership, and research into the clinical nurse specialist role.

(g) A registered nurse seeking approval by the Board as a clinical nurse specialist shall:

- (1) submit a completed application that includes the following:
 - (A) evidence of a master's or higher-level degree or a post-graduate certificate, as set out in Subparagraph (b)(3) or Paragraph (d) of this Rule; and

- (B) evidence of current certification in a clinical nursing specialty from a national credentialing body, set out in Subparagraph (b)(4) of this Rule.
 - (2) renew the approval every two years at the time of registered nurse renewal; and
 - (3) submit evidence of the following:
 - (A) initial certification and re-certification by a national credentialing body at the time such occurs in order to maintain Board recognition, consistent with Paragraphs (b) and (h) of this Rule; or
 - (B) if recognized by the Board as a clinical nurse specialist without national certification prior to April 1, 2023, at least 1,000 hours of practice and 75 contact hours of continuing education with 25 contact hours of pharmacotherapeutics as a portion of the mandatory 75 contact hours every five years; or
 - (C) if recognized by the Board as a clinical nurse specialist without national certification prior to April 1, 2021, 2023, 150 contact hours of continuing education with 50 contact hours of pharmacotherapeutics as a portion of the 150 contact hours every five years.
- Part (B) and (C) of this Subparagraph does not apply to first time CNS' renewing their application for the first time.
- (4) maintain documentation of clinical practice hours and continuing education for the previous five years and made available upon request of the Board.

(h) The Board shall approve those national credentialing bodies offering certification and recertification in a clinical nursing specialty that have established the following minimum requirements for applicants:

- (1) active unencumbered licensure as a registered nurse; and
- (2) certification as a clinical nurse specialist that is limited to applicant prepared with a master's or higher-level degree or a post-graduate certificate.

Authority G.S. 90-171.20(4); 90-171.20(7); 90-171.21(d)(4); 90-171.23(b); 90-171.42(b).

CHAPTER 52 – BOARD OF PODIATRY EXAMINERS

Notice is hereby given in accordance with G.S. 150B-21.2 that the Board of Podiatry Examiners intends to amend the rule cited as 21 NCAC 52 .0613.

Link to agency website pursuant to G.S. 150B-19.1(e): <https://ncbpe.org>

Proposed Effective Date: January 1, 2024

Public Hearing:

Date: July 18, 2023

Time: 6:30 p.m.

Location: Join Zoom Meeting:
<https://us02web.zoom.us/j/85452760113> Meeting ID: 854 5276 0113

Reason for Proposed Action: The proposed amendment increases the application fee and examination fee by \$50 each. The reason for the increase is a response to the inflation in the general economy as experienced by the Board in the form of rising costs, including costs associated with processing applications and conducting examinations.

Comments may be submitted to: Tracy Steadman, 3739 National Drive, Suite 102, Raleigh, NC 27612; phone (919) 861-5583; fax (919) 787-4916; email info@ncbpe.org

Comment period ends: September 1, 2023

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 (>= \$1,000,000)
- Approved by OSBM
- No fiscal note required

SECTION .0600 – GENERAL PROVISIONS

21 NCAC 52 .0613 FEE SCHEDULE

The following fees shall apply:

- (1) Application for examination (non-refundable) ~~\$300.00~~ \$350.00
- (2) Examination (non-refundable) ~~\$50.00~~ \$100.00
- (3) Re-Examination (application + exam fee, non-refundable) \$350.00
- (4) License certificate \$100.00
- (5) Annual License Renewal \$200.00

PROPOSED RULES

- (6) License Renewal Late Fee (per month, up to 6 months) \$25.00
- (7) Data Processing Fee for Pharmaceutical Verification as set forth in Rule .0210 of this Chapter \$300.00
- (8) Returned check the fee as set forth in Rule .0612 of this Section. As of the effective date of this Rule that fee is \$12.00

- (9) Incorporation for PA/PC/PLLC \$50.00
- (10) Annual Corporate Renewal \$25.00
- (11) Corporate Renewal Late Fee \$10.00

Authority G.S. 90-202.5(a); 90-202.6(c); 90-202.9; 90-202.10; 55B-10; 55B-11; 55B-12; 150B-19(5)(e).

APPROVED RULES

*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 18, 2023 Meeting.

**REGISTER CITATION TO THE
NOTICE OF TEXT**

INSURANCE, DEPARTMENT OF

| | | |
|---------------------------|--------------------|-----------|
| <u>Incident Reporting</u> | 11 NCAC 05A .0910* | 37:16 NCR |
| <u>Records</u> | 11 NCAC 05A .0911 | 37:16 NCR |

ENVIRONMENTAL MANAGEMENT COMMISSION

| | | |
|---------------------------------------------------------|---------------------|-----------|
| <u>Sulfur Dioxide Emissions from Combustion Sources</u> | 15A NCAC 02D .0516* | 37:11 NCR |
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WILDLIFE RESOURCES COMMISSION

| | | |
|---------------------------------------------------------------------|---------------------|-----------|
| <u>Public Mountain Trout Waters</u> | 15A NCAC 10C .0205* | 37:11 NCR |
| <u>Trotlines, Jug Hooks and Set Hooks</u> | 15A NCAC 10C .0206* | 37:11 NCR |
| <u>Manner of Taking Inland Game Fishes</u> | 15A NCAC 10C .0302* | 37:11 NCR |
| <u>Crappie</u> | 15A NCAC 10C .0306* | 37:11 NCR |
| <u>Striped Bass</u> | 15A NCAC 10C .0314* | 37:11 NCR |
| <u>Manner of Taking Nongame Fishes</u> | 15A NCAC 10C .0401* | 37:11 NCR |
| <u>General Regulations Regarding Use</u> | 15A NCAC 10D .0102* | 37:11 NCR |
| <u>General Regulations Regarding Hunting on Game Lands</u> | 15A NCAC 10D .0103* | 37:11 NCR |
| <u>Fishing on Game Lands</u> | 15A NCAC 10D .0104* | 37:11 NCR |
| <u>Possession and Removal of Animals, Plants and Materials</u> | 15A NCAC 10D .0105* | 37:11 NCR |
| <u>Butner-Falls of Neuse Game Land in Durham, Granville, and...</u> | 15A NCAC 10D .0211* | 37:11 NCR |
| <u>R. Wayne Bailey-Caswell Game Land in Caswell County</u> | 15A NCAC 10D .0215* | 37:11 NCR |
| <u>Gull Rock Game Land in Hyde County</u> | 15A NCAC 10D .0232 | 37:14 NCR |
| <u>Johns River Game Land in Burke County</u> | 15A NCAC 10D .0239* | 37:11 NCR |
| <u>Jordan Game Land in Chatham, Durham, Orange, and Wake ...</u> | 15A NCAC 10D .0240* | 37:11 NCR |
| <u>Pee Dee River Game Land in Anson, Montgomery, Richmond, a...</u> | 15A NCAC 10D .0258* | 37:11 NCR |
| <u>Rocky Run Game Land in Onslow County</u> | 15A NCAC 10D .0269 | 37:11 NCR |
| <u>Sandhills Game Land in Hoke, Moore, Richmond, and Scotlan...</u> | 15A NCAC 10D .0271* | 37:11 NCR |
| <u>Clay County</u> | 15A NCAC 10F .0308* | 37:14 NCR |
| <u>Forsyth, Rockingham and Stokes Counties</u> | 15A NCAC 10F .0316* | 37:14 NCR |
| <u>Mecklenburg and Gaston Counties</u> | 15A NCAC 10F .0333* | 37:14 NCR |
| <u>Perquimans County</u> | 15A NCAC 10F .0355 | 37:14 NCR |
| <u>City of Roxboro</u> | 15A NCAC 10F .0379 | 37:14 NCR |

MARINE FISHERIES COMMISSION

| | | |
|-------------------------------------------------------------|---------------------|-----------|
| <u>Marinas, Docking Facilities, and Other Mooring Areas</u> | 15A NCAC 18A .0911* | 37:07 NCR |
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PUBLIC HEALTH, COMMISSION FOR

| | | |
|------------------------------------------------------|---------------------|-----------|
| <u>Definitions</u> | 15A NCAC 18A .2801* | 37:11 NCR |
| <u>Approval of Construction and Renovation Plans</u> | 15A NCAC 18A .2802* | 37:11 NCR |
| <u>Handwashing</u> | 15A NCAC 18A .2803* | 37:11 NCR |
| <u>Food Supplies</u> | 15A NCAC 18A .2804* | 37:11 NCR |

APPROVED RULES

| | | |
|---------------------------------------------------------------------------|---------------------|-----------|
| <u>Food Storage and Protection</u> | 15A NCAC 18A .2806* | 37:11 NCR |
| <u>Food Preparation</u> | 15A NCAC 18A .2807* | 37:11 NCR |
| <u>Food Service</u> | 15A NCAC 18A .2808* | 37:11 NCR |
| <u>Food Service Equipment and Utensils</u> | 15A NCAC 18A .2809* | 37:11 NCR |
| <u>Specifications for Kitchens, Food Preparation Areas and F...</u> | 15A NCAC 18A .2810* | 37:11 NCR |
| <u>Cleaning, Sanitizing, and Disinfecting Equipment, Utensils, and...</u> | 15A NCAC 18A .2812* | 37:11 NCR |
| <u>Food Service Equipment and Utensil Storage</u> | 15A NCAC 18A .2814* | 37:11 NCR |
| <u>Water Supply</u> | 15A NCAC 18A .2815* | 37:11 NCR |
| <u>Lead Poisoning Hazards in Child Care Centers</u> | 15A NCAC 18A .2816* | 37:11 NCR |
| <u>Toilets</u> | 15A NCAC 18A .2817 | 37:11 NCR |
| <u>Lavatories</u> | 15A NCAC 18A .2818* | 37:11 NCR |
| <u>Diapering and Diaper Changing Facilities</u> | 15A NCAC 18A .2819* | 37:11 NCR |
| <u>Storage</u> | 15A NCAC 18A .2820* | 37:11 NCR |
| <u>Beds, Cots, Mats, and Linens</u> | 15A NCAC 18A .2821* | 37:11 NCR |
| <u>Toys, Equipment and Furniture</u> | 15A NCAC 18A .2822 | 37:11 NCR |
| <u>Personnel</u> | 15A NCAC 18A .2823 | 37:11 NCR |
| <u>Floors</u> | 15A NCAC 18A .2824* | 37:11 NCR |
| <u>Walls and Ceilings</u> | 15A NCAC 18A .2825* | 37:11 NCR |
| <u>Lighting and Thermal Environment</u> | 15A NCAC 18A .2826 | 37:11 NCR |
| <u>Communicable Diseases and Conditions</u> | 15A NCAC 18A .2827* | 37:11 NCR |
| <u>Wastewater</u> | 15A NCAC 18A .2829 | 37:11 NCR |
| <u>Solid Wastes</u> | 15A NCAC 18A .2830 | 37:11 NCR |
| <u>Animal and Vermin Control</u> | 15A NCAC 18A .2831* | 37:11 NCR |
| <u>Outdoor Learning Environment and Premises</u> | 15A NCAC 18A .2832* | 37:11 NCR |
| <u>Swimming and Wading Pools</u> | 15A NCAC 18A .2833* | 37:11 NCR |
| <u>Compliance, Inspections and Reports</u> | 15A NCAC 18A .2834* | 37:11 NCR |
| <u>Appeals Procedure</u> | 15A NCAC 18A .2835 | 37:11 NCR |
| <u>Mildly Sick Children</u> | 15A NCAC 18A .2836 | 37:11 NCR |

ELECTRICAL CONTRACTORS, BOARD OF EXAMINERS OF

| | | |
|----------------------------|--------------------|-----------|
| <u>Fees</u> | 21 NCAC 18B .0209* | 37:16 NCR |
| <u>Annual License Fees</u> | 21 NCAC 18B .0404 | 37:16 NCR |

MEDICAL BOARD

| | | |
|----------------------------------------|--------------------|-----------|
| <u>COVID-19 Drug Preservation Rule</u> | 21 NCAC 32B .1708 | 37:10 NCR |
| <u>Continuing Education (CE)</u> | 21 NCAC 32M .0107* | 37:12 NCR |
| <u>COVID-19 Drug Preservation Rule</u> | 21 NCAC 32M .0119 | 37:10 NCR |

NURSING, BOARD OF

| | | |
|----------------------------------|-------------------|-----------|
| <u>Continuing Education (CE)</u> | 21 NCAC 36 .0807* | 37:12 NCR |
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REAL ESTATE COMMISSION

| | | |
|----------------------------------------------------------------|--------------------|-----------|
| <u>Reporting Criminal Convictions and Disciplinary Actions</u> | 21 NCAC 58A .0113* | 37:16 NCR |
| <u>License Application</u> | 21 NCAC 58A .0301* | 37:16 NCR |
| <u>Reinstatement of a License</u> | 21 NCAC 58A .0505* | 37:16 NCR |
| <u>Attendance and Participation Requirements</u> | 21 NCAC 58A .1705 | 37:16 NCR |
| <u>Equivalent Credit</u> | 21 NCAC 58A .1708* | 37:16 NCR |
| <u>Continuing Education Required of Nonresident Brokers</u> | 21 NCAC 58A .1711 | 37:16 NCR |

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|--------------------------------------------------------------|--------------------|-----------|
| <u>Public Offering Statement Summary</u> | 21 NCAC 58B .0202 | 37:16 NCR |
| <u>Application for Education Provider Certification</u> | 21 NCAC 58H .0202* | 37:16 NCR |
| <u>Limited Education Provider Petition for Consideration</u> | 21 NCAC 58H .0216* | 37:16 NCR |
| <u>Application and Criteria for Instructor Approval</u> | 21 NCAC 58H .0302 | 37:16 NCR |
| <u>Limited Instructor Petition for Reconsideration</u> | 21 NCAC 58H .0307* | 37:16 NCR |

TITLE 11 - DEPARTMENT OF INSURANCE

11 NCAC 05A .0910 INCIDENT REPORTING

(a) In addition to the requirements of this Rule regarding the storage and deployment of Aqueous Film Forming Foam (AFFF), when a fire department responds to a fire, the fire chief shall ensure that a fire incident report is completed using software that complies with the current version of the National Fire Incident Reporting System (NFIRS).

(b) A fire department shall keep records on dates, times, and locations of all fires using software that complies with the current version of the NFIRS.

(c) All reports shall be submitted to OSFM within 120 days of incident occurrence.

(d) When a fire department responds to a fire involving fatalities, an initial report shall be filed by the fire chief or fire marshal of the authority having jurisdiction within 48 hours of the incident to the Office of State Fire Marshal.

(e) In accordance with G.S. 58-82B-10, an online reporting portal for the storage and deployment of AFFF has been created at the following website: <https://www.ncosfm.gov/fire-rescue/ratings-and-inspections/afff-foam>. This online reporting portal consists of an online database and an online reporting tool to capture the storage and deployment of AFFF.

(f) The fire chief or fire marshal of the authority having jurisdiction shall ensure that the following information regarding AFFF inventory for their fire department is entered into the online database:

- (1) The number of trucks at each department that carry AFFF, and the fire station or other location, including street address, where each truck is located.
- (2) The volume, trade name, and Chemical Abstract Service (CAS) number of the AFFF on each truck.
- (3) An inventory, including the volume, trade name, and CAS number of AFFF stored by each fire department at a fire station or other location, including the street address where the AFFF is stored.
- (4) The volume, trade name, and CAS number of AFFF products that are no longer utilized and could be removed from inventory for disposal, including the street address where the AFFF is stored.
- (5) A photograph of the label and the container of the AFFF. For the purpose of this Subparagraph, a photograph includes an electronic image produced by the camera of an electronic device.

The information entered in the online database shall be updated annually in accordance with G.S. 58-82B-5.

(g) When a fire department responds to a fire, conducts training involving AFFF foam in any quantity, or has an accidental spill, the fire chief shall ensure an initial report is entered in the online reporting tool within 15 days of the incident or the training event, including the following:

- (1) The date, time, and location, including street address and GPS coordinates, where AFFF was involved, the trade name, and CAS number of the AFFF used.
- (2) The total volume of AFFF involved, including gallons of foam and gallons of water and total concentration of foam.
- (3) The reason for the deployment of AFFF, such as firefighting, fire prevention, other emergency response actions intended to protect property or public safety, training, or an accidental spill.

(h) The fire chief or fire marshal of the authority having jurisdiction shall ensure that an annual report is available in the online reporting tool by July 1st of each year that includes the information required by Paragraph (g) of this Rule.

History Note: Authority G.S. 58-2-40; 58-36-10; 58-40-25; 58-79-1; 58-79-45; 58-82-5; 58.82.10; S.L. 2021-180, s. 8.10(i); Eff. January 1, 2018; Amended Eff. June 1, 2023.

11 NCAC 05A .0911 RECORDS

A fire department shall maintain the following records for 36 months:

- (1) Apparatus maintenance logs for in service engines and tankers, in accordance with 11 NCAC 05A .0905.
- (2) Apparatus equipment inventory checks for all in service engines and tankers, in accordance with 11 NCAC 05A .0905.
- (3) Fire pump performance tests, in accordance with 11 NCAC 05A .0905.
- (4) Training records for all eligible firefighters, in accordance with 11 NCAC 05A .0907.
- (5) The AFFF inventory and usage reports created in accordance with 11 NCAC 05A .0910.

History Note: Authority G.S. 58-2-40; 58-36-10; 58-40-25; 58-82-5; 58-82-10; Eff. January 1, 2018; Amended Eff. June 1, 2023.

TITLE 15A - DEPARTMENT OF ENVIRONMENTAL QUALITY

15A NCAC 02D .0516 SULFUR DIOXIDE EMISSIONS FROM COMBUSTION SOURCES

(a) Emissions of sulfur dioxide from any source of combustion, including air pollution control devices, discharged from any vent, stack, chimney, or flare shall not exceed 2.3 pounds of sulfur dioxide per million Btu input.

(b) When determining compliance with this standard:

- (1) the sulfur dioxide formed by the combustion of sulfur in fuels, wastes, ores, and other substances shall be included;
(2) the sulfur dioxide formed or reduced as a result of treating flue gases with sulfur trioxide or other materials shall be included in the computation of emissions; and
(3) the determination of Btu input shall not include the contribution from any portion of fuels used exclusively to inflate the heat input value used to demonstrate compliance with the emission standard in Paragraph (a) of this Rule.

(c) The standard set forth in Paragraph (a) of this Rule shall not apply to sulfur dioxide emission sources already subject to an emission standard for sulfur dioxide in 15A NCAC 02D .0524, .0527, .1110, .1111, .1206, or .1210.

History Note: Authority G.S. 143-215.3(a)(1); 143-215.107(a)(5); Eff. February 1, 1976; Amended Eff. July 1, 2007; April 1, 2003; July 1, 1996; February 1, 1995; October 1, 1989; January 1, 1985; April 1, 1977; Readopted Eff. November 1, 2020; Amended Eff. June 1, 2023.

15A NCAC 10C .0205 PUBLIC MOUNTAIN TROUT WATERS

(a) For purposes of this Rule, the following definitions apply:

- (1) "Natural bait" means a living or dead plant or animal, or parts thereof, or prepared substances designed to attract fish by the sense of taste or smell.
(2) "Single hook" means a fish hook with only one point.
(3) "Artificial lure" means a fishing lure that neither contains nor has been treated by a substance that attracts fish by the sense of taste or smell.
(4) "Artificial fly" means one single hook dressed with feathers, hair, thread, tinsel, rubber, or a similar material to which no additional hook, spinner, spoon or similar device is added.
(5) "Youth anglers" are individuals under 18 years of age.

(b) For purposes of this Rule, 15A NCAC 10C .0316, and 15A NCAC 10D .0104, the following classifications apply:

- (1) "Public Mountain Trout Waters" are the waters included in this Rule and those designated in 15A NCAC 10D .0104.
(2) "Catch and Release Artificial Flies and Lures Only Trout Waters" are Public Mountain Trout Waters where only artificial flies and lures having one single hook may be used. No trout may be possessed or harvested while fishing these streams. Waters with this designation include tributaries unless otherwise noted.
(3) "Delayed Harvest Trout Waters" are Public Mountain Trout Waters where between October 1 and one-half hour after sunset on the Friday before the first Saturday of the following June, it is unlawful to possess natural bait, use more than one single hook on an artificial lure, or harvest or possess trout while fishing. From 6:00 a.m. until noon on the first Saturday in June, only youth anglers may fish and these waters have no bait or lure restrictions. From noon on the first Saturday in June until October 1, anglers of all ages may fish and these waters have no bait or lure restrictions. Waters with this designation do not include tributaries unless otherwise noted.
(4) "Hatchery Supported Trout Waters" are Public Mountain Trout Waters that have no bait or lure restrictions. Waters with this designation do not include tributaries unless otherwise noted.
(5) "Special Regulation Trout Waters" are Public Mountain Trout Waters where watercourse-specific regulations apply. Waters with this designation do not include tributaries unless otherwise noted.
(6) "Wild Trout Waters" are Public Mountain Trout Waters identified in this Rule or 15A NCAC 10D .0104. Only artificial lures having only one single hook may be used. No person shall possess natural bait while fishing these waters. Waters with this designation do not include tributaries unless otherwise noted.
(7) "Wild Trout Natural Bait Waters" are Public Mountain Trout Waters where artificial lures and natural baits, except live fish, may be used provided they are fished using only one single hook. Waters with this designation include tributaries unless otherwise noted.
(8) "Undesignated Waters" are the other waters in the State. These waters have no bait or lure restrictions.
(c) Seasons, creel, and size limits. Seasons, creel, and size limits for trout are listed in Rule .0316 of this Subchapter.
(d) Classifications. This Paragraph designates waters in each county that have a specific classification. Waters on game lands are designated in 15A NCAC 10D .0104, unless otherwise indicated in this Paragraph. The other waters are classified as Undesignated Waters.

- (1) Alleghany

- (A) Delayed Harvest Trout Waters are as follows:
Little River from the S.R. 1133 bridge to 275 yards downstream of the intersection of S.R. 1128 and S.R. 1129, marked by a sign on both banks
 - (B) Hatchery Supported Trout Waters are as follows:
Big Pine Creek
Bledsoe Creek
Brush Creek from the N.C. 21 bridge to the confluence with the Little River, except where posted against trespassing
Cranberry Creek
Glade Creek
Little River from 275 yards downstream of the intersection of S.R. 1128 and S.R. 1129, marked by a sign on both banks, to McCann Dam
Meadow Fork
Pine Swamp Creek
Piney Fork
Prathers Creek
 - (C) Wild Trout Waters are as follows:
The waters located on Stone Mountain State Park
- (2) Ashe County
- (A) Catch and Release Artificial Flies and Lures Only Trout Waters are as follows:
Big Horse Creek from the Virginia state line to Mud Creek at S.R. 1363, excluding tributaries
 - (B) Delayed Harvest Trout Waters are as follows:
Big Horse Creek from the S.R. 1324 bridge to the North Fork New River
Helton Creek from 900 yards upstream of the S.R. 1372 bridge, marked by a sign on both banks to the North Fork New River
South Fork New River from the upstream end of Todd Island to the S.R. 1351 bridge
Trout Lake
 - (C) Hatchery Supported Trout Waters are as follows:
Beaver Creek from N.C. 221 to the confluence of Beaver Creek and South Beaver Creek
Big Horse Creek from Mud Creek at S.R. 1363 to the S.R. 1324 bridge
Big Laurel Creek from the S.R. 1315 bridge to the confluence with the North Fork New River
- Buffalo Creek from the S.R. 1133 bridge to the N.C. 194-88 bridge
Cranberry Creek from the Alleghany Co. line to the South Fork New River
Nathans Creek
North Fork New River from the Watauga Co. line to Sharp Dam
Old Fields Creek from N.C. 221 to the South Fork New River
Peak Creek from the upper boundary of the NCDA-NCSU Upper Mountain Research Station to Trout Lake
Roan Creek
Three Top Creek
- (3) Avery County
- (A) Catch and Release Artificial Flies and Lures Only Trout Waters are as follows:
Elk River, the portion on Lees-McRae College property, excluding the millpond
Lost Cove Creek, the game land portion, excluding Gragg Prong and Rockhouse Creek
Wilson Creek, the game land portion
 - (B) Hatchery Supported Trout Waters are as follows:
Boyde Coffey Lake
Elk River from the S.R. 1305 crossing immediately upstream of Big Falls to the Tennessee state line
Linville River from S.R. 1504 to the Blue Ridge Parkway boundary line, except where posted against trespassing
Milltimber Creek
North Toe River from Watauga St. to Roby Shoemaker Wetlands and Family Recreational Park, except where posted against trespassing
North Toe River from S.R. 1164 to Mitchell Co. line, except where posted against trespassing
Squirrel Creek
Wildcat Lake
 - (C) Wild Trout Waters are as follows:
Birchfield Creek
Cow Camp Creek
Cranberry Creek from the headwaters to the U.S. 19E, N.C. 194, bridge
Gragg Prong
Horse Creek
Kentucky Creek
North Harper Creek
Plumtree Creek

- Roaring Creek
 Rockhouse Creek
 Shawneehaw Creek, the portion adjacent to Banner Elk Greenway
 South Harper Creek
 Webb Prong
- (4) Buncombe County
- (A) Catch and Release Artificial Flies and Lures Only Trout Waters are as follows:
 Carter Creek, the game land portion
- (B) Hatchery Supported Trout Waters are as follows:
 Bent Creek from the headwaters to the N.C. Arboretum boundary line
 Cane Creek from the headwaters to the S.R. 3138 bridge
 Corner Rock Creek from Little Andy Creek to the confluence with Walker Branch
 Dillingham Creek from Corner Rock Creek to Ivy Creek
 Ivy Creek from Dillingham Creek to the U.S. 19-23 bridge
 Lake Powhatan
 Reems Creek from Sugar Camp Fork to the U.S. 19-23 bridge, except where posted against trespassing
 Rich Branch from downstream of the confluence with Rocky Branch
 Stony Creek
 Swannanoa from the S.R. 2702 bridge near Ridgecrest to the Wood Avenue bridge, at the intersection of N.C. 81 and U.S. 74A in Asheville, except where posted against trespassing
- (5) Burke County
- (A) Catch and Release Artificial Flies and Lures Only Trout Waters are as follows:
 Henry Fork, the portion on South Mountains State Park
- (B) Delayed Harvest Trout Waters are as follows:
 Jacob Fork from Shinny Creek to the lower South Mountains State Park boundary
- (C) Hatchery Supported Trout Waters are as follows:
 Carroll Creek, the game land portion above S.R. 1405
 Henry Fork from the lower South Mountain State Park line to S.R. 1919 at Ivy Creek
 Linville River, the portion within Linville Gorge Wilderness area and
- the portion below Lake James powerhouse from the upstream bridge on S.R. 1223 to Muddy Creek
- (D) Special Regulation Trout Waters are as follows:
 Catawba River from Muddy Creek to the City of Morganton water intake dam
- (E) Wild Trout Waters are as follows:
 The waters located on South Mountains State Park, except those waters identified in Parts A and B of this Subparagraph
- (6) Caldwell County
- (A) Delayed Harvest Trout Waters are as follows:
 Wilson Creek, the game land portion below Lost Cove Creek to Philips Branch
- (B) Hatchery Supported Trout Waters are as follows:
 Boone Fork Pond
 Buffalo Creek from the mouth of Joes Creek to McCloud Branch
 Joes Creek from the first falls upstream of S.R. 1574 to the confluence with Buffalo Creek
 Wilson Creek from Phillips Branch to Brown Mountain Beach Dam, except where posted against trespassing
 Yadkin River from the Happy Valley Ruritan Community Park to S.R. 1515
- (C) Wild Trout Waters are as follows:
 Buffalo Creek from the Watauga Co. line to Long Ridge Branch including game land tributaries
 Joes Creek from the Watauga Co. line to the first falls upstream of the end of S.R. 1574
- Rockhouse Creek
- (7) Cherokee County
- (A) Hatchery Supported Trout Waters are as follows:
 Davis Creek from the confluence of Bald Creek and Dockery Creek to Hanging Dog Creek
 Hyatt Creek from Big Dam Branch to the Valley River
 Junaluska Creek from Ashturn Creek to the Valley River
 Shuler Creek from the Joe Brown Hwy, S.R. 1325 bridge, to the Tennessee state line
 Valley River from S.R. 1359 to the U.S. 19 Business bridge in Murphy
- (B) Special Regulation Trout Waters are as follows:

- (8) Apalachia Reservoir
 (C) Wild Trout Natural Bait Waters are as follows:
 Bald Creek, the game land portion
 Dockery Creek, the game land portion
- (8) Clay County
 (A) Delayed Harvest Trout Waters are as follows:
 Fires Creek from Rockhouse Creek to the foot bridge in the USFS Fires Creek Picnic Area
 (B) Hatchery Supported Trout Waters are as follows:
 Buck Creek, the game land portion downstream of the U.S. 64 bridge
 Fires Creek from the foot bridge in the USFS Fires Creek Picnic Area to S.R. 1300
 Tusquitee Creek from Compass Creek to the lower S.R. 1300 bridge
- (9) Graham County
 (A) Delayed Harvest Trout Waters are as follows:
 Snowbird Creek from the USFS footbridge at the old railroad junction to USFS Rd. 2579
 (B) Hatchery Supported Trout Waters are as follows:
 Calderwood Reservoir from Cheoah Dam to the Tennessee state line
 Cheoah Reservoir
 Panther Creek from the confluence of Stand Creek and Rock Creek to Lake Fontana
 Santeetlah Creek from Johns Branch to Lake Santeetlah
 Snowbird Creek from USFS Rd. 2579 to the S.R. 1127 bridge
 Stecoah Creek from the upper game land boundary to Lake Fontana
 Tulula Creek from S.R. 1201 to the lower bridge on S.R. 1275
 West Buffalo Creek
 Yellow Creek from Lake Santeetlah hydropower pipeline to the Cheoah River
- (C) Wild Trout Waters are as follows:
 Little Buffalo Creek
 South Fork Squally Creek
 Squally Creek
- (D) Wild Trout Natural Bait Waters are as follows:
 Long Creek, the game land portion
- (10) Haywood County
 (A) Delayed Harvest Trout Waters are as follows:
 West Fork Pigeon River from Queen Creek to the first game land boundary upstream of Lake Logan
 (B) Hatchery Supported Trout Waters are as follows:
 Cold Springs Creek from Fall Branch to the Pigeon River
 Jonathan Creek from upstream of the S.R. 1302 bridge to the Pigeon River, except where posted against trespassing
 Pigeon River from Stamey Cove Branch to the upstream U.S. 19-23 bridge
 Richland Creek from the Russ Avenue, U.S. 276, bridge to the U.S. 19 bridge
 West Fork Pigeon River from Tom Creek to Queen Creek, including the game land portion, except Middle Prong
- (11) Henderson County
 (A) Delayed Harvest Trout Waters are as follows:
 North Fork Mills River, the game land portion below the Hendersonville watershed dam
 (B) Hatchery Supported Trout Waters are as follows:
 Broad River from the end of S.R. 1611 to the Rutherford Co. line
 Cane Creek from the railroad bridge upstream of the S.R. 1551 bridge to the U.S. 25 bridge
 Clear Creek from Laurel Fork to S.R. 1582
 Green River from the Lake Summit powerhouse to the game land boundary
 Hungry River from S.R. 1885 to the Green River
- (12) Jackson County
 (A) Catch and Release Artificial Flies and Lures Only Trout Waters are as follows:
 Flat Creek
 Tuckasegee River, the game land portion upstream of Tanasee Creek Lake, including the Duke Energy powerline corridor
 Tuckasegee River the portion upstream from the Clark property
 (B) Delayed Harvest Trout Waters are as follows:
 Tuckasegee River from downstream of the N.C. 107 bridge to the falls located 275 yards upstream of the U.S.

- (C) 23-441 bridge, marked by a sign on both banks
- (C) Hatchery Supported Trout Waters are as follows:
 - Balsam Lake
 - Bear Creek Lake
 - Cedar Cliff Lake
 - Cullowhee Creek from Tilley Creek to the Tuckasegee River
 - Dark Ridge Creek from Jones Creek to Scott Creek
 - Greens Creek from Greens Creek Baptist Church on S.R. 1370 to Savannah Creek
 - Savannah Creek from Shell Branch to Cagle Branch
 - Scott Creek from Dark Ridge Creek to the Tuckasegee River, except where posted against trespassing
 - Tanasee Creek Lake
 - Tuckasegee River from John Brown Branch to the downstream N.C. 107 bridge
 - Tuckasegee River from the falls located 275 yards upstream of the U.S. 23-441 bridge, marked by a sign on both banks, to the S.R. 1534 bridge at Wilmont
 - Wolf Creek Lake
- (D) Wild Trout Waters are as follows:
 - Gage Creek
 - North Fork Scott Creek
 - Tanasee Creek
 - Whitewater River from Silver Run Creek to the South Carolina state line
 - Wolf Creek except Balsam Lake and Wolf Creek Lake
- (E) Wild Trout Natural Bait Waters are as follows:
 - Chattooga River from the S.R. 1100 bridge to the South Carolina state line
- (13) Macon County
 - (A) Delayed Harvest Trout Waters are as follows:
 - Nantahala River from Whiteoak Creek to the Nantahala hydropower discharge canal
 - (B) Hatchery Supported Trout Waters are as follows:
 - Burningtown Creek from Left Prong to the Little Tennessee River
 - Cartoogechaye Creek from downstream of the U.S. 64 bridge to the Little Tennessee River
 - Cliffside Lake
- (14) Madison County
 - (A) Delayed Harvest Trout Waters are as follows:
 - Big Laurel Creek from the N.C. 208 bridge to the U.S. 25-70 bridge
 - Shelton Laurel Creek from the N.C. 208 bridge at Belva to the confluence with Big Laurel Creek
 - Spring Creek from the N.C. 209 bridge at the Hot Springs city limits to the iron bridge at end of Andrews Ave.
 - (B) Hatchery Supported Trout Waters are as follows:
 - Big Laurel Creek from Puncheon Fork to the S.R. 1318, Big Laurel Rd., bridge downstream of Bearpen Branch
 - Big Pine Creek from the S.R. 1151 bridge to the French Broad River
 - Little Ivy Creek from the confluence of Middle Fork and Paint Fork at Beech Glen to the confluence with Ivy Creek at Forks of Ivy
 - Max Patch Pond
 - Meadow Fork Creek from Meadow Fork Campground to Spring Creek
 - Puncheon Fork from Wolf Laurel Branch to Big Laurel Creek
 - Roaring Fork from Fall Branch to Meadow Fork
 - Shelton Laurel Creek from the confluence of Big Creek and Mill Creek to the N.C. 208 bridge at Belva
 - Shut-in Creek
 - Spillcorn Creek
 - Spring Creek from the junction of N.C. 209 and N.C. 63 to the confluence with Meadow Fork
 - West Fork Shut-in Creek from the lower game land boundary to the
 - (C) Wild Trout Natural Bait Waters are as follows:
 - Chattooga River from the S.R. 1100 bridge to the South Carolina state line
 - Kimsey Creek
 - Park Creek
- Cullasaja River from Sequoyah Dam to the U.S. 64 bridge near the junction of S.R. 1672
- Nantahala River from Dicks Creek to Whiteoak Creek
- Nantahala River from the Nantahala hydropower discharge canal to the Swain Co. line
- Queens Creek Lake

- confluence with East Fork Shut-in Creek
- (15) McDowell County
- (A) Catch and Release Artificial Flies and Lures Only Trout Waters are as follows:
Newberry Creek, the game land portion
- (B) Delayed Harvest Trout Waters are as follows:
Catawba River, the portion adjacent to the Marion Greenway
Curtis Creek, the game land portion downstream of the USFS boundary at Deep Branch
Mill Creek from the U.S. 70 bridge to the I-40 bridge
- (C) Hatchery Supported Trout Waters are as follows:
Armstrong Creek from the Cato Holler line downstream to the upper Greenlee line
Catawba River from the Catawba Falls Campground to the Old Fort Recreation Park
Little Buck Creek, the game land portion
North Fork Catawba River from the headwaters to North Cove School at the S.R. 1569 bridge
- (16) Mitchell County
- (A) Delayed Harvest Trout Waters are as follows:
Cane Creek from the N.C. 226 bridge to the S.R. 1189 bridge
North Toe River from the U.S. 19E bridge to the N.C. 226 bridge
- (B) Hatchery Supported Trout Waters are as follows:
Big Rock Creek from the headwaters to the N.C. 226 bridge at the S.R. 1307 intersection
Cane Creek from S.R. 1219 to the N.C. 226 bridge
East Fork Grassy Creek
Grassy Creek from East Fork Grassy Creek to the mouth
Little Rock Creek from the Green Creek bridge to Big Rock Creek, except where posted against trespassing
North Toe River from the Avery Co. line to the S.R. 1121 bridge
- (C) Wild Trout Waters are as follows:
Green Creek from the headwaters to the Green Creek bridge, except where posted against trespassing
Little Rock Creek the portion upstream of the Green Creek bridge,
- including the tributaries, except where posted against trespassing
Wiles Creek from the game land boundary to the mouth
- (17) Polk County
- (A) Delayed Harvest Trout Waters are as follows:
Green River from the Fishtop Falls Access Area to the confluence with Cove Creek
- (B) Hatchery Supported Trout Waters are as follows:
Green River from the mouth of Cove Creek to the natural gas pipeline crossing
North Pacolet River from Joels Creek to the N.C. 108 bridge
- (18) Rutherford County
- (A) Hatchery Supported Trout Waters are as follows:
Broad River from the Henderson Co. line to the U.S. 64/74 bridge, except where posted against trespassing
- (19) Stokes County
- (A) Hatchery Supported Trout Waters are as follows:
Dan River from the Virginia state line downstream to a point 200 yards below the end of S.R. 1421
- (20) Surry County
- (A) Delayed Harvest Trout Waters are as follows:
Ararat River, the portion adjacent to the Ararat River Greenway
Mitchell River from 0.6 miles upstream of the end of S.R. 1333 to the lowermost bridge on S.R. 1330
- (B) Hatchery Supported Trout Waters are as follows:
Ararat River from the S.R. 1727 bridge to the N.C. 103 bridge
Big Elkin Creek from the dam 440 yards upstream of the N.C. 268 bridge to a point 265 yards downstream of N.C. 268, marked by a sign on both banks
Fisher River from the Virginia state line to the I-77 bridge
Little Fisher River from the Virginia state line to the N.C. 89 bridge
Lovills Creek from the U.S. 52 Business bridge to the Ararat River
Pauls Creek from the Virginia state line to 0.3 miles below the S.R. 1625 bridge
- (21) Swain County

- (A) Delayed Harvest Waters Trout Waters are as follows:
Tuckasegee River from the U.S. 19 bridge to the Slope Street bridge
- (B) Hatchery Supported Trout Waters are as follows:
Alarka Creek from the game land boundary to Fontana Reservoir
Calderwood Reservoir from Cheoah Dam to the Tennessee state line
Cheoah Reservoir
Connelly Creek from Camp Branch to the Tuckasegee River
Deep Creek from the Great Smoky Mountains National Park Boundary line to the Tuckasegee River
Nantahala River from the Macon Co. line to the existing Fontana Lake water level
- (22) Transylvania County
- (A) Catch and Release Artificial Flies and Lures Only Trout Waters are as follows:
Davidson River from the headwaters to Avery Creek, excluding Avery Creek, Looking Glass Creek, Grogan Creek, Cedar Rock Creek and John Rock Branch
- (B) Delayed Harvest Trout Waters are as follows:
East Fork French Broad River from East Fork Baptist Church to the downstream S.R. 1107 bridge
Little River from the confluence of Lake Dense to 100 yards downstream of Hooker Falls
- (C) Hatchery Supported Trout Waters are as follows:
Davidson River from Avery Creek to the lower USFS boundary
French Broad River from the confluence of the North Fork French Broad River and West Fork French Broad River to the Island Ford Rd., S.R. 1110, Access Area
Middle Fork French Broad River from upstream of the U.S. 178 bridge to the French Broad River
West Fork French Broad River from S.R. 1312 to confluence with North Fork French Broad River
- (D) Wild Trout Waters are as follows:
The waters located on Gorges State Park
- Whitewater River from Silver Run Creek to the South Carolina state line
- (E) Wild Trout Natural Bait Waters are as follows:
North Fork French Broad River, the game land portion downstream of S.R. 1326
Thompson River from S.R. 1152 to the South Carolina state line, except where posted against trespassing
- (23) Watauga County
- (A) Catch and Release Artificial Flies and Lures Only Trout Waters are as follows:
Laurel Creek from the confluence of North Fork Laurel Creek and South Fork Laurel Creek to Elk Creek, excluding tributaries
Pond Creek from the headwaters to the Locust Ridge Rd. bridge, excluding the pond adjacent to Coffee Lake
- (B) Delayed Harvest Trout Waters are as follows:
Lake Coffey
Watauga River from the S.R. 1114 bridge to the Valle Crucis Community Park lower boundary
Watauga River from the S.R. 1103 bridge to the confluence with Laurel Creek
- (C) Hatchery Supported Trout Waters are as follows:
Beaverdam Creek from the confluence of Beaverdam Creek and Little Beaverdam Creek to an unnamed tributary adjacent to the intersection of S.R. 1201 and S.R. 1203
Beech Creek
Buckeye Creek from Buckeye Creek Reservoir dam to Grassy Gap Creek
Buckeye Creek Reservoir
Cove Creek from the S.R. 1233 bridge at Zionville to the S.R. 1214 bridge at Sherwood
Dutch Creek from the second S.R. 1136 bridge to the mouth
Elk Creek from the S.R. 1510 bridge at Triplett to the Wilkes Co. line, except where posted against trespassing
Laurel Creek from the S.R. 1123 bridge at the S.R. 1157 intersection to the Watauga River
Meat Camp Creek from the S.R. 1340 bridge at the S.R. 1384 intersection to N.C. 194

- Middle Fork New River from adjacent to the intersection of S.R. 1539 and U.S. 321 to the South Fork New River Norris Fork Creek
- South Fork New River from the canoe launch 70 yards upstream of U.S. 421 bridge to the lower boundary of Brookshire Park
- Stony Fork from the S.R. 1500 bridge at the S.R. 1505 intersection to the Wilkes Co. line
- (D) Wild Trout Waters are as follows:
 - Dutch Creek from the headwaters to the second S.R. 1136 bridge
 - Howard Creek
 - Maine Branch from the headwaters to the North Fork New River
 - North Fork New River from the confluence with Maine Branch and Mine Branch to the Ashe Co. line
 - Watauga River from the Avery Co. line to the S.R. 1580 bridge
 - Winkler Creek from the lower bridge on S.R. 1549 to the confluence with the South Fork New River
- (24) Wilkes County
 - (A) Delayed Harvest Trout Waters are as follows:
 - East Prong Roaring River from Bullhead Creek to the Stone Mountain State Park lower boundary
 - Elk Creek from the Watauga Co. line to the lower boundary of the Blue Ridge Mountain Club
 - Elk Creek, the portion on Leatherwood Mountains development
 - Reddies River from the Town of North Wilkesboro water intake dam to the confluence with the Yadkin River
 - Stone Mountain Creek from the falls at the Alleghany Co. line to the confluence with the East Prong Roaring River and Bullhead Creek
 - (B) Hatchery Supported Trout Waters are as follows:
 - Basin Creek from the S.R. 1730 bridge to the confluence with Lovelace Creek
 - Bell Branch Pond
 - Boundary Line Pond
 - Cub Creek from 0.5 miles upstream of the S.R. 2460 bridge to the S.R. 1001 bridge
 - Darnell Creek from the downstream ford on S.R. 1569 to the confluence with the North Fork Reddies River
- East Prong Roaring River from the Stone Mountain State Park lower boundary to the S.R. 1002 bridge
- Fall Creek from the S.R. 1300 bridge to the confluence with South Prong Lewis Fork, except where posted against trespassing
- Middle Fork Reddies River from the headwaters to the bridge on S.R. 1580
- Middle Prong Roaring River from the headwaters to the second bridge on S.R. 1736
- North Fork Reddies River from the headwaters to the Union School bridge on S.R. 1559
- Pike Creek
- Pike Creek Pond
- South Fork Reddies River from the S.R. 1355 bridge to the confluence with the Middle Fork Reddies River
- South Prong Lewis Fork from Fall Creek to the U.S. 421 bridge adjacent to the S.R. 1155 intersection
- (C) Wild Trout Waters are as follows:
 - The waters located on Stone Mountain State Park, except East Prong Roaring River from Bullhead Creek to the Stone Mountain State Park lower boundary where Delayed Harvest Trout Waters regulations apply, and Stone Mountain Creek from the falls at the Alleghany Co. line to the confluence with the East Prong Roaring River and Bullhead Creek in Stone Mountain State Park where Delayed Harvest Trout Waters regulations apply
- (25) Yancey County
 - (A) Catch and Release Artificial Flies and Lures Only Trout Waters are as follows:
 - South Toe River from the headwaters to Upper Creek
 - Upper Creek
 - (B) Delayed Harvest Trout Waters are as follows:
 - Cane River from Blackberry Ridge Rd. to the downstream boundary of Cane River County Park
 - (C) Hatchery Supported Trout Waters are as follows:
 - Bald Mountain Creek, except where posted against trespassing
 - Cane River from Bee Branch, S.R. 1110, to Bowlens Creek
 - Price Creek from the junction of S.R. 1120 and S.R. 1121 to Indian Creek

South Toe River from Clear Creek to the lower boundary line of Yancey Co. Recreation Park, except where posted against trespassing

- (D) Wild Trout Waters are as follows:
 Cattail Creek from the bridge at Mountain Farm Community Rd. to the N.C. 197 bridge
 Lickskillet Creek
 Middle Creek from the game land boundary to the mouth

History Note: Authority G.S. 113-272; 113-292; Eff. February 1, 1976; Amended Eff. July 1, 1998; July 1, 1997; July 1, 1996; July 1, 1995; July 1, 1994; July 1, 1993; October 1, 1992; Temporary Amendment Eff. July 1, 1999; Amended Eff. July 1, 2000; Temporary Amendment Eff. July 1, 2001; Temporary Amendment Eff. July 1, 2002; Amended Eff. August 1, 2002 (approved by RRC on 6/21/01 and 04/18/02); 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; 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, 2019; Amended Eff. August 1, 2023; August 1, 2022; August 1, 2021; August 1, 2020.

15A NCAC 10C .0206 TROTTLINES, JUG HOOKS AND SET HOOKS

- (a) For purposes of this Rule, the following definitions apply:
- (1) "Set hook" means a fishing device consisting of a single line having no more than three hooks that is attached at one end only to a stationary object.
 - (2) "Jug hook" means a fishing device consisting of a single line having no more than three hooks that is attached to a float.
 - (3) "Trotline" means a fishing device consisting of a horizontal common line having multiple hooks attached.
- (b) Trotlines, jug hooks, and set hooks may be set in the inland waters of North Carolina, provided no live bait is used, except that they:
- (1) may not be set in the impounded waters on the Sandhills Game Land;
 - (2) may not be set in designated public mountain trout waters except impounded waters of power reservoirs and municipally-owned water supply reservoirs open to the public for fishing;
 - (3) in Lake Waccamaw, trotlines, jug hooks, or set hooks may only be set from October 1 through April 30; and

- (4) in the Roanoke River, trotlines, jug hooks, or set hooks may only be set from July 1 through March 31.

- (c) A trotline, set hook, and jug hook shall bear legible and indelible identification of the user's name and address or the user's Wildlife Resources Commission customer number.
- (d) Trotlines and set hooks shall be conspicuously marked at each end with a flag, float, or other prominent object so that its location is readily discernible by boat operators and swimmers.
- (e) Trotlines shall be set parallel to the nearest shore in inland fishing waters unless otherwise prohibited.
- (f) The number of jug hooks that may be fished is limited to 70 per boat.
- (g) Trotlines, set hooks, and jug hooks shall be fished once daily with all fish removed.
- (h) Trotlines, set hooks, and jug hooks without bait or not labeled as described in this Paragraph may be removed from the water by wildlife enforcement officers.
- (i) It is unlawful to use metal cans or glass jugs as floats.

History Note: Authority G.S. 113-134; 113-272; 113-292; Eff. February 1, 1976; Amended Eff. July 1, 1993; May 1, 1992; July 1, 1989; January 1, 1982; Temporary Amendment Eff. July 1, 2002; Amended Eff. August 1, 2015; August 1, 2014; August 1, 2013; May 1, 2008; June 1, 2005; August 1, 2002; Readopted Eff. October 1, 2022; Amended Eff. August 1, 2023.

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 pursuant to 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 those gears may be lawfully used; and
 - (2) white perch may be taken when captured in a cast net being used to collect nongame fishes in impounded waters west of Interstate 95 and in the Tar River Reservoir in 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 circle hook may be used when fishing with live or natural bait from April 1 to June 30. With other tackle, only a single barbless hook may be used. "Circle hook" as used in this Rule means a hook with the point turned perpendicularly back to the shank. "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. August 1, 2023; March 15, 2023.

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 Hycos;
 - (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, 2023; August 1, 2020.

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 (m) of this Rule.
- (b) The minimum size limit for these fish is 20 inches, except in waters identified in Paragraphs (d) through (m) 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 Hycos 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 the 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 over 22 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, Scuppernong 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 a proclamation issued pursuant to 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;
Temporary Amendment Eff. September 1, 2022;
Amended Eff. August 1, 2023; March 15, 2023.

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 a 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 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 inland fishing waters, except:

- (1) in the Pee Dee River and its tributaries, downstream of Blewett Falls Dam to the South Carolina state line, where only catfish shall 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.

(h) In the inland waters of the Roanoke River upstream of U.S. 258 bridge, only a single barbless circle hook may be used when fishing with live or natural bait from April 1 to June 30. With other tackle, only a single barbless hook may be used. "Circle hook" as used in this Rule means a hook with the point turned perpendicularly back to the shank. "Barbless" as used in this Rule requires that a hook does not have a barb or the barb is bent down.

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;
Temporary Amendment Eff. September 1, 2022;
Amended Eff. August 1, 2023; March 15, 2023.

15A NCAC 10D .0102 GENERAL REGULATIONS REGARDING USE

(a) For purposes of this Subchapter, the following definitions apply:

- (1) "Permanent Hunting Blind" means a structure that is used for hunter concealment, constructed from manmade or natural materials, and that is not disassembled and removed at the end of the day's hunt.
- (2) "Target shooting" means the discharge of a firearm for purposes other than hunting, trapping, or self-defense.
- (3) "Youth" means individuals under 18 years of age.

(b) Trespass. Entry on game lands for purposes other than hunting, trapping, or fishing shall be as authorized by the landowner. The Wildlife Resources Commission has identified the following areas on game lands that have additional restrictions on entry or usage:

- (1) Archery Zone. On portions of game lands posted as "Archery Zones" hunting is limited to archery equipment and falconry. During the open deer seasons for these areas, antlered and antlerless deer may be taken.
- (2) Safety Zone. On portions of game lands posted as "Safety Zones" hunting is prohibited. No

person shall hunt or discharge a firearm or bow and arrow within, into, or across a posted safety zone on a game land. Falconry is exempt from this provision.

- (3) Restricted Firearms Zone. On portions of game lands posted as "Restricted Firearms Zones" the use of centerfire rifles is prohibited.
- (4) Restricted Zone. Portions of game lands posted as "Restricted Zones" are closed to use by the public, and entry on these areas is prohibited without written approval from the Wildlife Resources Commission. The Commission may authorize entry when the primary purpose for the Restricted Zone shall not be compromised and the persons requesting entry demonstrate a valid need, or official business of the Commission is being conducted by a contractor or agent of the Commission. Valid needs may include access to private property, scientific investigations, surveys, or other access to conduct activities in the public interest.
- (5) Temporary Restricted Zone. Portions of game lands posted as "Temporary Restricted Zones" are closed to use by the public, and entry is prohibited without written approval from the Wildlife Resources Commission. An area of a game land shall be declared a Temporary Restricted Zone when there is a danger to the health or welfare of the public.
- (6) Scouting-only Zone. On portions of the game lands posted as "Scouting-only Zones" the discharge of firearms or bow and arrow is prohibited.
- (7) Restricted Deer Hunting Zone. On portions of game lands posted as "Restricted Deer Hunting Zones" the use of dogs for taking deer is prohibited, except as allowed by permit as provided in G.S. 113-264(d).
- (8) Day Use Only Zone. On portions of game lands posted as "Day Use Only Zones" the use by the public shall be prohibited from sunset to sunrise.
- (9) Sensitive Habitat Zone. Portions of game lands posted as "Sensitive Habitat Zones" are closed to use by the public during the dates specified on the sign, and entry is prohibited without written approval from the Wildlife Resources Commission by calling 919-707-0150 and requesting a permit.

The Commission shall conduct a public input meeting in the area where the game land is located before establishing the following zones: archery, restricted firearms, restricted deer hunting, day use only, or sensitive habitat. After the input meeting, the public comments shall be presented at an official Commission meeting for final determination.

(c) Littering. No person shall deposit litter, trash, garbage, or other refuse on any game land except in receptacles provided for disposal of refuse at designated camping and target-shooting areas. No garbage dumps or sanitary landfills shall be established

on a game land by a person, firm, corporation, county, or municipality, except as permitted by the landowner.

(d) Use of weapons. No person shall discharge:

- (1) a weapon within 150 yards of a game land building or designated game land camping area, except where posted otherwise;
- (2) a weapon within 150 yards of a residence located on or adjacent to game lands, except on Butner-Falls of Neuse and Jordan game lands; and
- (3) a firearm within 150 yards of a residence located on or adjacent to Butner-Falls of Neuse and Jordan Game Lands.

No person shall hunt with or have in possession a shotgun shell containing lead or toxic shot while hunting on a posted waterfowl impoundment on a game land, except shotgun shells containing lead buckshot may be used while deer hunting. Individuals carrying a concealed handgun shall adhere to the requirements set forth in G.S. 14-415.11, even if the state issuing the concealed handgun permit is not North Carolina. On Butner-Falls of Neuse, Jordan, Kerr Scott, and Vance game lands, no person shall possess loaded firearms, ammunition, bows and arrows, crossbows, or other weapons except as provided in the Code of Federal Regulations, Title 36, Chapter III, Part 327.13, which is incorporated by reference, including subsequent amendments and editions. This document may be accessed at www.ecfr.gov at no cost. On Buckhorn, Chatham, Harris, Hyco, Lee, Mayo, and Sutton Lake game lands; Pee Dee River Game Land north of U.S. 74; and that portion of R. Wayne Bailey- Caswell Game Land that is located north of U.S. 158 and east of N.C. 119, no person shall possess a firearm during closed hunting seasons or closed hunting days for game birds or game animals, except under the following conditions:

- (1) the firearm is a .22 caliber pistol with a barrel not greater than seven and one-half inches in length and shooting only short, long, or long rifle ammunition carried as a side arm;
- (2) the firearm is cased or not immediately available for use;
- (3) the firearm is used by persons participating in field trials on field trial areas; or
- (4) the firearm is possessed in designated camping areas for defense of persons and property.

(e) Game Lands License: Hunting and Trapping

- (1) Except as provided in Subparagraph (4) of this Paragraph, a person entering a game land to hunt, trap, run dogs, or train dogs using wildlife shall have in his or her possession a valid North Carolina hunting or trapping license.
- (2) For Commission-sanctioned field trials, active participants, as defined in 15A NCAC 10B .0114, in a field trial using wildlife shall possess a North Carolina hunting license, except non-residents may substitute hunting licenses from their state(s) of residence.
- (3) For other field trials using wildlife occurring on game lands, judges and active participants shall possess a North Carolina hunting license.
- (4) Exceptions:

- (A) a person under 16 years of age may hunt on game lands on the license of his parent or legal guardian;
- (B) on the game lands described in Rule .0103 (j)(1) of this Section, the game lands license is required for hunting doves; other activities are subject to the control of the landowners.

(f) **Field Trials and Training Dogs.** An individual or organization sponsoring a field trial on the Sandhills Field Trial area shall file an application with the Commission to use the area with the facility use fee computed at the rate of three hundred dollars (\$300.00) for each scheduled day of the trial. The total facility use fee shall cover the period from 12:00 noon of the day preceding the first scheduled day of the trial to 10:00 a.m. of the day following the last scheduled day of the trial. The facility use fee shall be paid for all intermediate days on which trials are not run but the building or facilities are used or occupied. A fee of one hundred dollars (\$100.00) per day shall be charged to sporting, educational, or scouting groups for scheduled events utilizing the club house only. No person or group of persons or other entity shall enter or use the physical facilities located on the Sandhills Field Trial area or the Laurinburg Fox Trial facility without written approval from an authorized agent of the Wildlife Resources Commission, and no entry or use of a facility shall exceed the scope of or continue beyond the approved use. The Sandhills Field Trial facilities shall be used only for field trials scheduled with the approval of the Wildlife Resources Commission. No more than 20 days of field trials may be scheduled for occurrence on the Sandhills facilities during a calendar month, and no more than five days may be scheduled during a calendar week. A field trial requiring more than five days may be scheduled during one week with reduction of the maximum number of days allowable during some other week so that the monthly maximum of 20 days is not exceeded. Before October 1 of each year, the North Carolina Field Trial Association or other organization desiring use of the Sandhills facilities between the Wednesday on or nearest October 18 and the second Friday before Thanksgiving and between the first Monday following Thanksgiving and March 31 shall submit its proposed schedule of use to the Wildlife Resources Commission for consideration and approval. The use of the Sandhills Field Trial facilities by individuals for training dogs is prohibited; elsewhere on the Sandhills Game Lands dogs may be trained only on Mondays, Wednesdays, and Saturdays from October 1 through April 1. Dogs may not be trained or permitted to run unleashed from April 1 through August 15 on game lands located west of I-95, except when participating in field trials sanctioned by the Wildlife Resources Commission. Dogs may not be trained or permitted to run unleashed from March 15 through June 15 on game lands located east of I-95, except when participating in field trials sanctioned by the Wildlife Resources Commission. Additionally, on game lands located west of I-95 where special hunts are scheduled for sportsmen participating in the Disabled Sportsman Program, dogs may not be trained or allowed to run unleashed during legal big game hunting hours on the dates of the special hunts. A field trial shall be authorized when the field trial does not conflict with other planned activities on the game land or field trial facilities, and the applying organization demonstrates

their experience and expertise in conducting genuine field trial activities. Entry to physical facilities, other than by field trial organizations under permit, shall be granted when they do not conflict with other planned activities previously approved by the Commission and they do not conflict with the mission of the agency.

(g) **Trapping.** Subject to the restrictions contained in 15A NCAC 10B .0300, trapping of furbearing animals, armadillos, coyotes, and groundhogs is permitted on game lands during the open trapping seasons for those areas, established by rule. Foxes may be trapped on game lands from October 1 through the end of February in a county with an open fox trapping season that falls between October 1 and the end of February. Foxes may not be taken by trapping on game lands in counties with a closed fox trapping season or during a fox trapping season that occurs outside the dates of October 1 through the end of February. Additionally, fox trapping is allowed on game lands in Clay, Graham, Henderson, Macon, and Tyrrell counties with a daily bag limit of two and a season bag limit of 10 from the first to the fourth Saturday in January. Trapping is prohibited:

- (1) on the J Robert Gordon Field Trial Area of Sandhills Game Land;
- (2) in posted "safety zones" located on a game land;
- (3) by the use of bait on the National Forest Lands bounded by the Blue Ridge Parkway on the south, US 276 on the north and east, and NC 215 on the west;
- (4) on the DuPont State Forest Game Lands; and
- (5) from April 1 through September 31.

At a trap, trappers may use a single bait site of grain, fruit, or other foods when trapping if the food is not a processed food product as defined in G.S. 113-294(r), is less than 3 cubic inches and is covered to prevent it from being seen from above. Feathers, including those with attached skin or entire bird wings, hair with or without skin or hide, and bones that include no attached meat, organs, or viscera do not need to be covered.

(h) **Vehicular Traffic.** No person shall drive a motorized vehicle on a game land except on roads constructed, maintained, and opened for vehicular travel and on trails posted for vehicular travel, unless the person:

- (1) is driving in the vehicle gallery of a scheduled bird dog field trial held on the Sandhills Game Land; or
- (2) is a disabled sportsman as defined in Paragraph (l) of this Rule or holds a Disabled Access Program Permit as described in Paragraph (m) of this Rule and is abiding by the rules described in Paragraph (m).

(i) **Camping.**

- (1) No person shall camp on a game land except on an area posted by the landowner for camping.
- (2) On game lands owned by the State of North Carolina, where the North Carolina Wildlife Resources Commission is the primary custodian, the maximum period of consecutive overnight camping at a designated camping area is 14 days within any 30-day period, unless otherwise specified in rules of this Subchapter. After 14 consecutive days of camping, personal

belongings shall be removed from the game land.

- (3) A hunting, fishing, trapping or Game Lands License is required for individuals age 16 or older to camp on game lands in areas posted for camping except when camping within 100 yards of the Roanoke River on the state-owned portion of the Roanoke River Wetlands Game Land, within 100 yards of the Neuse River on that portion of the game land west of NC-43, and in posted areas along the Mountains-to-Sea Trail on Butner-Falls of Neuse Game Land.

(j) Release of Animals and Fish. It is unlawful to release pen-raised animals or birds, wild animals or birds, domesticated animals, except hunting dogs and raptors where otherwise permitted for hunting or training purposes, or feral animals, or hatchery-raised fish on game lands without written authorization. It is unlawful to move wild fish from one stream to another on game lands without written authorization. Written authorization shall be given when release of animals is determined by a Wildlife Resources Commission biologist not to be harmful to native wildlife in the area and is in the public interest or advance the programs and goals of the Wildlife Resources Commission.

(k) Non-Highway Licensed Vehicles. It is unlawful to operate motorized land vehicles not licensed for highway use on game lands except for designated areas on National Forests. Disabled persons as defined in Paragraph (l) of this Rule and people who have obtained a Disabled Access Program permit are exempt from this restriction but shall comply with the terms of their permit. Furthermore, disabled persons, as defined under the federal Americans with Disabilities Act (42 U.S.C. 126) may use wheelchairs or other all-terrain wheelchairs on areas where foot travel is allowed. Off road vehicles including ATVs, UTVs, and ebikes are not permitted.

(l) Disabled Access Program. Disabled individuals who meet the requirements of G.S. 113-296 may obtain a Disabled Access Permit and Disabled Sportsman Hunt Certification online at ncwildlife.org. The Disabled Access Permit allows individuals to operate electric wheel chairs, all-terrain vehicles, and other passenger vehicles on any Commission-maintained road open for vehicular travel and those trails posted for vehicular travel and ungated or open-gated roads otherwise closed to vehicular traffic on game lands owned by the Wildlife Resources Commission and on game lands whose owners have agreed to that use. Those game lands, or parts thereof, where this Paragraph applies are designated online, at www.ncwildlife.org. This Paragraph does not permit vehicular access on fields, openings, roads, paths, or trails planted for wildlife food or cover. One companion, who is identified by a companion card issued to each qualified disabled person, may accompany a disabled person to provide assistance, provided the companion is constantly in visual or verbal contact with the disabled person. The companion may participate in lawful activities while assisting a disabled person, provided license requirements are met. A vehicle used by a qualified disabled person for access to game lands under this provision shall have the Disabled Access Permit available for inspection by wildlife enforcement officers upon request. Hunters who qualify under the Disabled Sportsman Program and their companions may access special hunting blinds for people with disabilities

during regularly scheduled, non-permit hunting days on a first come basis, except for those blinds located on the Restricted Area of Caswell Game Land. It is unlawful for anyone other than disabled persons holding a Disabled Access Permit, during waterfowl season, to hunt within 100 yards of a waterfowl blind designated by the Wildlife Resources Commission as a Disabled Sportsman's hunting blind. The Disabled Sportsman Hunt Certification allows individuals to apply for available Disabled sportsman permit hunting opportunities as prescribed in G.S. 113-296.

(m) Public nudity. Public nudity, including nude sunbathing, is prohibited on game lands, including land or water. For the purposes of this Section, "public nudity" means a person's intentional failure to cover with a fully opaque covering the person's genitals, pubic area, anal area, or female breasts below a point from the top of the areola while in a public place.

(n) Shooting Ranges. On public shooting ranges managed by the Commission, no person shall use designated shooting ranges for purposes other than for firearm or bow and arrow marksmanship, development of shooting skills, or for other safe uses of firearms and archery equipment. Other uses, including camping, building fires, operating concessions or other activities not directly involved with recreational or competitive shooting are prohibited, unless written authorization is obtained from the Commission. No person, when using any shooting range, shall deposit debris or refuse on the grounds of the range. This includes items used as targets, except that clay targets broken on the range, by the shooter, may be left on the grounds where they fall. No person shall shoot items made of glass on the grounds of the range. No person may leave a vehicle or other obstruction in a location or position that it will prevent, impede, or inconvenience the use by other persons of any shooting range. No person shall leave a vehicle or other object parked in a place on the shooting range other than the place or zone that is designated and posted or marked as an authorized parking zone. No person shall handle firearms or bow and arrow on a shooting range in a careless or reckless manner. No person shall intentionally shoot into any target holder, post, or other permanent fixture or structure while using a shooting range. No person shall shoot a firearm in a manner that would cause rifled or smoothbore projectiles to travel off of the range, except that shotgun shot, size No. 4 or smaller may be allowed to travel from the range if it presents no risk of harm or injury to a person. Persons using a shooting range shall obey posted range safety rules and those persons who violate range safety rules or create a public safety hazard shall leave the shooting range if directed to by law enforcement officers or to leave by Commission employees. No person shall handle firearms on a shooting range while under the influence of an impairing substance. The consumption of alcohol or alcoholic beverages on a shooting range is prohibited. Open days and hours of operation shall be designated on signs and at least one sign shall be posted at the entrance to each shooting range. No person, when using a shooting range, shall do an act that is prohibited or neglect to do an act that is required by signs or markings placed on the area under authority of this Rule for regulating the use of the area.

(o) Limited-access Roads. During the months of June, July, and August, roads posted as "Limited-access Roads" are open to motorized vehicles from 5:00 a.m. to 10:00 p.m. These roads shall be posted with the opening and closing times.

(p) No person shall attempt to obscure the sex or age of a bird or animal taken by severing the head or any other part thereof, or possess a bird or animal that has been so mutilated.

(q) Baiting. Except as provided in Paragraph (g) of this Rule, no person shall place, or cause to be placed on a game land, salt, grain, fruit, or other foods without written authorization from an agent of the Commission. Written authorization may be provided for Commission authorized projects or Commission contractors to meet specific objectives. Except as authorized by rule, no person shall take or attempt to take wild birds or wild animals attracted to these foods.

History Note: Authority G.S. 113-129; 113-134; 113-264; 113-270.3; 113-291.2; 113-291.5; 113-305; 113-306; 143-318.10;

Eff. February 1, 1976;

Amended Eff. July 1, 1993; April 1, 1992;

Temporary Amendment Eff. October 11, 1993;

Amended Eff. July 1, 1998; July 1, 1996; July 1, 1995; July 1, 1994;

Temporary Amendment Eff. July 1, 1999;

Amended Eff. July 1, 2000;

Temporary Amendment Eff. August 31, 2001;

Amended Eff. August 1, 2002;

Amended Eff. June 1, 2004; (this amendment replaces the amendment approved by RRC on July 17, 2003);

Amended Eff. January 1, 2013; January 1, 2012; June 1, 2011; August 1, 2010; May 1, 2009; May 1, 2008; May 1, 2007; May 1, 2006; November 1, 2005;

Temporary Amendment Eff. July 1, 2014;

Amended Eff. February 1, 2023; August 1, 2022; August 1, 2021;

August 1, 2020; August 1, 2017; August 1, 2016; May 1, 2015;

August 1, 2014;

Readopted Eff. August 1, 2023.

15A NCAC 10D .0103 GENERAL REGULATIONS REGARDING HUNTING ON GAME LANDS

(a) The following shall be prohibited on game lands:

- (1) hunting on a designated game land while under the influence of alcohol or a narcotic drug;
- (2) failing to comply with restrictions enacted by the National Park Service regarding the use of the Blue Ridge Parkway where it adjoins game lands;
- (3) parking a vehicle on game lands in a manner as to block traffic or gates, or otherwise prevent vehicles from using a roadway; and
- (4) erecting or occupying a tree stand or platform attached by nails, screws, bolts, or to a tree on a game land to hunt. This prohibition does not apply to lag-screw steps or portable stands that are removed after use with no metal remaining in or attached to the tree.

(b) Unless allowed by permit, hunting on game lands shall only be during the open season for game animals and game birds.

(c) Individual game lands or parts of game lands may be closed to hunting or limited to specific dates by this Subchapter.

(d) Persons shall hunt only with weapons lawful for the open game animal or game bird seasons.

(e) On managed waterfowl impoundments, persons shall:

- (1) not enter the posted impoundment areas earlier than 4:00 a.m. on the permitted hunting dates;
- (2) not hunt after 1:00 p.m. on the permitted hunting dates;
- (3) not set decoys out prior to 4:00 a.m.;
- (4) remove decoys by 3:00 p.m. daily; and
- (5) not operate a vessel or vehicle powered by an internal combustion engine.

(f) On Sundays, the following shall be prohibited:

- (1) hunting with a firearm between 9:30 a.m. and 12:30 p.m.;
- (2) the use of a firearm to take deer that are run or chased by dogs;
- (3) hunting with a firearm within 500 yards of a place of religious worship, as defined by G.S. 14-54.1(b), or an accessory structure thereof; and
- (4) hunting migratory game birds.

(g) On designated Youth Waterfowl Days the following shall apply:

- (1) hunting on managed waterfowl impoundments shall be from one-half hour before sunrise to sunset;
- (2) Subparagraphs (e)(1), (e)(3), and (e)(5) of this Rule; and
- (3) youth may hunt on a game land and on an impoundment without a special hunt permit, including permit-only areas, except where prohibited in Paragraph (a) of this Rule.

(h) On designated Veterans and Military Waterfowl Days veterans, as defined in 38 USC 101, and members of the Armed Forces on active duty, including members of the National Guard and Reserves on active duty other than for training, with valid credentials may hunt on game lands and impoundments not designated as permit-only areas from one-half hour before sunrise to sunset. Subparagraphs (e)(1), (e)(3), and (e)(5) of this Rule shall apply.

(i) On waterfowl impoundments that have a posted "Scouting-only Zone," trapping during the trapping season and waterfowl hunting on designated waterfowl hunting days are the only activities allowed on the portion of the impoundment outside of the posted "Scouting-only Zone."

(j) Definitions:

- (1) For purposes of this Subchapter, "Dove Only Area" refers to a Game Land on which doves may be taken and dove hunting is limited to Mondays, Wednesdays, Saturdays, Thanksgiving Day, Christmas Day, and New Year's Days within the federally-announced season.
- (2) For purposes of this Subchapter, "Three Days per Week Area" refers to a Game Land on which game may be taken during the open seasons and hunting is limited to Mondays, Wednesdays, Saturdays, Thanksgiving Day, Christmas Day, Veterans Day, Martin Luther King Day, and New Year's Days, except for game lands in this Rule that specifically allow

hunting on Tuesdays, Thursday, and Fridays. Hunting is not allowed on Christmas Day, Veterans Day, and New Year's Day when these holidays fall on Sunday. Falconry may also be practiced on Sundays. These "open days" also apply to antlerless deer hunting seasons listed for each game land. Raccoon and opossum hunting may continue until 7:00 a.m. on Tuesdays, until 7:00 a.m. on Thursdays, and until midnight on Saturdays.

- (3) For purposes of this Subchapter, "Six Days per Week Area" refers to a Game Land on which game may be taken on the open days of Monday, Tuesday, Wednesday, Thursday, Friday, and Saturday during the open seasons. Falconry may be practiced on Sundays.
- (4) For purposes of this Subchapter, "Seven Days per Week Area" refers to a Game Land on which game may be taken during the open season on Mondays, Tuesdays, Wednesdays, Thursdays, Fridays, Saturdays, and Sundays.
- (5) For purposes of this Subchapter, "Four Days per Week Area" refers to a Game Land on which game may be taken during the open seasons and hunting is limited to Tuesdays, Thursdays, Saturdays, Sundays, Labor Day, Veterans Day, Christmas Day, New Year's Day, and Martin Luther King Day. Raccoon and opossum hunting may continue until 7:00 a.m. on Wednesdays, 7:00 a.m. on Fridays, and 7:00 a.m. on Mondays.
- (6) For purposes of this Subchapter, "Permit" means a written authorization from the Commission required for take or other activities listed on the permit during open seasons, if applicable, in a specified area and subject to annual limitations imposed by the Commission to meet wildlife, hunter, or land management objectives, unless otherwise specified. Individuals may apply for available permits online at ncwildlife.org, by phone, or in person at a wildlife service agent location. The Commission shall issue permits to applicants selected at random by computer in accordance with G.S. 113-264. Permits shall be non-transferrable. The laws and rules regarding the species or activity shall apply.
- (7) For the purposes of this Subchapter, "Either-Sex" means antlered or antlerless.

(k) Deer shall not be taken with the use of dogs on game lands in counties or parts of counties where taking deer with dogs is prohibited as described in 15A NCAC 10B .0109.

(l) On permit hunts, deer of either sex may be taken on the hunt dates indicated on the permit. Completed applications shall be received by the Commission not later than the first day of September next preceding the dates of hunt. Permits shall be issued by random computer selection, shall be mailed to the permittees prior to the hunt, and are nontransferable. A hunter

making a kill shall validate the kill and report the kill to a wildlife cooperater agent or by phone.

(m) The following game lands and refuges are closed to hunting except to individuals who have obtained a valid and current permit from the Wildlife Resources Commission:

- (1) Bertie, Halifax and Martin counties—Roanoke River Wetlands;
- (2) Bertie County—Roanoke River National Wildlife Refuge;
- (3) Bladen County—Suggs Mill Pond Game Lands;
- (4) Dare County—Dare Game Lands (Those parts of bombing range posted against hunting);
- (5) Dare County—Roanoke Sound Marshes Game Lands; and
- (6) Henderson and Transylvania counties—DuPont State Forest Game Lands.

(n) Access to Hunting Creek Swamp Waterfowl Refuge in Davie County requires written permission from the Commission. Written permission may be granted only when entry onto the Waterfowl Refuge shall not compromise the primary purpose for establishing the Waterfowl Refuge and the person requesting entry can demonstrate a valid need or the person is a contractor or agent of the Commission conducting official business. "Valid need" includes issues of access to private property, scientific investigations, surveys, or other access to conduct activities in the public interest.

(o) Feral swine may be taken by licensed hunters during the open season for a game animal or game bird using a legal manner of take allowed during those seasons. Dogs may not be used to hunt feral swine except on game lands that allow the use of dogs for hunting deer or bear, and during the open deer or bear season.

(p) The Commission may designate special hunts for participants of the disabled sportsman program by permit. The Commission may schedule these permit hunts during the closed season. Hunt dates and species to be taken shall be identified on the permit. If the hunt has a limited weapon choice, the allowed weapons shall be stated on the permit.

(q) As used in the rules of this Subchapter, horseback riding includes all equine species.

(r) When waterfowl hunting is authorized on Christmas and New Years' Day and those days fall on Sundays, the open waterfowl hunting day shall be the following day.

History Note: Authority G.S. 113-134; 113-264; 113-291.2; 113-291.5; 113-296; 113-305;

Eff. February 1, 1976;

Temporary Amendment Eff. October 3, 1991;

Amended Eff. July 1, 1998; July 1, 1997; July 1, 1996; September 1, 1995; July 1, 1995; September 1, 1994; July 1, 1994;

Temporary Amendment Eff. October 1, 1999; July 1, 1999;

Amended Eff. July 1, 2000;

Temporary Amendment Eff. July 1, 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. June 1, 2004 (this replaces the amendment approved by RRC on July 17, 2003);

Amended Eff. August 1, 2018; August 1, 2017; August 1, 2016; May 1, 2015; August 1, 2014; January 1, 2013; August 1, 2012; August 1, 2011; August 1, 2010; May 1, 2009; May 1, 2008; May 1, 2007; October 1, 2006; August 1, 2006; May 1, 2006; February 1, 2006; June 1, 2005; October 1, 2004; Temporary Amendment Eff. August 1, 2018; Amended Eff. August 1, 2020; August 1, 2019; Temporary Amendment Eff. September 25, 2020; Temporary Amendment Eff. August 1, 2021; Amended Eff. August 1, 2023; November 1, 2022; October 1, 2022; August 23, 2022.

15A NCAC 10D .0104 FISHING ON GAME LANDS

- (a) Game lands are open to public fishing except:
 - (1) restocked ponds when posted against fishing;
 - (2) Hunting Creek Swamp Waterfowl Refuge;
 - (3) Cedar Rock Creek, Grogan Creek, and John Rock Branch, in Transylvania County; and
 - (4) private ponds where fishing is prohibited by the owners.
- (b) No trotline, set-hook, net, trap, gig, or other special fishing device mentioned in 15A NCAC 10C .0404(b),(c),(d), and (f) may be used in impounded waters located entirely on game lands.
- (c) Archery equipment may be used to take nongame fishes in impounded waters located entirely on game lands except for those waters mentioned in 15A NCAC 10C .0404(a).
- (d) Waters located on the game lands listed in this Subparagraph are designated public mountain trout waters except as noted.
 - (1) Cold Mountain Game Land in Haywood County.
 - (2) DuPont State Forest Game Lands in Henderson and Transylvania counties, except:
 - (A) Little River from 100 yards downstream of Hooker Falls downstream to the DuPont State Forest boundary;
 - (B) Lake Imaging;
 - (C) Lake Dense;
 - (D) Lake Alfred;
 - (E) Lake Julia; and
 - (F) Fawn Lake.
 - (3) Green River Game Land in Henderson and Polk counties, except Green River downstream of the natural gas pipeline crossing.
 - (4) Headwaters Game Land in Transylvania County.
 - (5) Nantahala National Forest Game Lands in Cherokee, Clay, Graham, Jackson, Macon, Swain, and Transylvania counties, except Cheoah River downstream of Santeetlah Reservoir and Cherokee Lake.
 - (6) Pisgah National Forest Game Lands in Avery, Buncombe, Burke, Caldwell, Haywood, Henderson, Madison, McDowell, Mitchell, Transylvania, Watauga, and Yancey counties, except:
 - (A) Cedar Rock Creek, Grogan Creek, and John Rock Branch;

- (B) North Fork Catawba River downstream of the mouth of Armstrong Creek;
- (C) Big Laurel Creek downstream from the US 25-70 bridge to the French Broad River;
- (D) Mill Ridge Pond;
- (E) Nolichucky River;
- (F) Pigeon River downstream of Waterville Reservoir to the Tennessee state line; and
- (G) Spring Creek below US Forest Service road 223.
- (7) Pond Mountain Game Land in Ashe County.
- (8) Little Fork State Forest Game Land in Wilkes County.
- (9) South Mountains Game Land in Cleveland and Rutherford counties.
- (10) Three Top Mountain Game Land in Ashe County.
- (11) Thurmond Chatham Game Land in Wilkes County.
- (12) Toxaway Game Land in Transylvania County.
- (13) William H. Silvers Game Land in Haywood County.

(e) The designated public mountain trout waters located on the game lands listed in Paragraph (d) of this Rule are Wild Trout Waters unless classified otherwise in 15A NCAC 10C .0205(d).

History Note: Authority G.S. 113-134; 113-264; 113-272; 113-292; 113-305; Eff. February 1, 1976; Amended Eff. July 1, 2000; July 1, 1998; July 1, 1996; July 1, 1995; July 1, 1994; July 1, 1993; July 1, 1992; 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, 2018; August 1, 2017; August 1, 2015; August 1, 2014; August 1, 2010; May 1, 2009; August 1, 2004; Readopted Eff. August 1, 2023.

15A NCAC 10D .0105 POSSESSION AND REMOVAL OF ANIMALS, PLANTS AND MATERIALS

- (a) For purposes of this Rule, the following definitions apply:
 - (1) "Other materials" means metals, minerals, rocks, soil, organic debris, buildings, fences, archeological resources as defined in G.S. 70-12, and water.
 - (2) "Commission lands" means State-owned game lands, hatcheries, depots, refuges, boating access areas and public fishing access areas, or parts thereof, allocated to the Wildlife Resources Commission.
 - (3) "Written permission" means permits, sales agreements, agricultural agreements, and letters written by authorized Commission personnel. Written permissions shall specify the type of activity allowed, the Commission land(s) where

the activity may occur, and the persons authorized to partake in the activity. Written permission shall be carried on their person during the activity. This requirement extends to an individual operating in conjunction with another's written permission.

(b) On Commission lands:

- (1) No wildlife resources, fungi, invertebrates, eggs, nests, animal parts, plants, plant materials, or other materials shall be possessed on or removed from Commission lands except:
 - (A) as allowed in this Rule;
 - (B) bullfrogs, as specified in 15A NCAC 10B .0226; or
 - (C) if written permission has been granted by the Wildlife Resources Commission.

This restriction applies to both dead and living wildlife resources, fungi, invertebrates, eggs, animal parts, plants, and plant materials.

- (2) Game, fur-bearing animals, wildlife resources, fisheries resources, and nongame animals or birds, legally taken pursuant to a valid hunting, trapping, fishing, falconry, or other collection license that entitles the licensee to access and use Wildlife Resources Commission Property may be possessed on and removed from Commission lands.
- (3) Berries, fruit, nuts, mushrooms, ramps and other plants or plant materials for human consumption may be possessed on and removed from Commission lands without written permission for personal consumption only, except any fungi, plant or part thereof on a State or federal protected list shall not be possessed on or removed from Commission lands without written permission. Other fungi, plants and plant materials not for human consumption may not be possessed on or removed from Commission lands except with written permission. Crops or products thereof planted for the benefit of wildlife shall not be removed without written permission.
- (4) Insects, worms, or other invertebrates collected as fish bait may be possessed on and removed from Commission lands without written permission for personal use only, except species on a State or federal protected list may not be collected and may not be removed from Commission lands. Sale of these resources is prohibited.
- (5) Minimal amounts of animal parts, plant parts not removed from live plants, and other materials may be collected by hand and removed from Commission lands without written permission, except in violation of rules, general statutes, or federal law. Collection of animal parts, and plant parts not removed from live plants for commercial use or sale is

prohibited. For purposes of this Subparagraph, "minimal amounts," are quantities that fit within a cubic foot of space, except for firewood to be used at posted camping areas. Collection of firewood sufficient to build and maintain a fire during the game land user's stay at the campground is permitted.

- (6) Litter and road kill animals may be removed without written permission, except in violation of 15A NCAC 10B .0106.
- (7) A collection license as described in 15A NCAC 10B .0119 does not qualify as written permission to collect or remove wildlife resources from Commission lands. Written permission shall be specific to the Commission land.

(c) On the other lands enrolled in the game land program:

- (1) Game, fur-bearing animals, fisheries resources, and nongame animals or birds legally taken pursuant to a valid hunting, trapping, fishing, falconry, or collection license may be possessed on and removed from game lands.
- (2) Possession and removal of other wildlife resources, fungi, invertebrates, eggs, nests, animals parts, plants, and plant materials is subject to the rules of the Commission and is at the discretion of the landowner, except where the landowner has ceded authority to the Commission. When the landowner has ceded authority to the Commission, the permissions and restrictions in Paragraph (b) of this Rule apply.

(d) Except as referenced in Subparagraph (b)(5) of this Rule, other materials may be possessed or removed from Commission lands and other lands enrolled in the game land program with written permission from the Commission, except for archeological resources. To possess or remove archeological resources from Commission land or other lands enrolled in the game land program, an individual shall obtain and have on his or her person, written permission from the Commission and a permit issued by the Department of Natural and Cultural Resources as specified in G.S. 70-12.

History Note: Authority G.S. 113-134; 113-264; 113-291; 113-291.2; 113-305; 113-333; Eff. August 1, 2012; Amended Eff. August 1, 2020; Readopted Eff. August 1, 2023.

15A NCAC 10D .0211 BUTNER-FALLS OF NEUSE GAME LAND IN DURHAM, GRANVILLE, AND WAKE COUNTIES

Butner-Falls of Neuse game land is a Six Days per Week Area, in which the following applies:

- (1) Antlered or antlerless deer may be taken the first open day of the All Lawful Weapons Season for Deer With Visible Antlers through the second Friday thereafter.
- (2) Waterfowl shall be taken only on:

- (a) the opening and closing days of the waterfowl seasons;
 - (b) Thanksgiving, Christmas, New Year's, and Martin Luther King, Jr. Days; and
 - (c) Tuesdays, Thursdays, and Saturdays of the applicable waterfowl seasons.
- On the posted waterfowl impoundments a special permit is required for all waterfowl hunting after November 1.
- (3) Horseback riding is prohibited.
 - (4) Target shooting is prohibited.
 - (5) Wild turkey hunting is by permit only, except on those areas posted as an archery zone.
 - (6) The use of dogs for hunting deer is prohibited on that portion west of NC 50 and south of Falls Lake.
 - (7) The use of bicycles is restricted to designated areas, except that this restriction does not apply to hunters engaged in the act of hunting during the open days of the seasons for game birds and game animals. On designated bicycle riding areas, the use of bicycles is allowed from May 15 through August 31, and on Sundays only from September 1 through May 14.
 - (8) Camping is restricted to September 1 through the last day of February and March 31 through May 14.
 - (9) Camping is allowed year-round in the designated Mountains-to-Sea Trail Camping Area and shall not exceed a maximum stay of two consecutive nights. Campfires are prohibited in this camping area.

History Note: Authority G.S. 113-134; 113-264; 113-291.2; 113-291.5; 113-296; 113-305; Eff. November 1, 2022; Amended Eff. August 1, 2023.

15A NCAC 10D .0215 R. WAYNE BAILEY-CASWELL GAME LAND IN CASWELL COUNTY

R. Wayne Bailey-Caswell is a Three Days per Week Area, in which the following applies:

- (1) Antlered or antlerless deer may be taken from the first open day of the All Lawful Weapons Season for Deer With Visible Antlers through the second Wednesday thereafter.
- (2) Horseback riding, including all equine species, is allowed seven days per week from May 16 through August 31, and on Sundays only, September 1 through May 15. Horseback riding is allowed only on roads opened to vehicular traffic and on those gated roads and trails that are posted for equestrian use. People age 16 or older horseback riding on this game land shall possess a Game Lands license as required by G.S. 270.3(b)(3).
- (3) The area encompassed by the following roads is permit-only for quail and woodcock hunting

and bird dog training: From Yanceyville south on NC 62 to the intersection of SR 1746, west on SR 1746 to the intersection of SR 1156, south on SR 1156 to the intersection of SR 1783, east on SR 1783 to the intersection of NC 62, north on NC 62 to the intersection of SR 1736, east on SR 1736 to the intersection of SR 1730, east on SR 1730 to NC 86, north on NC 86 to NC 62.

- (4) On the posted waterfowl impoundment, waterfowl hunting is by permit only after November 1.
- (5) Camping is restricted to September 1 through the last day of February and March 31 through May 14.
- (6) Target shooting is prohibited, except at the R. Wayne Bailey-Caswell Shooting Range.

History Note: Authority G.S. 113-134; 113-264; 113-291.2; 113-291.5; 113-296; 113-305; Eff. October 1, 2022; Amended Eff. August 1, 2023.

15A NCAC 10D .0232 GULL ROCK GAME LAND IN HYDE COUNTY

Gull Rock is a Seven Days per Week Area, in which the following applies:

- (1) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
- (2) Waterfowl on posted waterfowl impoundments shall be taken only on the following days:
 - (a) the opening and closing days of the applicable waterfowl seasons;
 - (b) Thanksgiving, Christmas, New Year's, and Martin Luther King, Jr. Days; and
 - (c) Tuesdays and Saturdays of the applicable waterfowl season.
- (3) Camping is restricted to September 1 through the last day of February and March 31 through May 14 in areas designated and posted as camping areas.
- (4) Bear may only be taken the first Saturday, Monday, and Tuesday of the November Bear Season and the second Saturday, Monday, and Tuesday of the December Bear Season.

History Note: Authority G.S. 113-134; 113-264; 113-291.2; 113-291.5; 113-296; 113-305; Eff. October 1, 2022; Temporary Amendment Eff. December 1, 2022; Amended Eff. June 1, 2023.

15A NCAC 10D .0239 JOHNS RIVER GAME LAND IN BURKE COUNTY

Johns River game land is hunting by permit only. The following shall apply:

- (1) During permitted deer hunts, antlered or antlerless deer may be taken by permit holders.

- (2) The construction of permanent hunting blinds is prohibited.
- (3) Camping is restricted to August 31 through the last day of February and March 31 through May 14.
- (4) Target shooting is prohibited.

History Note: Authority G.S. 113-134; 113-264; 113-291.2; 113-291.5; 113-296; 113-305;
Eff. October 1, 2022;
Amended Eff. August 1, 2023.

15A NCAC 10D .0240 JORDAN GAME LAND IN CHATHAM, DURHAM, ORANGE, AND WAKE COUNTIES

Jordan game land is a Six Days per Week Area, in which the following applies:

- (1) Antlered or antlerless deer may be taken on open days of the All Lawful Weapons Season for Deer With Visible Antlers.
- (2) Waterfowl may be taken only on:
 - (a) Mondays, Wednesdays, and Saturdays of the applicable waterfowl seasons;
 - (b) Thanksgiving, Christmas, and New Year's Days; and
 - (c) the opening and closing days of the applicable waterfowl seasons.
- (3) Horseback riding, including all equine species, is allowed only on those areas posted as American Tobacco Trail and other areas posted for equestrian use. Unless otherwise posted, horseback riding is permitted on posted portions of the American Tobacco Trail anytime the trail is open for use. On other trails posted for equestrian use, horseback riding is allowed seven days per week from May 16 through August 31, and on Sundays only from September 1 through May 15. People age 16 or older shall obtain a game land license prior to engaging in horseback riding on an area other than the American Tobacco Trail.
- (4) Target shooting is prohibited.
- (5) Wild turkey hunting is by permit only, except on those areas posted as an Archery Zone.
- (6) The use of bicycles is restricted to designated areas, except that this restriction does not apply to hunters engaged in the act of hunting during the open days of the applicable seasons for game birds and game animals.
- (7) Camping is restricted to September 1 through the last day of February and March 31 through May 14.

History Note: Authority G.S. 113-134; 113-264; 113-291.2; 113-291.5; 113-296; 113-305;
Temporary Adoption Eff. October 1, 2022;
Eff. March 15, 2023;
Amended Eff. August 1, 2023.

15A NCAC 10D .0258 PEE DEE RIVER GAME LAND IN ANSON, MONTGOMERY, RICHMOND, AND STANLY COUNTIES

Pee Dee River game land is a Seven Days per Week Area, in which the following applies:

- (1) Antlered or antlerless deer may be taken the first open day of the All Lawful Weapons Season for Deer With Visible Antlers through the second Friday thereafter.
- (2) Target shooting is prohibited.
- (3) Horseback riding is allowed seven days per week from May 16 through August 31, and on Sundays only September 1 through May 15 only on roads opened to vehicular traffic and gated roads and trails posted for equestrian use.
- (4) Pursuing or chasing deer or bear with dogs for training or hunting shall be prohibited on that portion south of US-74.

History Note: Authority G.S. 113-134; 113-264; 113-291.2; 113-291.5; 113-296; 113-305;
Eff. October 1, 2022;
Amended Eff. August 1, 2023.

15A NCAC 10D .0269 ROCKY RUN GAME LAND IN ONSLOW COUNTY

- (a) Rocky Run game land is hunting by permit only.
- (b) Target shooting is prohibited.

History Note: Authority G.S. 113-134; 113-264; 113-291.2; 113-291.5; 113-296; 113-305
Eff. November 1, 2022;
Amended Eff. August 1, 2023.

15A NCAC 10D .0271 SANDHILLS GAME LAND IN HOKE, MOORE, RICHMOND, AND SCOTLAND COUNTIES

Sandhills game land is a Three Days per Week Area, in which the following applies:

- (1) Hunting is prohibited on the J. Robert Gordon Field Trial Grounds from the Wednesday on or nearest October 18 through March 31 except as follows:
 - (a) Antlered or antlerless deer may be taken with archery equipment on the open days of the archery season through the fourth Friday before Thanksgiving Day; with blackpowder firearms and archery equipment the open days of the blackpowder firearms season through the third Wednesday before Thanksgiving Day; and only deer with visible antlers may be taken with all lawful weapons from the second Saturday before Thanksgiving Day through the Saturday following Thanksgiving Day;

- (b) dove may be taken on open days from the opening day of the dove season through the third Saturday thereafter;
 - (c) gray and fox squirrel may be taken on open days from the second Saturday before Thanksgiving Day through the Saturday following Thanksgiving Day;
 - (d) rabbit may be taken on open days from the second Saturday preceding Thanksgiving Day through the Saturday following Thanksgiving Day;
 - (e) waterfowl may be taken on open days during waterfowl season;
 - (f) wild animals and wild birds may be taken as part of a Disabled Sportsmen Program Permit Hunt; and
 - (g) raccoon and opossum may be taken on open days from sunrise Monday on or nearest October 15 through the last day of February.
- (2) The Deer With Visible Antlers season is the open hunting days from the second Saturday before Thanksgiving Day through the third Saturday after Thanksgiving Day except on the J. Robert Gordon Field Trial Grounds.
- (3) The archery season is on open days from the Saturday on or nearest to September 10 to the fourth Friday before Thanksgiving Day and, except on the J. Robert Gordon Field Trial Grounds, the third Monday after Thanksgiving Day through January 1. Antlered or antlerless deer may be taken with archery equipment on open hunting days during the archery season, by permit during the Deer with Visible antlers season, and the blackpowder firearms season as stated in this Subparagraph. Only deer with visible antlers may be taken from the third Monday after Thanksgiving Day through January 1.
- (4) Blackpowder firearms season is the open days from the fourth Saturday preceding Thanksgiving Day through the Wednesday of the second week thereafter and, except on the J. Robert Gordon Field Trial Grounds, the third Monday after Thanksgiving Day through January 1. Antlered or antlerless deer may be taken with blackpowder firearms on open hunting days during the blackpowder firearms season. Only deer with visible antlers may be taken from the third Monday after Thanksgiving Day through January 1.
- (5) Antlered and antlerless deer hunting during the All Lawful Weapons Season for Deer With Visible Antlers is by permit only.
- (6) In addition to the regular hunting days, waterfowl may be taken on the opening and closing days of the applicable waterfowl seasons.
- (7) Wild turkey hunting is by permit only.
 - (8) Horseback riding on field trial grounds from the Wednesday on or nearest October 18 through March 31 is prohibited unless participating in authorized field trials. Horseback riding is allowed on the remainder of the Sandhills Game Land seven days per week on roads that are open to vehicular traffic and gated roads and trails posted for equestrian use.
 - (9) Camping is restricted to September 1 through the last day of February and March 31 through May 14.
 - (10) Target shooting is prohibited, except at the John F. Lentz Hunter Education Complex.
 - (11) Swimming is prohibited in the lakes.
- History Note: Authority G.S. 113-134; 113-264; 113-291.2; 113-291.5; 113-296; 113-305; Eff. October 1, 2022; Amended Eff. August 1, 2023.*

15A NCAC 10F .0308 CLAY COUNTY

(a) Regulated Areas. This Rule shall apply to the following waters in Chatuge Lake:

- (1) the waters shore to shore within 150 yards of the boat ramp at Ho Hum Campground at 47 Ho Hum Loop, Hayesville;
- (2) the waters of Shooting Creek, from a line shore to shore 50 yards west of the High Bridge on NC Highway 175, to a line at the southeast end of Shooting Creek shore to shore, from a point at 35.01960 N, 83.72752 W; to a point at 35.01979 N, 83.72638 W;
- (3) the waters of Gibson Cove, south of a line from a point on the east shore at 35.01005 N, 83.79750 W to a point on the west shore at 35.01099 N, 83.79929 W, southwest to the end of Gibson Cove at 3279 Myers Chapel Road in Hayesville;
- (4) within 50 yards of the Chatuge Cove Marina at 2397 Highway 175 in Hayesville;
- (5) the portion of the cove shore to shore, west of Cottage Court off of NC Highway 175, northeast of a line from a point on the east shore at 35.02576 N, 83.73784 W; to a point on the northwest shore at 35.02609 N, 83.73945 W;
- (6) within 50 yards of the Chatuge Dam Spillway access area in the vicinity of 1407 Chatuge Dam Road in Hayesville; and
- (7) within 50 yards of the peninsula at Clay County Recreational Park, from a point on the north shore at 35.00850 N, 83.79254 W, east to a point in the water at 35.00874 N, 83.79187 W, south to a point in the water at 35.00782 N, 83.79119 W, southwest to a point in the water at 35.00672 N, 83.79211 W, west to a point on the shore at 35.00696 N, 83.79259 W.

(b) Speed Limit. It shall be unlawful to operate a vessel at greater than no-wake speed within the regulated areas identified in Paragraph (a) of this Rule.

(c) Swimming Area. No person operating or responsible for the operation of a vessel shall allow it to enter the waters of the Clay County Recreational Park Swimming Area at Clay County Recreational Park, 47 Clay Recreation Park Road, Hayesville.

(d) Restricted Area. It shall be unlawful to operate a vessel at greater than no-wake speed within the no-wake zone at the Jack Rabbit Mountain Swim Area on Jack Rabbit Road in Hayesville. No person operating or responsible for the operation of a vessel shall allow it to enter the roped swim beach within the no-wake zone at Jack Rabbit Mountain Swim Area.

(e) Placement of Markers. The Board of Commissioners of Clay County shall be the designated agency for placement of the markers implementing this Rule, subject to the approval of the Tennessee Valley Authority and the United States Army Corps of Engineers.

History Note: Authority G.S. 75A-3; 75A-15; Eff. February 1, 1976; Amended Eff. June 1, 2005; July 1, 1998; February 1, 1990; July 1, 1986; March 25, 1978; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016; Amended Eff. June 1, 2023; February 1, 2021; October 1, 2018; June 1, 2017.

15A NCAC 10F .0316 FORSYTH, ROCKINGHAM AND STOKES COUNTIES

(a) Regulated Areas. This Rule shall apply to the following waters in Forsyth, Rockingham, and Stokes counties:

- (1) Belews Lake within 50 yards of a public boat launching ramp on the lake, and within 50 yards of a bridge crossing on the lake;
- (2) Belews Lake at Humphrey's Ridge Marina and Grill at 473-499 Humphrey Ridge Drive in Stokesdale, east of a line from a point on the north shore at 36.27962 N, 80.03507 W to a point on the south shore at 36.27804 N, 80.03565 W; and

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

(c) Placement and Maintenance of Markers. The Boards of Commissioners of Forsyth County, Rockingham County and Stokes County, or their designees shall be the designated agencies for placement and maintenance of markers implementing this Rule. Markers warning of a no-wake speed zone shall be buoys or floating signs.

History Note: Authority G.S. 75A-3; 75A-15; Eff. February 1, 1976; Amended Eff. May 1, 1976; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016; Amended Eff. June 1, 2023; October 1, 2018.

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 of Withers Cove in Mecklenburg County, shore to shore, beginning at a line north of the Mecklenburg Charlotte Fire Department and Police Department Boathouse from a point on the west shore at 35.14632 N, 81.00383 W to a point on the east shore at 35.14713 N, 81.00173 W, and ending at a point 50 feet southeast of the Withers Bridge on SR 1116, otherwise known as Shopton Road, at 35.14576 N, 81.00187 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 a 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 a 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 a 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, 2023; June 1, 2022; May 1, 2019.

15A NCAC 10F .0355 PERQUIMANS COUNTY

(a) Regulated Areas. This Rule shall apply to the following waters:

- (1) Perquimans River:
 - (A) the canals of Holiday Island subdivision at Albemarle Sound; and

(B) Town of Hertford: 550 yards southwest of the Perquimans River Bridge on U.S. Highway 17 Business, otherwise known as the Hertford S - Bridge, at a line from a point on the north shore at 36.19305 N, 76.46957 W to a point on the south shore at 36.19150 N, 76.47099 W, and 190 yards northeast of the bridge at a line from a point in the Perquimans River at 36.19530 N, 76.46518 W, eastward to Day Marker #11, then southeast to a point on the shore at 36.19337 N, 76.46367 W.

(2) Yeopim River:

- (A) the canal between Navaho Trail and Cherokee Trail beginning at a point at 36.07893 N, 76.42278 W;
- (B) the canal between Cherokee Trail and Ashe Street beginning at a point at 36.07865 N, 76.42603 W;
- (C) within 50 yards of the boat ramp at Ashe and Pine Street;
- (D) the canal between Pine Street and Linden Street beginning at a point at 36.07951 N, 76.43402 W;
- (E) the canal between Willow Street and Evergreen Drive beginning at a point at 36.08005 N, 76.43735 W;
- (F) the canal between Sago Street and Alder Street beginning at a point at 36.07986 N, 76.44063 W; and
- (G) Bethel Creek north of a line from a point on the west shore at 36.09566 N, 76.47928 W to a point on the east shore at 36.09534 N, 76.47738 W to a line from a point on the west shore at 36.10532 N, 76.48080 W to a point on the east shore at 36.10516 N, 76.48047 W.

(3) Yeopim Creek:

- (A) the canal between Mohave Trail and Iowa Trail beginning at a point at 36.08521 N, 76.41802 W;
- (B) the canal between Iowa Trail and Shawnee Trail beginning at a point at 36.08511 N, 76.41763 W;
- (C) the area within 75 yards of the Albemarle Plantation Marina Piers;
- (D) the area of the cove known as Beaver Cove, shore to shore beginning at a point at 36.08767 N, 76.42151 W; and
- (E) the waters of Yeopim Creek adjacent to Heritage Shores North, shore to shore, east of a line from a point on the north shore at 36.11356 N, 76.43138 W to a point on the south shore at 36.11288 N, 76.43173 W, to a line northwest from a point on the east

shore at 36.11219 N, 76.42445 W to a point on the west shore at 36.11178 N, 76.42596 W.

- (4) Little River: the entrance to the cove known as Muddy Gut Canal that extends from the waters known as Deep Creek, shore to shore beginning at a line from a point on the east shore at 36.17729 N, 76.28011 W to a point on the west shore at 36.17667 N, 76.28331 W.

(b) Speed Limit. No person shall operate a vessel at greater than no-wake speed within the 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 swimming area at the Snug Harbor Park and Beach on the Yeopim River.

(d) Placement of Markers. The Board of Commissioners of Perquimans County is the designated agency for placement of markers implementing this Rule, subject to the approval of the United States Coast Guard and the United States Army Corps of Engineers.

History Note: Authority G.S. 75A-3; 75A-15; Eff. November 1, 1988; Amended Eff. October 1, 1992; Temporary Amendment Eff. October 1, 1997; Amended Eff. July 1, 1998; Temporary Amendment Eff. February 4, 2000; Amended Eff. January 1, 2015; September 1, 2013; May 1, 2006; June 1, 2005; July 1, 2000; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016; Amended Eff. June 1, 2023; October 1, 2018; June 1, 2017.

15A NCAC 10F .0379 CITY OF ROXBORO

(a) Regulated Area. This Rule applies to the waters of Lake Roxboro, located near Frogsboro in Person and Caswell counties, in the channel between a line shore to shore from 36.32069 N, 79.15373 W, and a line shore to shore at 36.31651 N, 79.15165 W.

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

(c) Placement of Markers. The City of Roxboro is the designated agency for placement and maintenance of the markers implementing this Rule.

History Note: Authority G.S. 75A-3; 75A-15; Eff. June 1, 2023.

15A NCAC 18A .0911 MARINAS, DOCKING FACILITIES, AND OTHER MOORING AREAS

The Division of Marine Fisheries shall classify shellfish growing waters with respect to marinas, docking facilities, and other mooring areas as follows:

- (1) the Division shall classify all waters within a marina as prohibited to the harvesting of shellfish for human consumption; and

- (2) the Division shall conduct a dilution analysis, in the form of a volumetric calculation or in-field hydrographic study, to determine the volume of water necessary to dilute the concentration of fecal coliform bacteria to less than 14 MPN. The Division shall classify the water area determined by this dilution analysis as prohibited to the harvesting of shellfish for human consumption. The Division shall conduct the dilution analysis yearly and shall incorporate the following:

- (a) the findings of the shoreline survey, including the presence of a sewage pumpout system or dump station;
- (b) the physical factors influencing the dilution and dispersion of human wastes; and
- (c) for marinas, docking facilities, and mooring areas in close proximity to one another, slip counts and services shall be combined for the purposes of the dilution analysis. Marinas, docking facilities, and mooring areas, each with three slips or more, shall be considered to be in close proximity to one another if the dilution analysis for each individual facility indicates that the dilution areas meet or overlap.

History Note: Authority G.S. 113-134; 113-182; 113-221.2; 143B-289.52; Eff. June 1, 1989; Amended Eff. July 1, 1993; Readopted Eff. June 1, 2023.

15A NCAC 18A .2801 DEFINITIONS

The following definitions shall apply throughout this Section:

- (1) "Adequate" means to be of the size, volume, or technical specifications necessary to effectively accommodate and support the planned, current, or projected workloads for the technology or constructed space.
- (2) "Approved Disinfectant" means a chlorine solution containing 500 to 800 parts per million (ppm) of chlorine or a disinfectant as defined at 40 C.F.R. 158.2203 that is registered with the United States Environmental Protection Agency (EPA) in accordance with 40 C.F.R. 152 with use indicated in schools and child care settings and that is prepared and maintained in accordance with Rule .2812(i) of this Section.
- (3) "Chain or Franchise Child Care Center" means a child care center that operates under the same business name and prototype design concept, with common ownership or management, as nine or more other child care centers pursuant to a franchise agreement under the same franchisor as nine or more other child care centers.

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| <p>(4) "Child Care Administrator" means as defined at G.S. 110-86(2a).</p> <p>(5) "Child Care Center" means as defined at 10A NCAC 09 .0102(6).</p> <p>(6) "Child Care Operator" or "Operator" means as defined at G.S. 110-86(7).</p> <p>(7) "Clean" means that an object or surface has been made free of garbage, soil, dust, hair, dander, food, bodily fluids and secretions, and feces.</p> <p>(8) "Communicable Condition" means as defined at G.S. 130A-2(1b).</p> <p>(9) "Communicable Disease" means as defined at G.S. 130A-2(1c).</p> <p>(10) "Department" or "DHHS" means the North Carolina Department of Health and Human Services or the Department's authorized agent pursuant to G.S. 130A-4.</p> <p>(11) "Designated Emergency Medication" means a medication needed to immediately treat a life-threatening medical event that is administered in accordance with 10A NCAC 09 .0803(10) and G.S. 110-102.1A.</p> <p>(12) "Detergent Solution" means a solution comprised of water and soap.</p> <p>(13) "Disinfect" means a non-sporicidal process of using an approved disinfectant on inanimate surfaces to destroy or irreversibly inactivate fungi, viruses, and bacteria.</p> <p>(14) "Food" means any raw, cooked, or processed edible substance, ice, beverage, or ingredient used or intended for use or for sale in whole or in part for human consumption.</p> <p>(15) "Food-contact surface" means as defined in Part 1-201.10 of the Food Code incorporated by reference at 15A NCAC 18A .2650 as amended by 15A NCAC 18A .2651.</p> <p>(16) "Food Preparation" means the handling of foods or utensils in the preparation of meals, including opening and closing of baby bottles, baby food jars, and cereal boxes, as well as the opening and closing of any other food items during the assembly of ingredients.</p> <p>(17) "Food Service" means the distribution of foods for consumption, including milk placed in a pitcher or other serving container, ice that is transported, stored and dispensed, the distribution of children's bagged lunches and snacks sent from home, and the use of utensils to prevent direct food contact.</p> <p>(18) "Frying" means to cook over direct heat in hot oil or fat. This includes the oil or fat that is generated by the food or added to the cooking utensil.</p> <p>(19) "Garbage" means as defined at G.S. 130A-290(a)(7).</p> <p>(20) "Good Repair" means as defined at 15A NCAC 18A .2651(8). Items that are in good repair shall be free of substrate damage, deterioration,</p> | <p>peeling surfaces, and broken or missing parts and shall operate in accordance with the manufacturer's or builder's instructions.</p> <p>(21) "Hand Antiseptic" means as defined in Part 2-301.16 of the Food Code incorporated by reference at 15A NCAC 18A .2650 as amended by 15A NCAC 18A .2652.</p> <p>(22) "Handwash Lavatory" means a sink that is equipped with hot and cold water under pressure and is used primarily for handwashing.</p> <p>(23) "Hazard" means as defined in Part 1-201.10 of the Food Code incorporated by reference at 15A NCAC 18A .2650 as amended by 15A NCAC 18A .2651, except that "consumer" shall be replaced with "child."</p> <p>(24) "Hermetically Sealed Container" means as defined in Part 1-201.10 of the Food Code incorporated by reference at 15A NCAC 18A .2650 as amended by 15A NCAC 18A .2651.</p> <p>(25) "Licensing Agency" means the DHHS, Division of Child Development and Early Education.</p> <p>(26) "Local Health Department" means as defined at G.S. 130A-2(5).</p> <p>(27) "Milk Products" means as defined in Section 1 of the 2017 Grade "A" Pasteurized Milk Ordinance, including subsequent amendments and editions, established by the U.S. Department of Health and Human Services, Food and Drug Administration, which is hereby incorporated by reference and available free of charge at https://www.fda.gov/media/114169/download.</p> <p>(28) "Multi-Service Articles" means tableware, including flatware and hollowware that are designed, fabricated, and intended by the manufacturer to be washed, rinsed, sanitized, and re-used.</p> <p>(29) "Multi-Use Articles" means bulk food containers and utensils designed, fabricated, and intended by the manufacturer to be washed, rinsed, sanitized, and re-used. The term includes food storage containers, beverage pitchers, serving spoons and bowls, tongs, and spatulas. The term does not include multi-service articles as defined in this Rule.</p> <p>(30) "Outdoor Learning Environment" means as set forth at 10A NCAC 09 .0605.</p> <p>(31) "Pest" means as defined at G.S. 143-460(26a).</p> <p>(32) "Potable Water" means water from a potable water supply as defined at 15A NCAC 18C .0102(c)(18).</p> <p>(33) "Potentially Hazardous Food" means any food or ingredient, natural or synthetic, in a form capable of supporting the growth of infectious or toxigenic microorganisms, including Clostridium botulinum. This term includes raw or heat-treated food of animal origin, raw seed sprouts, and heat-treated foods of plant origin.</p> |
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The term does not include foods which have a pH level of 4.6 or below or a water activity value of 0.85 or less.

- (34) "Sanitize" means a process of using a sanitizing solution on inanimate surfaces to destroy or irreversibly inactivate bacteria.
- (35) "Sanitizing Solution" means a solution containing 50 to 200 parts per million (ppm) of chlorine or a sanitizer as defined at 40 C.F.R. 158.2203 that is registered with the EPA in accordance with 40 C.F.R. 152 that is approved by the EPA for use on food-contact surfaces, does not require a final rinse step, and has a testing method that can be used by child care center employees to confirm that the prescribed chemical concentrations are met and that is prepared and maintained in accordance with Rule .2812(j) of this Section.
- (36) "School Age" means a school-aged child as defined at 10A NCAC 09 .0102(42).
- (37) "Single-Service Articles" means tableware, including flatware and hollowware, carry-out utensils and other items such as bags, containers, stirrers, straws, toothpicks, and wrappers that are designed, fabricated and intended by the manufacturer for one-time use.
- (38) "Single-Use Articles" means bulk food containers and utensils intended by the manufacturer to be used once and discarded. The term includes formed buckets, bread wrappers, pickle barrels, and No. 10 cans. The term does not include single-service articles as defined in this Rule.
- (39) "Tempered Water" means water that is between 80 and 110 degrees Fahrenheit.
- (40) "Utensil" means any kitchenware, tableware, glassware, cutlery, containers or other equipment that food or drink comes in contact with during storage, preparation or serving.
- (41) "Water Play Center" means water tables or containers that allow children to scoop, splash, pour, and play with water to explore their senses.
- (42) "Work Surfaces" means surfaces used for food service, stove tops, food contact utensil and dishwashing sinks, surfaces used for air drying, drain boards, surfaces used for diaper changing, counter top surfaces, and children's work tables, desks, and easels.

History Note: Authority G.S. 110-91; Eff. July 1, 1991; Amended Eff. March 1, 1995; Temporary Amendment Eff. April 15, 1998; Amended Eff. July 1, 2006; January 1, 2006; April 1, 1999; Readopted Eff. July 1, 2023.

15A NCAC 18A .2802 APPROVAL OF CONSTRUCTION AND RENOVATION PLANS

- (a) Construction plans drawn to scale and specifications for a new child care center that is not a chain or franchise child care center shall be submitted by the operator or the operator's designee to the local health department that serves the county in which the child care center is located for review and approval prior to initiating construction. Plans drawn to scale and specifications for changes to building dimensions, kitchen specifications, or other modifications to existing child care centers, including chain or franchise child care centers, shall also be submitted to the local health department for review and approval prior to initiating construction. Construction plans drawn to scale and specifications for prototype chain or franchise child care centers shall be submitted to DHHS, Division of Public Health, Environmental Health Section by mail at 5605 Six Forks Road, 1632 Mail Service Center, Raleigh, North Carolina 27699-1632. When requested by an operator of a child care center or by the Secretary of the Department, the local health department shall visit or inspect an existing or proposed center, within 30 days of the request, to determine compliance with this Section.
- (b) The local health department or the DHHS, Division of Public Health, Environmental Health Section, as applicable, shall approve plans described in Paragraph (a) of this Rule when the plans meet the requirements of the rules of this Section that pertain to the construction or renovation of child care centers.
- (c) Construction and modifications shall comply with the plans approved pursuant to this Rule.

History Note: Authority G.S. 110-91; 110-92; Eff. July 1, 1991; Temporary Amendment Eff. April 15, 1998; Amended Eff. April 1, 1999; Temporary Amendment Eff. December 1, 1999; Amended Eff. January 1, 2006; April 1, 2001; Readopted Eff. July 1, 2023.

15A NCAC 18A .2803 HANDWASHING

- (a) Child care center employees shall wash their hands as follows when at work in a child care center:
 - (1) upon reporting for work at the child care center;
 - (2) before and after handling or preparing food;
 - (3) before bottle feeding a child;
 - (4) before providing food service;
 - (5) before handling clean utensils;
 - (6) after toileting or handling of body fluids, including but not limited to saliva, nasal secretions, vomitus, feces, urine, blood, secretions from sores, and pustulant discharge;
 - (7) after diaper changing;
 - (8) after handling soiled items that are not clean;
 - (9) after being outdoors;
 - (10) after handling animals or animal cages; and
 - (11) after removing disposable gloves.
- (b) The use of a hand antiseptic does not replace the requirements for handwashing in Paragraph (a) of this Rule except that an employee who is supervising a child or children outdoors may use a hand antiseptic while outdoors in lieu of handwashing, provided that the employee's hands are washed in accordance with

Paragraph (e) of this Rule when the employee returns indoors. Hand antiseptic shall not be used in lieu of handwashing when the employee's action that necessitates handwashing is diapering, food preparation, or food service.

(c) Child care center employees shall ensure that children wash their hands as follows:

- (1) upon arrival at the child care center;
- (2) after each diaper change or visit to the toilet;
- (3) before eating meals or snacks;
- (4) before and after water play;
- (5) after being outdoors; and
- (6) after handling animals or animal cages.

(d) Except when the action that necessitates handwashing is diapering and before eating meals or snacks, hand antiseptics may be used in lieu of handwashing while a child is outdoors, provided that the child's hands are washed when the child returns indoors.

(e) Handwashing procedures shall include the following steps:

- (1) using liquid soap and tempered water;
- (2) rubbing hands vigorously with soap and tempered water for 15 seconds;
- (3) washing all surfaces of the hands, to include the backs of hands, palms, wrists, under fingernails, and between fingers;
- (4) rinsing the hands under tempered water for 10 seconds;
- (5) drying the hands with a paper towel or other hand-drying device; and
- (6) turning off faucet with a paper towel or other method without recontaminating hands.

History Note: Authority G.S. 110-91; Eff. July 1, 1991; Amended Eff. February 1, 1995; Temporary Amendment Eff. April 15, 1998; Amended Eff. July 1, 2006; January 1, 2006; April 1, 1999; Readopted Eff. July 1, 2023.

15A NCAC 18A .2804 FOOD SUPPLIES

(a) In child care centers, food shall be kept free from spoilage, filth, or other contamination and shall be safe for human consumption. Potentially hazardous foods, including foods packaged in hermetically sealed containers, shall be obtained only from sources that are permitted or inspected by a local health department, the North Carolina Department of Agriculture and Consumer Services, or other government agency. The use of food packaged in hermetically sealed containers that was not prepared in a commercial food processing establishment is prohibited. Food prepared at home and sent to a child care center to be shared with other children shall be limited to baked goods that are not potentially hazardous foods.

(b) Milk products that are used shall be Grade "A" milk and milk products, as set forth in Section 1 of the 2017 Grade "A" Pasteurized Milk Ordinance, including subsequent amendments and editions, established by the U.S. Department of Health and Human Services, Food and Drug Administration, which is hereby incorporated by reference and available free of charge at <https://www.fda.gov/media/114169/download>, in fluid form or evaporated milk. Unless prescribed by a health care provider, dry milk and dry milk products shall be used only for cooking

purposes, including cooked pudding desserts and flavored hot beverages.

(c) Steamed and uncooked shellfish, raw eggs, and products containing raw eggs including raw cookie dough, cake batter, brownie mix, milkshakes, and ice cream shall not be consumed by children. This requirement shall not apply when a pasteurized egg product is used as a substitute for raw eggs.

(d) All human milk, formula, and other bottled beverages, including beverages in sippy cups, that are sent from home shall be fully prepared and labeled with the date received at the child care center and the name of the child to whom the milk, formula, or beverage belongs before being brought to the child care center. All human milk, formula, and other bottled beverages shall be sent home with the child whose name is on the label or discarded at the end of each day. Formula and other beverages that require refrigeration, baby food that has been opened, and human milk shall be labeled with the name of the child to whom the beverage, baby food, or milk belongs and shall be refrigerated at 45 degrees Fahrenheit or below.

(e) Frozen human milk may be stored frozen for three months. Any frozen human milk stored beyond seven days shall be stored in the freezer compartment of a full-size refrigerator that has a separate door to the freezer, in a chest freezer, or in an upright deep freezer. Frozen human milk shall be thawed in accordance with of Rule .2807(i)(1) or (i)(2) of this Section and prepared in the child care center's kitchen or food preparation area. In addition to the labeling required by Paragraph (d) of this Rule, frozen human milk shall be labeled with the date that it is thawed for use. Human milk that was previously frozen and has been thawed shall be refrigerated and stored for no more than 24 hours from when it was thawed. Human milk that was previously frozen and has been thawed shall not be refrozen for storage at the child care center.

(f) Formula provided by the child care center shall be commercial ready-to-feed formula that is pre-packaged in single-use containers. Formula that does not meet these requirements and human milk may be provided to a child by child care center employees as prescribed by the child's health care provider or as instructed, in writing, by the child's parent or guardian. Bottles and other drinking utensils provided by the child care center shall be sanitized in accordance with this Section.

(g) After opening, jars of baby food shall be covered, labeled with the date on which they were opened, refrigerated and used within two days of opening, provided that the baby food is not served directly from the jar. Baby food may be served directly from the jar to one child if unused portions of the food are discarded after each feeding; otherwise, commercially prepared baby foods shall be served from a serving dish rather than the food jar.

(h) After the completion of each feeding, any leftover formula, human milk, or other bottled beverages used during the feeding shall be discarded or sent home with the child whose name is on the label for the formula, human milk, or bottled beverage at the end of each day. Feeding is complete when the child care center employee has stopped feeding the child and the child has been removed from the feeding area in the child care center and returned to other activities. Bottles previously used for feeding shall not be returned to communal mechanical refrigeration. Nothing in these Rules shall prohibit human milk from being sent home at the end of the day with the child whose name is on the label for the human milk instead of being discarded when the

child's parent or guardian has given the child care center written permission to send the human milk home.

(i) A water bottle that a child brings to the child care center from home and that is used only for water consumption by that child shall be exempt from the requirements of Paragraph (h) of this Rule. Instead, the water bottle shall be labeled with the name of the child to whom the water bottle belongs, individually stored in the child's cubby, and sent home with the child at the end of the day.

(j) Child care centers that receive and provide children with prepared meals or snacks from sources outside the child care centers, other than meals or snacks sent from home, shall use meals and snacks obtained from food establishments that are permitted by a local health department, organizations that only serve prepared meals to child care centers, or another child care center inspected by a local health department. Child care centers may also receive and provide children with prepared meals from organizations not licensed as child care centers only when these organizations are providing prepared meals to licensed child care centers and are inspected in the county where the meal is prepared in accordance with G.S. 110-91(1). The inspection of these organizations shall be made by the local health department at the same time the inspection of the licensed child care center receiving these prepared meals is done. The inspection report of the organization providing these meals shall be a part of the inspection of the licensed child care center receiving the prepared meals, unless the organization is a permitted food handling establishment. Food shall be transported to the child care center that is receiving the prepared meals in a manner that meets the requirements of the Rules of this Section relating to hazards, food protection, and storage.

(k) Lunches, snacks, and other meals that a child brings from home to the child care center shall be labeled with the date on which the food is brought to the child care center and the name of the child to whom the food belongs at the child's home and shall be returned to the child's home or discarded at the end of each day. Lunches, snacks, and other meals containing potentially hazardous foods shall be refrigerated at 45 degrees Fahrenheit or below and stored in the child care center kitchen or approved food preparation area. Hot foods that a child brings from home to the child care center in double-walled, insulated thermos containers may be stored outside of refrigeration at the child care center with the written permission of the child's parent or guardian.

(l) Nothing in the Rules of this Section shall prohibit the use of fresh fruits and vegetables, including those grown at the child care center, so long as the fruits and vegetables meet the requirements of the rules of this Section and are washed before being served.

*History Note: Authority G.S. 110-91;
Eff. July 1, 1991;
Amended Eff. February 1, 1995; January 1, 1992;
Temporary Amendment Eff. April 15, 1998;
Amended Eff. July 1, 2006; January 1, 2006; April 1, 1999;
Readopted Eff. July 1, 2023.*

15A NCAC 18A .2806 FOOD STORAGE AND PROTECTION

(a) Once pre-packaged food has been opened, the food shall be stored in clean, resealable bags or containers made of plastic or

glass that are tightly covered and manufactured for the purpose of food storage.

(b) Food that is stored in child care center classrooms or other rooms intended for child care use, shall be limited to foods that are individually packaged unless the classroom is equipped with a food preparation area.

(c) Notwithstanding Paragraph (b) of this Rule, bulk dry goods or food stored in freezers may be stored in rooms in child care centers that are not equipped with a food preparation area when all food preparation involving the bulk dry goods or frozen food is done in the kitchen or an approved food preparation area.

(d) Bulk food stored in a refrigerator shall be stored at 45 degrees Fahrenheit or below and stored in the child care center's kitchen or in an approved food preparation area equipped with a full-size refrigerator. Specialty bulk milk that is sent from home for consumption by a child while at the child care center may be stored as set forth in this Paragraph when the child's parent or guardian provides written permission and the specialty bulk milk is sent to the child care center at the beginning of each week unopened, labeled with the date received by the child care center, and labeled with the name of the child to whom the bulk specialty milk belongs. Any remaining bulk specialty milk shall be sent home at the end of the week with the child to whom the bulk specialty milk belongs.

(e) Dry goods that are stored in containers shall be labeled.

(f) Food and containers of food shall not be stored under exposed sewer lines. Food shall not be stored in toilet or laundry rooms, except that child care centers licensed for fewer than 13 children and located in a residence may store food in laundry rooms if the food is stored and protected as required in Paragraph (g) of this Rule.

(g) Food shall be stored above the floor and in a manner to protect it from dust, pests, drip, splash, and other contamination.

(h) Raw meats, poultry, fish, shellfish and eggs shall be stored in a refrigerator or freezer on shelving beneath and separate from other foods. The temperature of potentially hazardous food provided by the child care center for consumption by children shall be 45 degrees Fahrenheit or below, or at 135 degrees Fahrenheit or above at all times, including field trips, catering events, and outdoor service, except during periods of preparation and service immediately prior to consumption.

(i) Sealed, commercially pre-packaged food may be stored in undrained ice as long as the food is not fully submerged in ice or water. Wrapped sandwiches and other foods shall not be stored in direct contact with ice.

(j) The following shall apply to refrigerated storage of food:

(1) Refrigeration equipment shall be provided in such number and of such capacity to ensure the maintenance of potentially hazardous food at the required temperatures during storage. Each refrigerator shall be provided with a numerically scaled indicating thermometer that is accurate to ± 3 degrees Fahrenheit and located to measure the air temperature in the warmest part of the refrigerator. Recording thermometers that are accurate to ± 3 degrees Fahrenheit may be used in lieu of indicating thermometers.

- (2) Potentially hazardous food requiring refrigeration after preparation shall be cooled to an internal temperature of 45 degrees Fahrenheit or below. Cooling of potentially hazardous foods shall be initiated upon completion of the food preparation or hot storage. Methods such as pouring into pans, agitation, and chilling with ice or water circulation external to the food containers shall be used to cool potentially hazardous food. Potentially hazardous food that will be transported cold shall be prechilled and held at a temperature of 45 degrees Fahrenheit or below.
 - (3) Ice used for cooling stored food and food containers shall not be used for human consumption.
- (k) The following shall apply to the hot storage of food:
- (1) Hot food storage equipment shall be provided in sufficient number and capacity to ensure the maintenance of food at the required temperature during storage. Each hot food unit shall be provided with a numerically scaled indicating thermometer that is accurate to ± 3 degrees Fahrenheit and located to measure the air temperature in the coolest part of the unit. Recording thermometers that are accurate to ± 3 degrees Fahrenheit may be used in lieu of indicating thermometers. Where it is impractical to install thermometers on equipment such as steam tables, steam kettles, heat lamps, cal-rod units, or insulated food transport carriers, a metal stem-type, thin probe, numerically scaled indicating product thermometer that is accurate to ± 3 degrees Fahrenheit shall be used to check internal food temperature.
 - (2) The internal temperature of potentially hazardous foods requiring hot storage shall be 135 degrees Fahrenheit or above except during periods of preparation and service. Potentially hazardous food that will be transported hot shall be held at a temperature of 135 degrees Fahrenheit or above during transportation.
- (l) In the event of a fire, flood, water supply interruption, power outage, or other event that results in the contamination of food, or that might prevent potentially hazardous food from being held at required temperatures, the person in charge shall either discard the food in question or contact the local health department for information on food safety.

History Note: Authority G.S. 110-91; Eff. July 1, 1991. Amended Eff. February 1, 1995; Temporary Amendment Eff. December 1, 1999; Amended Eff. July 1, 2006; January 1, 2006; April 1, 2001; Readopted Eff. July 1, 2023.

15A NCAC 18A .2807 FOOD PREPARATION

- (a) In child care centers, the preparation of food shall take place only in the kitchen or space equipped as required in Rule .2810 of this Section.
- (b) Employees engaged in food preparation in the kitchen shall wear clean clothes and hair restraints, as set out in Part 2-402.11 of the Food Code incorporated by reference at 15A NCAC 18A .2650 as amended by 15A NCAC 18A .2652, and shall keep their fingernails trimmed. Hair spray is not a hair restraint for the purpose of this Rule. Employees engaged in food preparation who are wearing nail polish or artificial nails on their fingers shall wear intact gloves during food preparation.
- (c) Food shall be prepared using utensils, deli paper, or disposable gloves to prevent exposed, ready-to-eat-food from coming into direct contact with an employee's bare hands or exposed skin. Food shall be prepared on food-contact surfaces that have been cleaned, rinsed, and sanitized prior to use. Food-contact surfaces and utensils that are exposed to bacterial, viral, fungal, or hazard contaminants during use shall be made clean, free from hazards, and sanitized before continued use.
- (d) Raw fruits and raw vegetables shall be washed with potable water before being cooked or served.
- (e) Potentially hazardous foods requiring cooking shall be cooked to heat all parts of the food to a temperature of at least 145 degrees Fahrenheit, except that:
 - (1) poultry, poultry stuffings, stuffed meats and stuffings containing meat shall be cooked to heat all parts of the food to at least 165 degrees Fahrenheit with no interruption of the cooking process;
 - (2) ground beef, other ground or comminuted meat or fish, and eggs pooled and cooked for hot storage shall be cooked to an internal temperature of at least 155 degrees Fahrenheit with no interruption in the cooking process; and
 - (3) roast beef shall be cooked to an internal temperature of at least 130 degrees Fahrenheit with no interruption in the cooking process.
- (f) Potentially hazardous foods that require cooking prior to consumption and cooked in a microwave oven shall be heated to an internal temperature of at least 165 degrees Fahrenheit.
- (g) Potentially hazardous foods that have been cooked and then refrigerated, if served above 45 degrees Fahrenheit, shall be reheated to an internal temperature of 165 degrees Fahrenheit or higher before being served or before being placed in a hot food storage unit except that commercially packaged food in intact packages may initially be reheated to 135 degrees Fahrenheit. Hot storage equipment shall not be used for reheating of potentially hazardous foods. Potentially hazardous foods reheated in a microwave oven shall be heated to an internal temperature of at least 165 degrees Fahrenheit.
- (h) Metal stem-type, thin probe, numerically scaled indicating product thermometers, accurate to ± 3 degrees Fahrenheit shall be used to ensure the maintenance of the internal cooking temperatures of all potentially hazardous foods required under this Rule.
- (i) Potentially hazardous foods that are frozen shall be thawed using one of the following methods:

- (1) in refrigerated units at a temperature not to exceed 45 degrees Fahrenheit;
- (2) submerged under potable water of a temperature of 70 degrees Fahrenheit or below, with sufficient water velocity to agitate and float off loose food particles into the overflow;
- (3) in a microwave oven only when the food will be immediately transferred to conventional cooking equipment as part of a continuous cooking process or when the entire, uninterrupted cooking process takes place in the microwave oven; or
- (4) as part of the uninterrupted cooking process.

History Note: Authority G.S. 110-91; Eff. July 1, 1991; Amended Eff. January 1, 2006; February 1, 1995; October 1, 1993; Readopted Eff. July 1, 2023.

15A NCAC 18A .2808 FOOD SERVICE

- (a) In child care centers, milk and milk products used for drinking purposes shall be stored in the original commercially filled container until the milk or milk product is served for drinking. Unused milk and milk products that are transferred from the original commercially filled container into a separate container, such as a pitcher, for serving shall be discarded and shall not be put back into the original commercial filled container or stored in the container that was used for serving.
- (b) Ice shall be protected against physical, chemical, and biological contamination and shall be kept clean. Ice shall be dispensed with scoops, tongs, or other ice-dispensing utensils or through automatic ice-dispensing equipment. Ice-dispensing utensils shall be stored on a clean surface or in the ice with the dispensing utensil's handle extended out of the ice. Between uses, ice transfer receptacles shall be kept clean. Ice storage bins shall be drained through an air gap in accordance with in Part 5-202.13 of the Food Code incorporated by reference at 15A NCAC 18A .2650 as amended by 15A NCAC 18A .2655.
- (c) Food that is leftover after serving shall not be served again unless the original package is unopened and the food is not a potentially hazardous food. Foods that have been placed on the table for family style or self-serve food service are considered served.
- (d) Between uses during service, utensils that are used to serve food shall be stored in the food with the utensil handle extended out of the food, in a container of water if the water is maintained at a temperature of at least 135 degrees Fahrenheit, or stored clean and dry.
- (e) Children shall not be in the kitchen except when participating in a supervised activity.
- (f) Nothing in this Section shall be construed as prohibiting family style or self-serve food service at child care centers provided that children are supervised by child care center employees for the duration of the meal. Notwithstanding the foregoing sentence, family style or self-serve food service shall be prohibited during the outbreak and investigation of a communicable disease or condition at the child care center.

History Note: Authority G.S. 110-91; Eff. July 1, 1991; Amended Eff. January 1, 2006; April 1, 1999; February 1, 1995; Readopted Eff. July 1, 2023.

15A NCAC 18A .2809 FOOD SERVICE EQUIPMENT AND UTENSILS

In child care centers, material, construction, and use of food service equipment and utensils shall meet the following requirements:

- (1) Utensils shall be made of nonabsorbent material that is free from hazards, finished to have a smooth surface, and shall be kept clean and in good repair.
- (2) Food-contact surfaces shall be smooth, nonabsorbent, free of sharp corners, and kept clean and in good repair. Hard wood may be used for cutting boards, cutting blocks, or bakers' tables.
- (3) Other surfaces that do not come into contact with food shall be made of nonabsorbent material and shall be kept clean and in good repair.
- (4) Galvanized metal shall not be used for utensils, food-contact surfaces, or cooking equipment that comes into contact with food.
- (5) Linens shall not be used as food-contact surfaces, except that clean linen may be used in contact with bread and rolls.
- (6) Single-use and single-service articles shall be kept clean.
- (7) Reuse of single-service articles is prohibited.
- (8) Single-use articles shall be used only once, except that containers made of plastic, glass or other material intended for food storage, with smooth sides may be reused.
- (9) Water filters or any other water conditioning devices shall be kept clean and in good repair and shall be maintained in accordance with the manufacturer's instructions.
- (10) Filters and other grease extracting equipment shall be kept clean and in good repair and shall be maintained in accordance with the manufacturer's instructions.

History Note: Authority G.S. 110-91; Eff. July 1, 1991; Amended Eff. January 1, 2006; February 1, 1995; Readopted Eff. July 1, 2023.

15A NCAC 18A .2810 SPECIFICATIONS FOR KITCHENS, FOOD PREPARATION AREAS AND FOOD SERVICE AREAS

- (a) Each child care center shall have at least a two-compartment sink, drainboards or countertop space of adequate size, adequate refrigeration equipment and, when needed, adequate cooking equipment, except that this requirement shall not apply to child care centers located in a school that receives food supplies that are pre-prepared and ready to serve from a food service establishment

permitted by a local health department, which is located at the same school campus and provides food during all hours of the child care center's operation. Child care centers shall be permitted to use domestic kitchen equipment. A child care center may use and wash multi-use articles and highchair feeding trays in a two-compartment sink, but shall not use or wash multi-service articles other than highchair feeding trays unless equipped with either:

- (1) a dishwasher and two-compartment sink, or
- (2) a three-compartment sink of sufficient size and depth to submerge, wash, rinse and sanitize utensils.

(b) A separate lavatory for handwashing is required in food preparation areas and kitchens. If the dishwashing area is separate from the food preparation area, an additional handwashing lavatory shall be required in the dishwashing area.

(c) A separate food preparation sink with drainboards or countertop space of adequate size shall be required when a review of construction plans, modifications, or change in child care procedures indicates that separate facilities are needed based on volume and preparation frequency.

(d) Except in child care centers licensed for fewer than 13 children and located in a residence, when domestic refrigeration equipment is used the following shall apply:

- (1) except for thawing in a refrigerator, potentially hazardous foods shall not be prepared prior to the day that such foods are to be served;
- (2) potentially hazardous foods that have been heated shall not be reheated or placed in refrigeration to be used in whole or in part on another day; and
- (3) salads containing potentially hazardous food shall not be prepared on site. Prohibited salads include chicken, egg, tuna, crab, and other salads containing meat.

(e) A commercial hood shall be installed in accordance with G.S. 110-91 when frying is used for food preparation on-site at the child care center.

(f) If food is prepared in a child care center classroom, then the classroom shall be equipped with a food preparation area. Water from a handwash lavatory shall not be used for bottle warming or to prepare formula, mix dry cereals, or other foods. Toy cleaning and sanitizing may be conducted in the food preparation area. This food preparation area shall contain a countertop that is kept clean and in good repair, a handwash lavatory, and refrigeration when items are stored that require refrigeration in accordance with Rules .2804 and .2806 of this Section. The food preparation counters, food, and food-contact surfaces shall be out of reach of children and the following shall apply to food preparation counters, food, food-contact surfaces, and equipment used in food preparation:

- (1) all equipment shall be kept clean. Bottle warming equipment shall be cleaned and sanitized as required in Rule .2812 of this Section and the manufacturer's instructions;
- (2) if bottles are warmed, bottles shall be warmed in the child care center's kitchen or food preparation area. Bottle warming equipment shall be kept out of reach of children. Microwaves and slow cookers shall not be used

to thaw or warm human milk, baby food, formula, or other bottled beverages meant for consumption by children. Bottles shall be warmed by placing bottles under running potable water or in containers of potable water or by using bottle warming equipment that is used in accordance with the manufacturer's instructions. Temperature restrictions listed in Rule .2815(e) of this Section do not apply to equipment manufactured specifically for bottle warming. If other bottle warming methods are used in food preparation areas, compliance with temperature restrictions listed in Rule .2815(e) of this Section is required; and

- (3) after each use, multi-service articles provided by the child care center shall be cleaned and sanitized in the child care center kitchen.

History Note: Authority G.S. 110-91; Eff. July 1, 1991; Amended Eff. March 1, 1995; Temporary Amendment Eff. April 15, 1998; Amended Eff. April 1, 1999; Temporary Amendment Eff. December 1, 1999; Amended Eff. July 1, 2006; January 1, 2006; April 1, 2001; Readopted Eff. July 1, 2023.

15A NCAC 18A .2812 CLEANING, SANITIZING, AND DISINFECTING EQUIPMENT, UTENSILS, AND OTHER AREAS

(a) Each child care center shall be equipped with adequate drainboards or countertop space for handling used utensils and air drying clean and sanitized utensils. For child care centers originally licensed on or after April 15, 1998, drainboards or countertop space shall be no less than 8 square feet. A domestic dishwasher may be used to provide the equivalent of 4 square feet of drainboard space. Drainboards or countertop space designated for clean equipment and utensils shall be on the opposite end of the sink from drainboards or countertop space designated for equipment and utensils that are not clean, unless these areas are otherwise separated and protected from cross-contamination. Child care centers originally licensed before April 15, 1998 shall comply with this Paragraph upon change of ownership, the closing of the child care center and the issuance of a new license, or the remodeling of an existing kitchen in a child care center.

(b) Except for fixed equipment and utensils too large to be cleaned in sink compartments, equipment and utensils that are cleaned manually instead of in a dishwasher shall be washed, rinsed, and sanitized as follows, in the order of the steps presented herein:

- (1) equipment and utensils shall be scraped, flushed with water, or soaked with water to remove food particles;
- (2) sinks shall be cleaned and sanitized before proceeding to Subparagraph (3) of this Paragraph;
- (3) equipment and utensils shall be washed in the first compartment of the sink with a hot

detergent solution that is changed once visibly soiled;

(4) equipment and utensils shall be rinsed free of detergent solution with clean water in the second compartment of the sink; and

(5) the food-contact surfaces of equipment and utensils shall be sanitized in the third compartment of the sink in the following manner:

(A) immersion for at least one minute in clean, hot water at a temperature of at least 170 degrees Fahrenheit;

(B) immersion for at least two minutes in a solution containing 50 to 200 parts per million (ppm) of chlorine at a temperature of at least 75 degrees Fahrenheit;

(C) immersion for at least two minutes in a solution containing at least 12.5 ppm of iodine and having a pH not higher than 5.0 and at a temperature of at least 75 degrees Fahrenheit;

(D) immersion for at least two minutes in a solution containing 200 to 400 ppm of quaternary ammonium products and having a temperature of at least 75 degrees Fahrenheit, provided that the quaternary ammonium product label indicates that it is effective in water that has a hardness value at least equal to that of the water being used; or

(E) other sanitizing products, procedures, or equipment that are nontoxic to children, used according to the manufacturer's instructions, are safe for use on food-contact surfaces, do not require a final rinse step, and have a testing method.

(c) When utensils and equipment are washed mechanically using a dishwasher, food-contact surfaces of equipment and utensils shall be sanitized according to the dishwasher manufacturer's instructions. When a domestic dishwashing machine with a sanitizing cycle is used according to manufacturer's instructions, additional sanitizing is not required. When commercial dishwashing equipment is used, the dishwasher shall be equipped with a temperature indicating device that is accurate to two degrees Fahrenheit.

(d) For fixed equipment and utensils and equipment that are too large to sanitize in a dishwashing machine or dishwashing sink, a spray-on or wipe-on sanitizer of sufficient chemical strength as indicated in Subparagraph (b)(5) of this Rule shall be used.

(e) Multi-service articles, including highchair feeding trays, shall be washed, rinsed and sanitized in the child care center kitchen after each use.

(f) Kitchen surfaces that are not food-contact surfaces shall be kept clean.

(g) A testing method or equipment shall be used in accordance with the product manufacturer's instructions to test the strengths

of sanitizing solutions to ensure the prescribed concentrations are met.

(h) After sanitizing, all equipment and utensils shall be air dried.

(i) An approved disinfectant shall be provided for cleaning purposes. Throughout this Section, when an approved disinfectant is used in a child care center, the manufacturer's Safety Data Sheets for the disinfectant product shall be kept on file at the child care center and the instructions for use of the disinfectant product shall be followed. When a chlorine solution is prepared by a child care center employee for use as an approved disinfectant, then the solution shall be prepared for use within 24 hours and a testing method shall be used to ensure compliance with the prescribed chlorine concentration. To achieve the maximum germ reduction with a chlorine disinfecting solution, the surface being disinfected shall be made wet with the chlorine disinfecting solution and allowed to air dry or be dried only after the surface has been in contact with the chlorine disinfecting solution for a minimum of two minutes.

(j) A sanitizing solution shall be provided for cleaning purposes. Throughout this Section, when a sanitizing solution is used in a child care center, the manufacturer's Safety Data Sheet shall be kept on file at the child care center and the instructions for use of the sanitizing solution shall be followed. When a chlorine solution is used in a child care center it shall be prepared for use within 24 hours and a testing method or kit shall be used to ensure compliance with the prescribed chlorine concentration. To achieve the maximum germ reduction with a chlorine solution, the cleaned surfaces shall be left wet with the chlorine solution and allowed to air dry or be dried only after a minimum contact time of at least two minutes.

History Note: Authority G.S. 110-91; Eff. July 1, 1991; Amended Eff. February 1, 1995; July 1, 1993; Temporary Amendment Eff. December 1, 1999; April 15, 1998; Amended Eff. July 1, 2006; January 1, 2006; April 1, 2001; Readopted Eff. July 1, 2023.

15A NCAC 18A .2814 FOOD SERVICE EQUIPMENT AND UTENSIL STORAGE

(a) In child care centers, food-contact surfaces, equipment, utensils, and single service articles shall be protected from contamination.

(b) Cleaned and sanitized utensils and equipment shall be stored above the floor in a clean, dry location and shall be kept clean while stored. The food-contact surfaces of fixed equipment shall be kept clean while stored or otherwise not in use. Equipment and utensils shall not be stored under exposed sewer lines.

History Note: Authority G.S. 110-91; Eff. July 1, 1991; Amended Eff. January 1, 2006; February 1, 1995; Readopted Eff. July 1, 2023.

15A NCAC 18A .2815 WATER SUPPLY

(a) A child care center's water supply shall meet the requirements of 15A NCAC 18C or 15A NCAC 18A .1700, as applicable. The operator of a child care center using a groundwater supply that serves 25 or more people shall provide the local health department

servicing the county in which the child care center is located with documentation from the Department of Environmental Quality, Division of Water Resources, Public Water Supply Section that the well meets the requirements of 15A NCAC 18C. In child care centers that use a non-community water supply, a water sample shall be collected by the Department once a year and submitted to the North Carolina State Laboratory of Public Health or other laboratory certified by the North Carolina State Laboratory of Public Health under 10A NCAC 42C .0102 to perform bacteriological examinations.

The Department may collect additional samples for tests of water quality, as indicated by possible additional sources of contamination.

(b) Water under pressure shall be provided to meet the child care center's needs of cooking, cleaning, drinking, toilets, and outside uses.

(c) A child care center's water supply plumbing shall not include cross-connections as set out in 15A NCAC 18C .0102(c)(8). If the potential for back siphonage or backflow conditions exist, an atmospheric vacuum breaker or backflow prevention device shall be installed.

(d) Water heating equipment shall be provided to meet the hot water requirements set forth in this Rule. The capacity and recovery rates of water heating equipment shall be based on number and size of sinks, capacity of dishwashing machines, capacity of laundering machines, diaper changing facilities, and other food service and cleaning needs for child care centers not located in a residence. Child care centers licensed for fewer than 13 children and located in a residence shall be allowed to use an existing water heater, or the equivalent replacement, if the water temperature requirements set forth in this Rule are met. Hot and cold water under pressure shall be provided in all rooms where food is prepared, rooms in which utensils or equipment are washed, and other areas where water is required for cleaning and sanitizing, including diaper changing areas.

(e) Hot water used for cleaning and sanitizing utensils and laundry shall be provided at a minimum temperature of 120 degrees Fahrenheit at the point of use. Water in areas accessible to children shall be tempered between 80 degrees Fahrenheit and 110 degrees Fahrenheit. Hot water that exceeds 120 degrees Fahrenheit is a burn hazard and shall not be provided in areas accessible to children. For handwash lavatories used exclusively by school-age children, the requirement to provide water tempered between 80 degrees Fahrenheit and 110 degrees Fahrenheit shall not apply. In the event of the loss of hot water at the child care center, the operator shall immediately notify the local health department that serves the county in which the child care center is located.

(f) Drinking fountains, if provided, shall be separate from handwash lavatories and kept clean. The water pressure of a drinking fountain shall be regulated so that an individual's mouth does not come in contact with the nozzle and so that water does not splash on the floor. Other devices used to dispense drinking water shall be kept clean.

(g) Outdoor drinking fountains shall be constructed to protect the spout from contamination by hazards and shall be kept clean.

History Note: Authority G.S. 110-91; Eff. July 1, 1991;

Amended Eff. February 1, 1995; Temporary Amendment Eff. April 15, 1998; Amended Eff. April 1, 1999; Temporary Amendment Eff. December 1, 1999; Amended Eff. July 1, 2006; January 1, 2006; April 1, 2001; Readopted Eff. July 1, 2023.

15A NCAC 18A .2816 LEAD POISONING HAZARDS IN CHILD CARE CENTERS

(a) In child care centers, areas accessible to children shall be free of identified lead poisoning hazards as defined under G.S. 130A-131.7(7).

(b) The following actions shall be taken to ensure that drinking water in child care centers is free of identified lead poisoning hazards as defined under G.S. 130A-131.7(7)(g).

- (1) Child care operators, as defined under G.S. 110-86(7), shall test, once every three years, all water outlets used for drinking or food preparation. Samples shall also be collected and tested within 30 calendar days of completion of any renovations or repairs that may impact the facility's drinking water infrastructure, such as repair or replacement of all or part of drinking water service lines or faucets, at impacted outlets. The operator shall provide documentation of testing results for review by the Department during each unannounced routine sanitation inspection under Rule .2834(b) of this Section.
- (2) For child care centers that submit an application for licensure in accordance with 10A NCAC 09 .0302 after the effective date of this Rule, initial samples shall be collected by the child care operator and tested in accordance with Subparagraph (b)(4) of this Rule during the license application process.
- (3) For all other centers, initial samples shall be collected by the child care operator and tested in accordance with Subparagraph (b)(4) of this Rule within one year of the effective date of this Rule.
- (4) The child care operator shall collect samples and submit them for testing in accordance with guidance specified by the United States Environmental Protection Agency in its publication, 3Ts for Reducing Lead in Drinking Water in Schools and Child Care Facilities, which is incorporated by reference with subsequent changes or amendments and available free of charge at <https://www.epa.gov/ground-water-and-drinking-water/3ts-reducing-lead-drinking-water>. Notwithstanding the guidance, samples may be collected with a stagnation period of up to 72 hours. Samples shall be analyzed by a laboratory certified by the North Carolina State Laboratory of Public Health to analyze for lead in drinking water.

- (5) When a water sample is analyzed for lead content by a laboratory under this Rule, the laboratory shall notify the Department of the test results by electronic submission in accordance with G.S. 130A-131.8.
- (6) When a child care center receives test results from a laboratory indicating that a water sample collected by the child care operator contains a lead concentration at or above the lead poisoning hazard level defined in G.S. 130A-131.7(7)(g), the child care operator shall:
 - (A) restrict access to any water outlet(s) used for drinking or food preparation that have lead concentrations at or above the lead poisoning hazard level; and
 - (B) ensure that all children and staff have access to water free of cost that does not contain lead concentrations at or above the lead poisoning hazard level for drinking and food preparation.
- (7) When notified of a water lead level at or above the lead poisoning hazard level, the Department shall conduct sampling at the water outlet identified to have a water lead level at or above the lead poisoning hazard level within 10 business days of notification.
- (8) If a water sample collected by the Department reveals a water lead level at or above the lead poisoning hazard level, the child care operator shall continue to follow Subparagraph (b)(6) of this Rule until the Department determines the water outlet(s) are not producing water lead levels at or above the lead poisoning hazard level and notifies the child care operator and the Division of Child Development and Early Education in writing of this determination.
- (9) Failure to comply with Paragraph (a) of this Rule or any Subparagraph of this Paragraph, shall be deemed a violation of this Rule subject to demerits under Rule .2834(c)(20) of this Section.
- (10) Within five business days of receiving the test results of the Department's water analysis that shows a water lead level at or above the lead poisoning hazard level, the child care center operator shall provide written notification of the test results to the parents or legal guardians of the children attending the child care center and the staff of the child care center, in accordance with the United States Environmental Protection Agency guidance specified in Subparagraph (b)(4) of this Rule.
- (11) Within five business days of receiving the test results of the Department's water analysis that shows a water lead level at or above the lead poisoning hazard level, the child care center operator shall make the test results available to the public, free of charge. The child care center

operator may post test results to the child care center's website to satisfy the requirement to make the test results available to the public.

History Note: Authority G.S. 110-91; 130A-131.5; 130A-131.7(7); 130A-131.8; Eff. July 1, 1991; Amended Eff. October 1, 2019; January 1, 2006; February 1, 1995; Readopted Eff. July 1, 2023.

15A NCAC 18A .2817 TOILETS

- (a) In child care centers, toilet tissue paper shall be provided in each toilet room and stored in a clean, dry place. The toilet room shall include or be adjacent to a handwash lavatory. Storage in toilet rooms shall be limited to toileting and diapering supplies. All toilet fixtures shall be kept clean and in good repair. Toilet fixtures shall be child-sized, adult-sized toilets that are adapted to accommodate children, or potty chairs.
- (b) Toilet fixtures shall be cleaned and disinfected daily and when visibly soiled.
- (c) If potty chairs are used, they shall be located and stored in a toilet room equipped with a spray-rinse toilet or utility sink. Potty chairs shall be emptied, rinsed, cleaned and disinfected after each use.
- (d) When cloth diapers are used and emptied, the diaper changing area shall be located next to a toilet room.

History Note: Authority G.S. 110-91; Eff. July 1, 1991; Amended Eff. July 1, 2006; January 1, 2006; April 1, 1999; February 1, 1995; Readopted Eff. July 1, 2023.

15A NCAC 18A .2818 LAVATORIES

- (a) In child care centers, lavatories shall be kept clean and in good repair and shall not be used for storage. Lavatories shall be mounted at an appropriate height to accommodate children or otherwise made accessible to children. Water from a handwash lavatory shall not be used for consumption. Lavatories with flush-rimmed sinks or with an attached operable drinking fountain shall not be used for handwashing.
- (b) Lavatories shall be equipped with hot and cold water or tempered water provided through mixing faucets or pre-mixing devices which provide water in the temperature range specified in Rule .2815(e) of this Section.
- (c) Lavatories shall be cleaned and disinfected with each change of use, when visibly soiled, and at least daily. Change of use occurs when a handwash lavatory is used outside of its original intent. Change of use includes, but is not limited to, a classroom handwash lavatory used for rinsing toothbrushes, a food preparation handwash lavatory used for toy cleaning, or a classroom handwash lavatory used for diaper changing handwashing.
- (d) Liquid soap and disposable towels or other hand-drying devices shall be provided at every handwash lavatory area.
- (e) Handwash signs shall be posted at every handwash lavatory area. The signs shall instruct children and child care center

employees to wash their hands in accordance with Rule .2803 of this Section.

History Note: Authority G.S. 110-91; Eff. July 1, 1991; Amended Eff. July 1, 2006; January 1, 2006; February 1, 1995; Readopted Eff. July 1, 2023.

15A NCAC 18A .2819 DIAPERING AND DIAPER CHANGING FACILITIES

(a) In child care centers, children in diapers shall be changed at stations designated for diapering or toileting. Each diaper changing station shall include a handwash lavatory. For child care centers licensed for fewer than 13 children and located in a residence, and for diaper changing areas designated for school age children, a handwash lavatory shall be in or next to the diaper changing area.

(b) Diapering surfaces shall be made of smooth, intact, nonabsorbent material and shall be kept clean and in good repair. Nothing shall be placed on the diapering surface except for those items required for diapering and the child whose diaper will be changed. If diapering is performed on the floor in a toilet room, then a smooth, intact, nonabsorbent barrier that is clean and in good repair shall be placed on the floor to minimize cross-contamination.

(c) Diapering surfaces shall be disinfected using an approved disinfectant. Approved disinfectants and detergent solution shall be kept in separate and labeled bottles at each diaper changing station. Approved disinfectants that are chlorine disinfecting solutions shall be stored in hand pump spray bottles. No cloths or sponges shall be used on diapering surfaces.

(d) Child care center employees shall change a child's diaper as follows:

- (1) gathering supplies before placing child on diapering surface;
- (2) donning disposable gloves (if needed);
- (3) using disposable towelette or moistened paper towel to clean child, wiping front to back;
- (4) disposing of gloves if used, soiled towelettes and diaper in a plastic-lined, covered receptacle;
- (5) wiping the child care center employee's hands and the child's hands each with a separate disposable towelette or moistened paper towel;
- (6) sliding a clean diaper under the child, applying diapering products if needed, using facial or toilet tissue, and discarding the tissue in a plastic-lined, covered receptacle;
- (7) fastening the diaper and placing clothing on child;
- (8) washing child's hands in accordance with Rule .2803 of this Section, or, if child is unable to support the child's head, cleaning the child's hands with a disposable towelette or moistened paper towel, then drying the child's hands and returning the child to a supervised area;
- (9) spraying entire diapering surface with detergent solution and wipe clean, using disposable paper towels;

- (10) spraying entire diapering surface with an approved disinfectant and allowing to remain on the surface for two minutes or as specified by the manufacturer, or air dry; and
- (11) washing hands in accordance with Rule .2803 of this Section even if disposable gloves are used by the child care center employee.

(e) Vinyl or latex disposable gloves shall be used by child care center employees during the diaper changing process if the employee's hands have cuts, sores, or chapped skin.

(f) Child care center employees may dispose of feces from diapers in the toilet, but shall not rinse soiled cloth diapers, training pants, or clothes. Soiled cloth diapers, training pants, or clothes shall be sent to a diaper service or placed in a sealed plastic bag or other sealed container, stored out of reach of children, and sent home with the child on the same day to be laundered.

(g) Receptacles containing soiled disposable diapers shall be emptied in a garbage area located outside the child care center building daily.

(h) Signs that instruct child care center employees on proper methods of diaper changing and handwashing as set forth in the rules of this Section shall be posted in each diaper changing area.

History Note: Authority G.S. 110-91; Eff. July 1, 1991; Amended Eff. February 1, 1995; Temporary Amendment Eff. April 15, 1998; Amended Eff. July 1, 2006; January 1, 2006; April 1, 1999; Readopted Eff. July 1, 2023.

15A NCAC 18A .2820 STORAGE

(a) In child care centers, adequate space shall be provided for the storage of equipment, furniture, toys, clothes, linens, backpacks, book bags, diaper bags, beds, cots, mats, and supplies. Storage areas shall be kept clean. Laundry that is not clean shall be handled and stored separately from clean laundry using separate containers that are made clean in between uses and kept in good repair.

(b) Toxic substances, which include corrosive agents, pesticides, bleaches, detergents, cleansers, polishes, any product which is under pressure in an aerosol dispenser, and any substance which may be hazardous to a child if ingested, inhaled, or handled shall be kept in the original container or in another labeled container, used according to the manufacturer's instructions, and stored in a locked storage room or cabinet when not in use. Locked storage rooms and cabinets shall include those which are unlocked with a combination lock, electronic or magnetic device, keypad, key, or equivalent locking device. Keys and electronic or magnetic unlocking devices shall be kept out of the reach of a child and shall not be stored in the lock. Toxic substances shall be stored below or separate from medications and food. Any other product that is labeled "keep out of reach of children" and does not have any other warnings on the label shall be kept inaccessible to children when not in use, but is not required to be kept in locked storage. For the purpose of Paragraphs (b), (c), and (d) of this Rule, a product shall be considered inaccessible to children when stored on a shelf or in an unlocked cabinet that is mounted a minimum vertical distance of five feet above the finished floor.

(c) Non-aerosol sanitizing solutions, approved disinfectants, detergent solutions, hand antiseptics, and hand lotions shall be kept inaccessible to children when not in use, but are not required to be in locked storage. These solutions shall be labeled as sanitizing, disinfecting, or detergent solutions. Hand soap other than that which is in bulk containers is not required to be kept inaccessible to children or in locked storage. Bulk soaps shall be kept inaccessible to children.

(d) Medications including prescription and non-prescription items shall be stored in a locked cabinet or other locked container and shall not be stored above food. Designated emergency medications shall be kept inaccessible to children, but are not required to be in locked storage. Non-prescription diaper creams and sunscreen shall be kept inaccessible to children when not in use, but are not required to be in locked storage.

(e) A locked kitchen is not considered to be a locked storage room or cabinet for the purposes of this Rule; however, for child care centers that are located within a school and that use the school cafeteria's kitchen to meet the kitchen requirements of the rules of this Section, it shall not be a violation of this Rule to store products described in Paragraphs (a)-(d) of this Rule unlocked in the cafeteria's kitchen, provided that the kitchen is kept locked and children are not permitted in the kitchen for any purpose.

(f) Individual cubicles, lockers, or coat hooks shall be provided for storage of coats, hats, bags, or other items and accessories. Coat hooks not in individual cubicles or lockers, shall be spaced at least 12 horizontal inches apart. A child's coats, hats, bags, and other items or accessories belonging to a child that are stored using cubicles, lockers, or coat hooks shall not come into contact with stored items belonging to other children. Combs shall be labeled with the name of the child to whom the comb belongs and stored separately from combs or other items that belong to a different child. Toothbrushes shall be labeled with the name of the child to whom the toothbrush belongs, allowed to air dry after use, protected from contamination, and stored in a designated area. When a container of toothpaste is used for multiple children, the toothpaste shall be dispensed onto an intermediate surface such as waxed paper and shall not be dispensed directly onto each child's toothbrush.

(g) Purses and other personal effects belonging to child care center employees shall be kept inaccessible to children and shall be stored in accordance with this Rule, as applicable.

History Note: Authority G.S. 110-91; Eff. July 1, 1991; Amended Eff. July 1, 2006; January 1, 2006; April 1, 1999; February 1, 1995; Readopted Eff. July 1, 2023.

15A NCAC 18A .2821 BEDS, COTS, MATS, AND LINENS

(a) In child care centers, beds, cribs, cots, mats, and play pens shall be kept clean and in good repair, stored to prevent contamination, and cleaned and sanitized between users.

(b) Cribs and play pens used for sleeping shall be kept clean and equipped with a firm, tight-fitting mattress made of waterproof, washable material at least two inches thick.

(c) Beds, cots, and mats shall be assigned and labeled for use by an individual child and equipped with individual linens.

(d) Mats shall be of a waterproof, washable material at least two inches thick and shall be stored so that the side of the mats that makes contact with the floor does not touch the side of a mat that any child sleeps on. The sleeping surface of one child's mat shall not come in contact with the sleeping surface of another child's mat during storage.

(e) When in use, cribs, cots, mats and play pens shall be placed at least 18 inches apart or separated by partitions that prevent physical contact between children.

(f) Linens shall be kept clean, in good repair, and stored with the mat or cot that the linens are assigned to or stored apart from the mattress or cot in a manner that keeps the linens used for each child separate from the linens belonging to other children. Linens shall be laundered between users, when soiled, and otherwise once per week. Linens used in rooms where the children in care are less than 12 months old shall be changed and laundered when soiled and otherwise at least daily. Linens shall be large enough to cover the bed, cot, or mat's sleeping surface.

(g) Wash cloths, bibs, and burping cloths shall be laundered after each use. Each time a wash cloth, bib, or burping cloth is used, it shall be used for only one child.

History Note: Authority G.S. 110-91; Eff. July 1, 1991; Amended Eff. July 1, 2006; January 1, 2006; February 1, 1995; Readopted Eff. July 1, 2023.

15A NCAC 18A .2822 TOYS, EQUIPMENT AND FURNITURE

(a) Toys, equipment, and furniture provided by a child care center shall be kept clean and in good repair. In rooms designated for children who are not toilet trained, toys and other mouth-contact surfaces that are used by children shall be cleaned and then sanitized after each use and when visibly dirty. Toys and other mouth-contact surfaces shall be cleaned and sanitized as follows:

- (1) the items shall be scrubbed in warm, soapy water, using a brush to reach into any crevices;
- (2) the items shall be rinsed in clean water;
- (3) the items shall be submerged in a sanitizing solution for at least two minutes or in accordance with the instructions on the label of the sanitizing solution; and
- (4) the items shall be air dried.

(b) Toys and other mouth-contact surfaces that are not designed to be submerged in liquid shall be washed and rinsed in place, sprayed with a sanitizing solution, and allowed to air dry. Hard plastic toys may be washed and rinsed in a dishwasher and cloth toys may be laundered and mechanically dried without requiring sanitizing.

(c) Toys, furniture, cribs, or other items accessible to children shall be free of peeling, flaking, or chalking paint.

(d) Water play centers shall be filled with potable water immediately before children begin a water play session. Water shall be emptied after each play session and at a minimum each morning and afternoon, or more often if no longer clean. The water play centers, including toys, shall be cleaned and sanitized at least daily or more often if no longer clean. Water play is prohibited during the outbreak and investigation of a communicable disease or condition at the child care center.

Wading pools are not considered water play centers and are regulated under the rules in Section .2500 of this Subchapter.

*History Note: Authority G.S. 110-91;
Eff. July 1, 1991;
Amended Eff. February 1, 1995; July 23, 1992;
Temporary Amendment Eff. April 15, 1998;
Amended Eff. July 1, 2006; January 1, 2006; April 1, 1999;
Readopted Eff. July 1, 2023.*

15A NCAC 18A .2823 PERSONNEL

- (a) In child care centers, employees shall wear clean clothing while at work. Employees shall keep their fingernails clean.
- (b) Tobacco use in any form is prohibited in any part of a child care center.
- (c) Volunteer personnel shall adhere to the same requirements as child care center employees, as specified in the rules of this Section.

*History Note: Authority G.S. 110-91;
Eff. July 1, 1991;
Amended Eff. February 1, 1995;
Temporary Amendment Eff. April 15, 1998;
Amended Eff. January 1, 2006; April 1, 1999;
Readopted Eff. July 1, 2023.*

15A NCAC 18A .2824 FLOORS

- (a) In child care centers, floors and floor coverings in food preparation, food storage, utensil washing, toilet rooms, and laundry areas shall be constructed of nonabsorbent material and shall be kept clean and in good repair.
- (b) Floors and floor coverings in sleeping and play areas shall be kept clean and in good repair.
- (c) Carpeting used as a floor covering shall be of closely woven construction and shall be kept clean and in good repair. Carpeted floors shall be vacuumed daily when children are not present in the room, except to clean up spills. Instead of waiting for children to leave the room, a High Efficiency Particulate Air (HEPA) filter vacuum cleaner may be used. If used for this purpose, a HEPA vacuum cleaner shall include a HEPA filter individually tested and rated as 99.97% efficient at 0.3 micron dust particle size and sealed to prevent leakage around connecting points. Vacuum bags shall be changed and vacuums shall be emptied when children are not present in the room. The vacuum cleaner shall be in good repair. Wall to wall carpets shall be cleaned using extraction methods at least once each six months. Cleaning materials including surfactants, solvents, and water used for extraction shall be removed from the carpet before the space is reoccupied. When water extraction is used, the carpet shall be completely dry within 12 hours of cleaning.
- (d) Floors in areas accessible to children, shall be kept free of peeling, flaking, chalking, or otherwise deteriorating paint.

*History Note: Authority G.S. 110-91;
Eff. July 1, 1991;
Amended Eff. January 1, 2006; April 1, 1999; February 1, 1995;
July 23, 1992;
Readopted Eff. July 1, 2023.*

15A NCAC 18A .2825 WALLS AND CEILINGS

- (a) In child care centers, the walls and ceilings, including doors and windows, of all rooms and areas shall be kept clean, free of visible fungal growth, and in good repair. All walls and ceilings shall be free of peeling, flaking, chalking, or otherwise deteriorating paint.
- (b) Walls and ceilings in rooms in which food is stored, handled, or prepared, utensil-washing rooms, and toilet rooms shall be nonabsorbent. Acoustic and other absorbent ceiling material may be used where ventilation in the room precludes the possibility of grease and moisture absorption by the acoustic or other material. For child care centers licensed for fewer than 13 children and located in a residence, ceilings of residential construction are acceptable if kept clean and in good repair.

*History Note: Authority G.S. 110-91;
Eff. July 1, 1991;
Amended Eff. April 1, 1999; July 23, 1992;
Temporary Amendment Eff. December 1, 1999;
Amended Eff. January 1, 2006; April 1, 2001.
Readopted Eff. July 1, 2023.*

15A NCAC 18A .2826 LIGHTING AND THERMAL ENVIRONMENT

- (a) In child care centers, all rooms and enclosed areas shall be lighted by natural or artificial light. Lighting shall be capable of illumination to at least 50 foot-candles at work surfaces. Lighting shall be capable of illumination to at least 10 foot-candles of light, at 30 inches above the floor, in all other areas, including storage rooms. Light fixtures in all areas shall be kept clean and in good repair. Shielded or shatterproof bulbs shall be used in food preparation, storage, and serving areas and in all rooms used by children.
- (b) All rooms used by children shall be heated, cooled, and ventilated to maintain an ambient temperature between 65 degrees Fahrenheit and 85 degrees Fahrenheit. Ventilation may be in the form of openable windows with screens or by means of mechanical ventilation to the outside of the building. Windows and window treatments shall be kept clean and in good repair. All ventilation equipment, including air supply diffusers, return grilles, and fans shall be kept clean and in good repair.
- (c) Nothing in the rules of this Section shall require that outdoor storage buildings be wired with electricity or provided with heating and air conditioning.

*History Note: Authority G.S. 110-91;
Eff. July 1, 1991;
Amended Eff. January 1, 2006; February 1, 1995;
Readopted Eff. July 1, 2023.*

15A NCAC 18A .2827 COMMUNICABLE DISEASES AND CONDITIONS

- (a) In child care centers, a child who becomes ill to the extent that the child can no longer participate in routine group activities shall be separated from the other children until the child leaves the child care center and in accordance with 10A NCAC 09 .0804.
- (b) Each child care center shall include a designated area for a child who becomes ill to the extent that she or he can no longer participate in the routine group activities. When in use, such area

shall be equipped with a bed, cot, or mat and a vomitus receptacle and shall be cleaned and disinfected after each use. Thermometers and all materials used in the designated area, including toys, shall be cleaned and sanitized after each use. Linens shall be changed after each use.

(c) If the designated area required under Paragraph (b) of this Rule is not a separate room, then it shall be separated from space used by other children by a partition or screen. The designated area shall be located so that health and sanitation measures can be carried out without interrupting activities of other children and staff.

(d) The child care center shall have written procedures that employees shall follow when responding to vomiting or diarrheal events that involve the discharge of vomitus or fecal matter onto surfaces in the center. The procedures shall address the specific actions employees must take to minimize the spread of contamination and the exposure of employees, children, food, and surfaces to vomitus or fecal matter. The written procedures shall include the following information:

- (1) Child care center employees who are part of the designated clean up response team;
- (2) A supply list for vomit and diarrhea cleanup kit items that shall be kept on-site at the child care center, including:
 - (A) disposable personal protective equipment (gloves, apron, mask, shoe covers, and hair restraint);
 - (B) two disposable plastic bags;
 - (C) paper towels;
 - (D) a scoop or scraper;
 - (E) a mop and bucket; and
 - (F) an approved disinfectant;
- (3) The location of the supplies described in Subparagraph (d)(2) of this Rule;
- (4) A procedure for preventing access to the contaminated area;
- (5) The steps used to clean and disinfect the contaminated area, which shall include the following:
 - (A) for hard surfaces, remove the vomit or diarrhea, wash the contaminated surface, and use an approved disinfectant.
 - (B) for carpet or upholstery, remove the vomit or diarrhea without use of vacuum, wash all surfaces, and steam clean or use an approved disinfectant.
- (6) The steps for after clean up, which shall include the following:
 - (A) throw away all items that came into contact with the vomit or diarrhea;
 - (B) remove all personal protective equipment (PPE);
 - (C) discard all cleaning items and PPE in a secured trash area;
 - (D) disinfect non disposable cleaning items such as scoops, scrapers, mop heads, mop handles, and buckets and

discard of disposable cleaning items; and

- (E) wash hands in accordance with the procedures in Rule .2803(e) of this Section.
- (7) Identify steps for properly storing contaminated articles of clothing and cloth diapers that came into contact with the vomit or diarrhea in accordance with the procedures in Rule .2819(f) of this Section.

(e) Employees with a communicable disease or a communicable condition shall be excluded from work or subject to restrictions to prevent transmission in accordance with the Rules in Section 10A NCAC 41A .0200. Any employee with boils, sores, burns, infected wounds, or other draining lesions on exposed skin shall bandage the affected area to avoid exposing others to drainage. If such bandaging obstructs handwashing as set out in Rule .2803 of this Section, if the exposure to drainage cannot be prevented, or if otherwise required under the rules in Section 10A NCAC 41A .0200, then the employee shall be excluded from food preparation and work activities that involve contact with other employees or children while risk of transmission of the communicable disease or condition exists.

History Note: Authority G.S. 110-91; Eff. July 1, 1991; Amended Eff. February 1, 1995; Temporary Amendment Eff. April 15, 1998; Amended Eff. January 1, 2006; April 1, 1999; Readopted Eff. July 1, 2023.

15A NCAC 18A .2829 WASTEWATER

In child care centers, all wastewater originating from the child care center shall be disposed of using a publicly-operated sewage treatment system or an individual sewage disposal system that meets the requirements of the rules at Section .1900 of this Subchapter. Septic systems shall be of adequate size to accommodate the wastewater needs of the anticipated number of children and staff for all shifts.

History Note: Authority G.S. 110-91; Eff. July 1, 1991; Amended Eff. January 1, 2006; April 1, 1999; February 1, 1995; Readopted Eff. July 1, 2023.

15A NCAC 18A .2830 SOLID WASTES

(a) In child care centers, food scraps and other putrescible materials shall be placed in a plastic-lined, cleanable, covered container and removed to an exterior garbage area daily. Scrap paper, cardboard boxes, and other recyclable items shall be stored in containers or designated recycling areas.

(b) Solid waste containers, mops, and other cleaning equipment shall be kept clean when not in use. Facilities shall be provided at the child care center for the washing and storage of solid waste containers and mops, except that such facilities shall not be required for child care centers licensed for fewer than 13 children and located in a residence. Washing facilities required under this Paragraph shall include a faucet with a threaded nozzle that delivers water of at least 80 degrees Fahrenheit. The faucet shall

be located in either a designated utility sink or above a curbed impervious pad that is sloped to drain into a system that meets the requirements of Rule .2829 of this Section. Washing facilities used for solid waste containers that were installed at the child care center prior to July 1, 1991 shall be permitted to be used if the facilities are in good repair.

(c) Dumpsters and other containerized systems shall be kept clean and covered.

(d) Solid wastes shall be disposed of to prevent conditions that attract and harbor pests and other public health nuisances.

*History Note: Authority G.S. 110-91;
Eff. July 1, 1991;
Amended Eff. February 1, 1995;
Temporary Amendment Eff. April 15, 1998;
Amended Eff. January 1, 2006; April 1, 1999;
Readopted Eff. July 1, 2023.*

15A NCAC 18A .2831 ANIMAL AND VERMIN CONTROL

(a) Animals that are not contained in a cage or restrained on a leash, except those used in supervised activities or pet therapy programs, shall not be allowed in a child care center, including the outdoor learning environment. When animals are on the child care center premises, copies of each animal's vaccination records shall be available for review upon request during a sanitation inspection of the child care center. Any animals kept at the child care center as pets shall be examined by a veterinarian to determine that they are free from pests and pathogens that could adversely affect human health. Turtles, iguanas, frogs, salamanders, and other reptiles or amphibians shall not be kept as pets on the child care center premises. Animals shall not be allowed in or kept at the entrances to food preparation areas. Animal cages shall be kept clean and animal waste materials shall be bagged, sealed, and immediately disposed of in the child care center's exterior garbage area in a covered container. Animals belonging to child care center owners, employees, volunteers, visitors, and children shall not be allowed in child care centers or on the premises unless the requirements set forth in this Paragraph are met.

(b) Pests shall be excluded from the child care center. Traps set for pests shall only be placed in areas that are inaccessible to children.

(c) All openings to the area outside of the child care center shall be protected against the entrance of flying pests. In food preparation areas, only fly traps, pyrethrin-based insecticides, or a fly swatter shall be used for extermination of flying pests. Products shall be used only in accordance with directions and cautions appearing on their labels. Insecticides shall not come in contact with raw or cooked food, utensils, or equipment used in food preparation and serving, or with any other food-contact surface.

(d) Only those pesticides which have been registered in accordance with 40 C.F.R. 152 and G.S. 143-442 shall be used to control pests at a child care center. Pesticides shall be used in accordance with the directions on the label and shall be stored in a locked storage room or cabinet separate from foods and medications. Pesticides shall not be applied or used when children are present in the area.

(e) Decks, fences, playground equipment, and other products constructed or installed after September 1, 2006 shall not be made from chromated copper arsenate (CCA) pressure-treated wood unless the use of CCA-treated wood is for an approved use listed on the CCA product label.

(f) In areas accessible to children, CCA-treated wood decks, playground and recreational equipment, and structures installed or constructed shall be sealed using an oil-based, semi-transparent sealant; oil-based clear stain; or a water-based clear stain applied at least once every two years.

(g) At the time of the initial sealant or stain application and whenever more than two years has passed since the previous sealant application, soil under CCA-treated wood shall be:

- (1) removed and replaced with similar material;
- (2) covered with at least four inches of soil, gravel, sand, sod, or other vegetation; or
- (3) otherwise made inaccessible to children.

(h) Any composting areas shall be covered and maintained to prevent attracting pests. Worm bins shall be kept covered.

(i) Grass, fruit and vegetable gardens, vines on fences, and other vegetation shall be maintained to prevent the harboring and breeding of pests.

(j) Pets kept outdoors at a child care center shall be in a designated area that is maintained and separate from the outdoor area used by the children.

*History Note: Authority G.S. 110-91;
Eff. July 1, 1991;
Temporary Amendment Eff. April 15, 1998;
Amended Eff. August 2, 2007; January 1, 2006; April 1, 1999;
Readopted Eff. July 1, 2023.*

15A NCAC 18A .2832 OUTDOOR LEARNING ENVIRONMENT AND PREMISES

(a) Child care center premises, including the outdoor learning environment, shall be kept clean, drained to minimize standing water, free of litter and hazards, and maintained in a manner which does not create conditions that attract or harbor pests. Debris, glass, dilapidated structures, and broken play equipment shall be removed from areas accessible to children. Wells, grease traps, cisterns, and utility equipment shall be made inaccessible to children.

(b) Sand toys, water tables, and other unfiltered items that can collect standing water in the outdoor learning environment shall be emptied and stored to prevent the collection of standing water.

(c) For outdoor toys and play equipment, including all structures accessible to children, the following shall apply:

- (1) Equipment and toys shall be kept clean, in good repair, and free of peeling, flaking, or chalking paint, rust, and corrosion; and
- (2) A sandbox used in outdoor play shall be constructed to allow for drainage of water and shall be covered when not in use and kept clean.

(d) Children's outdoor activities shall be restricted as set forth in this Paragraph based on a daily air quality forecast made by the North Carolina Department of Environmental Quality, Division of Air Quality for the county where a center is located and published on the Division of Air Quality's Air Quality Portal at: <https://airquality.climate.ncsu.edu/air-guide/aq-datasets/>. On

days with a code orange (unhealthy for sensitive groups) forecast, children shall not be outside participating in physical activity between noon and 8:00 p.m. for more than one hour. On days with a code red (unhealthy) forecast, children shall not be outside participating in physical activity between noon and 8:00 p.m. for more than 15 minutes. On days with a code purple (very unhealthy) forecast, children shall not be outside participating in physical activity between noon and 8:00 p.m. Provisions shall be made to allow children with diagnosed asthma or with coughing or wheezing symptoms to participate in physical activity indoors on days with a code orange, red or purple air quality forecast.

(e) When food service is provided in the outdoor learning environment, food shall be protected, stored, prepared, and served in accordance with Rules .2806, .2807 and .2808 of this Section. Employees and children shall wash their hands in accordance with Rule .2803 of this Section prior to food service in the outdoor learning environment and food service tables shall be cleaned or covered prior to use.

(f) When diapering and toileting facilities are provided in the outdoor learning environment, they shall be maintained in accordance with Rules .2817 and .2819 of this Section and employees and children shall wash their hands in accordance with Rule .2803 of this Section.

(g) Storage provided in the outdoor learning environment for children's toys shall be kept clean and in good repair. Storage areas that are accessible to children shall be kept free of equipment that is not intended by the manufacturer to be used by children and shall meet the requirements of Rule .2820 of this Section. Storage areas shall meet requirements for lighting in accordance with Rule .2826 of this Section. Spare batteries shall be kept on-site at the child care center for battery operated light fixtures used to light storage areas in accordance with this Paragraph.

(h) Outdoor water play centers shall be maintained in accordance with Rule .2822 of this Section.

(i) Central vacuums that exhaust to the outdoors and away from where children use the outdoor learning environment may be used in lieu of HEPA vacuum cleaners to meet the daily vacuuming requirements in Rule .2824(c) of this Section.

History Note: Authority G.S. 110-91; Eff. July 1, 1991; Amended Eff. July 1, 2006; January 1, 2006; April 1, 1999; July 23, 1992; Readopted Eff. July 1, 2023.

15A NCAC 18A .2833 SWIMMING AND WADING POOLS

(a) At child care centers, swimming and wading pools shall be designed, constructed, operated, and maintained in accordance with the rules in Section .2500 of this Subchapter.

(b) Portable wading pools, natural bodies of water, and unfiltered water that is not potable shall not be utilized for children's recreation activities.

History Note: Authority G.S. 110-91; Eff. July 1, 1991; Amended Eff. February 1, 1995; January 1, 1992; Temporary Amendment Eff. April 15, 1998;

Amended Eff. January 1, 2006; April 1, 1999; Readopted Eff. July 1, 2023.

15A NCAC 18A .2834 COMPLIANCE, INSPECTIONS AND REPORTS

(a) Upon receipt of a request from a child care center operator or the licensing agency, a sanitation inspection shall be conducted of that child care center by the local health department that serves the county in which the child care center is located within 30 calendar days of receipt of the request.

(b) Unannounced inspections of a child care center shall be made by the Department at least once each six-month period. An original and two copies of the form used to document the inspection shall be completed by the Department. The original shall be submitted by the Department to the licensing agency and the child care center operator and the Department shall each retain a copy.

(c) The Department shall inspect each child care program that has been designated as a child care center by the licensing agency. Demerits taken during the sanitation inspection shall be assigned for violations of the rules of this Section as follows:

- (1) violation of Rules .2803(a)-(d) or .2836(15) of this Section related to handwashing when required shall be assessed five demerits;
- (2) violation of Rule .2803(e) of this Section related to proper handwashing procedures shall be assessed five demerits;
- (3) violation of Rule .2804 of this Section related to food that is not from an approved source or that is from approved sources that is a hazard or is adulterated shall be assessed six demerits;
- (4) violation of Rules .2804, .2806, or .2807 of this Section related to potentially hazardous food that does not meet temperature storage and holding requirements and requirements regarding the refrigeration of bottles and lunches at 45 degrees Fahrenheit or below shall be assessed six demerits;
- (5) violation of Rules .2804, .2806, .2807, .2808, or .2836 of this Section related to food being properly stored, thawed, prepared, cooked, cooled, handled, served, transported, packaged, and identified, and only permitting supervised children in the kitchen shall be assessed five demerits;
- (6) violation of Rule .2808(c) of this Section related to food not re-served shall be assessed three demerits;
- (7) violation of Rule .2806 or .2807 of this Section related to the use of food thermometers and food thermometer accuracy shall be assessed two demerits;
- (8) violation of Rules .2809 or .2810 of this Section related to food service equipment and utensils and specifications for refrigeration, sinks, lavatories, and dishwashing equipment shall be assessed six demerits;
- (9) violation of Rules .2806, .2809, or .2810 of this Section related to food service equipment and

- utensils meeting approved material, and construction specifications for equipment and utensils, other than equipment described in Subparagraph (c)(8) of this Rule, shall be assessed four demerits;
- (10) violation of Rules .2809 or .2812 of this Section related to food-contact surfaces being properly washed, rinsed, sanitized, and air dried and single-service articles not being re-used shall be assessed five demerits;
- (11) violation of Rule .2812 of this Section related to a sanitizing solution being provided and a test kit being available shall be assessed two demerits;
- (12) violation of Rule .2809, .2810, or .2812 of this Section related to keeping equipment and non-food-contact surfaces clean and in good repair shall be assessed four demerits;
- (13) violation of Rule .2814 of this Section related to proper storage and handling of clean equipment, utensils, and single-service articles shall be assessed three demerits;
- (14) violation of Rule .2815 of this Section related to water supply and drinking water facilities and documentation that water supplies and facilities satisfy the applicable regulatory requirements shall be assessed six demerits;
- (15) violation of Rule .2815 of this Section related to hot water supplied and maintained in the kitchen shall be assessed six demerits;
- (16) violation of Rule .2815 of this Section related to hot water supplied and tempered water maintained as required in all other areas shall be assessed four demerits;
- (17) violation of Rule .2815(e) of this Section related to hot water in excess of 120 degrees Fahrenheit not allowed in areas accessible to children shall be assessed six demerits;
- (18) violation of Rule .2815(c) of this Section related to backflow prevention and cross connections shall be assessed three demerits;
- (19) violation of Rules .2815(c) or .2836 of this Section related to drinking fountain construction and location, water pressure regulation, and drinking fountains being kept clean shall be assessed two demerits;
- (20) violation of Rule .2816 of this Section related to identified lead poisoning hazards shall be assessed six demerits;
- (21) violation of Rules .2817, .2818, or .2836 of this Section related to toilet and lavatory facilities being properly sized, located, accessible, and in good repair, and sinks, toilets, and potty chairs being cleaned and disinfected shall be assessed four demerits;
- (22) violation of Rules .2817 or .2818 of this Section related to the provision of soap, disposable towels, hand drying devices, and toilet tissue paper shall be assessed three demerits;
- (23) violation of Rules .2817 or .2818 of this Section related to storage in toilet rooms, lavatories being kept free of storage, and handwash signs being posted shall be assessed two demerits;
- (24) violation of Rules .2817, .2819, or .2836 of this Section related to the set-up of diaper changing facilities shall be assessed six demerits;
- (25) violation of Rule .2819 of this Section related to diapering surfaces being cleaned and disinfected after each use shall be assessed six demerits;
- (26) violation of Rule .2812 or .2819 of this Section related to an approved disinfectant being provided and a test kit being available when required shall be assessed two demerits;
- (27) violation of Rules .2818, .2819, or .2820 of this Section related to diaper changing facilities being kept free of storage and in good repair, detergent solutions and approved disinfectants being labeled, required diapering methods being used, and diaper changing and handwash signs being posted shall be assessed four demerits;
- (28) violation of Rule .2820(d) and (g) of this Section related to medications being properly stored shall be assessed six demerits;
- (29) violation of Rule .2820(b) and (e) of this Section related to hazardous products being properly stored and locked shall be assessed six demerits;
- (30) violation of Rule .2820(c) of this Section related to non-hazardous products being properly stored shall be assessed three demerits;
- (31) violation of Rule .2820 of this Section related to facilities being provided for proper storage, and storage being kept clean shall be assessed two demerits;
- (32) violation of Rules .2821 or .2836 of this Section related to individual linen being provided and adequate beds, cots, or mats being provided, kept in good repair, properly stored, labeled, and spaced during use shall be assessed three demerits;
- (33) violation of Rule .2821 of this Section related to linen, wash cloths, bibs, and burping cloths being laundered and kept in good repair shall be assessed three demerits;
- (34) violation of Rules .2822 or .2836 of this Section related to toys, equipment, and furniture being kept clean and in good repair and the cleaning, sanitization, and maintenance of water play centers shall be assessed four demerits;
- (35) violation of Rules .2822 or .2836 of this Section related to mouth-contact surfaces in rooms designated for children who are not toilet trained being cleaned and sanitized in rooms where children who are not toilet trained are cared for shall be assessed four demerits;

- (36) violation of Rules .2807 or .2823 of this Section related child care center employees wearing gloves, clean clothes, and hair restraints where required, and tobacco use shall be assessed two demerits;
 - (37) violation of Rules .2824, .2825, or .2836 of this Section related to floors, walls and ceilings being kept clean and in good repair and the vacuuming and extraction cleaning of carpets shall be assessed four demerits;
 - (38) violation of Rule .2826 of this Section related to the lighting and thermal environment and room temperature being kept between 65 degrees Fahrenheit and 85 degrees Fahrenheit shall be assessed three demerits;
 - (39) violation of Rule .2826 of this Section related to lighting and thermal equipment being kept clean and in good repair and being maintained as required shall be assessed two demerits;
 - (40) violation of Rule .2827(e) of this Section related to persons with a communicable disease or a condition shall be assessed six demerits;
 - (41) violation of Rules .2827 or .2836 of this Section related to persons caring for mildly sick children or ill children being excluded from situations in which transmission of communicable disease can be expected to occur and proper written procedures being followed for vomiting or diarrheal events shall be assessed four demerits;
 - (42) violation of Rule .2827 of this Section related to the designated area for sick children maintained as required and written procedures for responding to vomiting or diarrheal events shall be assessed two demerits;
 - (43) violation of Rule .2829 of this Section related to sewage disposal shall be assessed six demerits;
 - (44) violation of Rules .2830 or .2836 of this Section related to solid waste being properly handled, solid waste containers and cleaning equipment kept clean, and the provision of adequate solid waste can washing facilities shall be assessed two demerits;
 - (45) violation of Rule .2831 of this Section related to pesticides being properly used and new installation of CCA pressure-treated wood shall be assessed six demerits;
 - (46) violation of Rule .2831 of this Section related to CCA pressure-treated wood being sealed and soil being covered or made inaccessible as required shall be assessed two demerits;
 - (47) violation of Rule .2831 of this Section related to animals in food preparation areas and restrictions on unrestrained or prohibited animals shall be assessed three demerits;
 - (48) violation of Rules .2831 or .2832 of this Section related to pest control and the child care center premises being free of conditions that harbor or attract pests shall be assessed three demerits;
 - (49) violation of Rule .2832 of this Section related to outdoor premises being kept clean and free of standing water and wells, grease traps, cisterns, and other utility equipment being kept inaccessible to children, outdoor equipment and toys being kept clean and in good repair, sandboxes being properly constructed and kept clean, and adherence to air quality forecast outdoor activity restrictions shall be assessed two demerits; and
 - (50) violation of Rule .2833 of this Section related to swimming and wading pools being designed, constructed, operated, and maintained in accordance with the rules at Section .2500 of this Subchapter shall be assessed six demerits.
- (d) The Department shall indicate on the sanitation inspection form whether the child care center is classified as "superior," "approved," "provisional," or "disapproved" based on the sanitation inspection and the resulting score based on demerits taken in accordance with Paragraph (e) of this Rule. A sanitation classification placard that lists the child care center's score and classification shall be posted in the child care center in a location designated by the Department and where the placard can be seen by the public upon entry to the child care center. A summary classification of "disapproved" shall be issued by the Department and forwarded to the licensing agency when the Department's right-of-entry to inspect the child care center is denied or when an inspection is discontinued at the request of the operator or child care center administrator, unless the decision to discontinue the inspection is mutually made by the child care center operator or administrator and the Department. A summary classification of "disapproved" shall also be issued by the Department and forwarded to the licensing agency when a water sample that is collected pursuant to Rule .2815 of this Section is confirmed positive for fecal coliform, total coliform, or other chemical constituents in accordance with Rule .1725 of this Subchapter.
- (e) A child care center's level of compliance with the Rules of this Section is indicated by the number of demerits listed on the sanitation inspection form and the following shall apply for a child care center's classification:
- (1) When an inspection is requested and conducted for the purpose of issuing a license to a new operator, a completed sanitation inspection shall be forwarded by the Department to the licensing agency only when the child care center is granted a "superior" classification.
 - (2) If the child care center is not yet in operation and children are not in attendance when the initial sanitation inspection is conducted, a sanitation inspection form shall be completed by the Department and forwarded to the licensing agency but the placard listing the child care center's sanitation classification shall not be posted in the child care center. Another sanitation inspection shall be conducted by the Department when children are in attendance at the child care center and within 30 days of the

child care center opening. The placard listing the sanitation classification earned by the child care center during the most recent inspection shall be posted following this second sanitation inspection and in accordance with Paragraph (d) of this Rule. When a temporary license is issued by the licensing agency to a child care center as a result of a change of ownership in a child care center and the child care center continues to operate, the operator shall request an inspection from the Department within 14 days of the issuance of the temporary license. After the sanitation inspection is completed, a placard listing the child care center's sanitation classification shall be posted.

- (3) A child care center shall be classified as "superior" if the demerit score does not exceed 15 and no 6-point demerit item is violated.
- (4) A child care center shall be classified as "approved" if the demerit score is more than 15 and does not exceed 30, and no 6-point demerit item is violated.
- (5) A child care center shall be classified as "provisional" if any 6-point demerit item is violated or if the total demerit score is more than 30 but does not exceed 45. The provisional classification period shall not exceed seven days unless construction or renovation is necessary to correct any violation, in which case the Department may specify a longer provisional classification period. At the end of the provisional classification period, a follow-up inspection shall be conducted by the Department and a new demerit score and classification shall be issued.
- (6) A child care center shall be classified as "disapproved" if the demerit score is more than 45, or if conditions and violations which resulted in a "provisional" classification have not been corrected in the time period specified by the Department in accordance with Subparagraph (e)(5) of this Rule.
- (7) If the child care center receives a "disapproved" classification, the Department shall immediately notify the licensing agency of the classification.
- (8) The placard listing the child care center's sanitation classification shall not be removed from the location designated by the Department under Paragraph (d) of this Rule except by or upon the instruction of the Department.

(f) The Department may conduct an additional inspection of any child care center that is issued a "provisional," "disapproved," or summary "disapproved" classification or upon receipt of a complaint about the sanitation of a child care facility that is made to the Department to ensure compliance with the Rules in this Section.

(g) The Department shall document demerits for violations of the rules of this Section on an inspection form and a written

explanation and corrective action for each violation shall be documented on a comment addendum to the form. The inspection form shall contain the following minimum elements:

- (1) The date and purpose of the inspection;
- (2) The child care center's name, address, license number, operating status, and maximum capacity;
- (3) The name of the operator of the child care center;
- (4) Documentation of violations observed during the inspection, demerits, and classification;
- (5) Documentation of the type of water supply and wastewater system serving the child care center and whether water samples were taken during the inspection; and
- (6) The name of the inspector's employer, if completed by an authorized agent, and the inspector's signature.

(h) Demerits may be assessed only once for a single occurrence or condition existing within or outside the child care center. Demerits shall be assessed based on actual violations of the Rules of this Section observed during the inspection.

History Note: Authority G.S. 110-88; 110-91; Eff. July 1, 1991; Amended Eff. February 1, 1995; Temporary Amendment Eff. April 15, 1998; Amended Eff. July 1, 2006; January 1, 2006; April 1, 1999; Readopted Eff. July 1, 2023.

15A NCAC 18A .2835 APPEALS PROCEDURE

Appeals concerning the enforcement of the Child Care Sanitation Rules in this Section as adopted by the Commission for Public Health shall be governed by G.S. 110-94 and G.S. 150B.

History Note: Authority G.S. 110-91; Eff. July 1, 1991; Amended Eff. January 1, 2006; Readopted Eff. July 1, 2023.

15A NCAC 18A .2836 MILDLY SICK CHILDREN

Child care centers that are licensed by the licensing agency to offer care to mildly sick children pursuant to 10A NCAC 09 .2404 shall comply with all rules in this Section except as follows:

- (1) Prior to operating a program for mildly sick children, the child care center operator shall undergo a sanitation inspection of the child care center by the Department.
- (2) Drinking fountains shall not be used by mildly sick children.
- (3) Toilet fixtures, potty chairs, utility sinks, tubs, and showers shall be cleaned and disinfected after each use.
- (4) Lavatories shall be of a hands-free design or equipped with single-lever faucets.
- (5) Cloth diapers shall not be used.
- (6) Individually labeled moist towelette containers shall be provided for each child in diapers.

- (7) Caregivers shall wear clean disposable gloves when changing each diaper.
- (8) Moist towelettes shall not be used in lieu of handwashing for children who cannot support their heads.
- (9) A 36-inch separation shall be maintained or partitions shall be placed between beds, cots and mats to minimize contact among children.
- (10) Furniture shall be nonabsorbent.
- (11) Thermometers and mouthable toys shall be cleaned and sanitized between uses by different children. Soft, cloth material toys may be brought from home if labeled with the name of the child to whom the toy belongs and used only by that child. If soft toys are provided by the child care center, they shall be sanitized between uses by different children.
- (12) Employees caring for mildly sick children shall not prepare food in a kitchen used to prepare food for one or more children who are not mildly sick or serve food to children who are not mildly sick.
- (13) Family style and other self-serve food service is prohibited.
- (14) Carpeted floors are prohibited. Throw rugs may be used if laundered when contaminated and at least weekly. Floors contaminated by body fluids shall be cleaned and disinfected immediately.
- (15) Caregivers shall wash hands in accordance with the procedures in Rule .2803(c) before leaving the area designated for mildly sick children.
- (16) All waste shall be disposed of in a plastic-lined, covered receptacle.

History Note: Authority G.S. 110-91; Eff. January 1, 2006; Readopted Eff. July 1, 2023.

TITLE 21 - OCCUPATIONAL LICENSING BOARDS AND COMMISSIONS

CHAPTER 18 – BOARD OF EXAMINERS OF ELECTRICAL CONTRACTORS

21 NCAC 18B .0209 FEES

- (a) The fees for qualifying applicants for examination shall be one hundred and twenty-five (\$125.00) for all classifications.
- (b) The fee for review of a failed examination is twenty-five dollars (\$25.00). All reviews shall be supervised by the Board or staff.
- (c) The fees for applicants for examination and the fees for examination reviews shall be in the form of cash, check, money order, Visa, or Mastercard made payable to the Board and shall accompany the respective applications when filed with the Board.
- (d) The fees for applicants for examination received with applications filed for qualifying examinations shall be nonrefundable unless:

- (1) an application is not filed as prescribed in Rule .0210 of this Section, in which case sixty dollars (\$60.00) of the fees for applicants for examination shall be returned and the application shall be returned; or
 - (2) the applicant does not take the examination during the period for which application was made, files a written request for a refund setting out extenuating circumstance, and the Board finds extenuating circumstances.
- (e) Examination review fees are non-refundable unless the applicant does not take the review, files a written request for a refund, setting out extenuating circumstance, and the Board finds extenuating circumstances.
- (f) Any fee retained by the Board shall not be creditable toward any future examination fee or examination review.
- (g) Extenuating circumstances for the purposes of Subparagraph (d)(2) and Paragraph (e) of this Rule are the applicant's illness, bodily injury or death, or death of the applicant's spouse, child, parent, or sibling, or a breakdown of the applicant's transportation to the designated site of the examination or examination review.

History Note: Authority G.S. 87-42; 87-44; Eff. October 1, 1988; Amended Eff. May 1, 1998; July 1, 1989; Temporary Amendment Eff. June 30, 2000; Temporary Amendment Eff. August 31, 2001; Amended Eff. July 1, 2011; January 1, 2008; December 4, 2002; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. February 2, 2016; Amended Eff. July 1, 2023; July 1, 2016.

21 NCAC 18B .0404 ANNUAL LICENSE FEES

- (a) The fee for issuance of license, reissuance of license, or license renewal in the various license classifications shall be as follows:

| LICENSE FEE SCHEDULE | |
|----------------------|-------------|
| CLASSIFICATION | LICENSE FEE |
| Limited | \$100.00 |
| Intermediate | \$150.00 |
| Unlimited | \$200.00 |
| SP-SFD | \$100.00 |
| Special Restricted | \$100.00 |

- (b) License fees shall be made payable to the Board. Payment shall accompany any license or license renewal application filed with the Board.

History Note: Authority G.S. 87-42; 87-44; Eff. October 1, 1988; Amended Eff. May 1, 1998; July 1, 1989; Temporary Amendment Eff. June 30, 2000; Temporary Amendment Eff. August 31, 2001; Amended Eff. July 1, 2015; January 1, 2008; December 4, 2002; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. February 2, 2016; Amended Eff. July 1, 2023; July 1, 2020; October 1, 2017.

CHAPTER 32 - MEDICAL BOARD

Repealed Eff. June 1, 2023.

21 NCAC 32B .1708 COVID-19 DRUG PRESERVATION RULE

History Note: Authority G.S. 90-5.1(a)(3); Emergency Adoption Eff. April 6, 2020; Temporary Adoption Eff. June 26, 2020; Eff. April 1, 2021; Repealed Eff. June 1, 2023.

21 NCAC 32M .0107 CONTINUING EDUCATION (CE)

(a) In order to maintain nurse practitioner approval to practice, the nurse practitioner shall earn 50 contact hours of continuing education activity every two years, beginning with the first renewal after initial approval to practice has been granted. A minimum of 20 hours of the required 50 hours must be in the advanced practice nursing population focus of the NP role. The 20 hours must have approval granted by the American Nurses Credentialing Center (ANCC) or Accreditation Council on Continuing Medical Education (ACCME), or by a national accredited provider of nursing continuing professional development, or nurse practice-relevant courses in an institution of higher learning. A nurse practitioner who possesses a current national certification by a national credentialing body shall be deemed in compliance with the requirement of Paragraph (a) of this Rule.

(b) Prior to prescribing controlled substances as the same are defined in 21 NCAC 32M .0109(b)(2), nurse practitioners shall have completed a minimum of one CE hour within the preceding 12 months on 1 or more of the following topics:

- (1) Controlled substances prescription practices;
(2) Prescribing controlled substances for chronic pain management;
(3) Recognizing signs of controlled substance abuse or misuse; or
(4) Non-opioid treatment options as an alternative to controlled substances.

(c) Documentation of all CE completed within the previous five years shall be maintained by the nurse practitioner and made available upon request to either Board.

History Note: Authority G.S. 90-5.1(a)(3); 90-8.2; 90-18(c)(14); S.L. 2015-241, s. 12F; Eff. January 1, 1996; Amended Eff. August 1, 2004; May 1, 1999; Recodified from Rule .0106 Eff. August 1, 2004; Amended Eff. December 1, 2009; April 1, 2008; Pursuant to G.S. 150B-21.3A rule is necessary without substantive public interest Eff. March 1, 2016; Amended Eff. June 1, 2023; June 1, 2021; March 1, 2017.

21 NCAC 32M .0119 COVID-19 DRUG PRESERVATION RULE

History Note: Authority G.S. 90-5.1(a)(3); 90-18.2; Emergency Adoption Eff. April 21, 2020; Temporary Adoption Eff. June 26, 2020; Eff. April 1, 2021;

CHAPTER 36 – BOARD OF NURSING

21 NCAC 36 .0807 CONTINUING EDUCATION (CE)

(a) In order to maintain nurse practitioner approval to practice, the nurse practitioner shall earn 50 contact hours of continuing education activity every two years, beginning with the first renewal after initial approval to practice has been granted. A minimum of 20 hours of the required 50 hours must be in the advanced practice nursing population focus of the NP role. The 20 hours must have approval granted by the American Nurses Credentialing Center (ANCC) or Accreditation Council on Continuing Medical Education (ACCME), or by a national accredited provider of nursing continuing professional development, or nurse practice-relevant courses in an institution of higher learning. A nurse practitioner who possesses a current national certification by a national credentialing body shall be deemed in compliance with the requirement of Paragraph (a) of this Rule.

(b) Prior to prescribing controlled substances as the same are defined in 21 NCAC 36 .0809(2), nurse practitioners shall have completed a minimum of one CE hour within the preceding 12 months on 1 or more of the following topics:

- (1) Controlled substances prescription practices;
(2) Prescribing controlled substances for chronic pain management;
(3) Recognizing signs of controlled substance abuse or misuse; or
(4) Non-opioid treatment options as an alternative to controlled substances.

(c) Documentation of all CE completed within the previous five years shall be maintained by the nurse practitioner and made available upon request to either Board.

History Note: Authority G.S. 90-8.2; 90-14(a)(15); 90-18(c)(14); 90-171.23(b)(14); 90-171.42; S.L. 2015-241, s. 12F; Recodified from 21 NCAC 36 .0227(f) Eff. August 1, 2004; Amended Eff. March 1, 2017; December 1, 2009; April 1, 2008; August 1, 2004; Readopted Eff. January 1, 2019; Amended Eff. June 1, 2023; June 1, 2021.

CHAPTER 58 - REAL ESTATE COMMISSION

21 NCAC 58A .0113 REPORTING CRIMINAL CONVICTIONS AND DISCIPLINARY ACTIONS

(a) A broker shall file with the Commission a Criminal Conviction Disciplinary Action Reporting Form within 60 days of:

- (1) a final judgment, order, or disposition of any felony or misdemeanor conviction;
(2) a disciplinary action or entering into a conciliation agreement or consent order with a

governmental agency or occupational licensing agency;

- (3) a final judgment, order, or disposition of a military court-martial conviction; or
- (4) a notarial commission sanction pursuant to G.S. 10B-60.

(b) The Criminal Conviction Disciplinary Action Reporting Form is available on the Commission's website at www.nrec.gov or upon request to the Commission and shall set forth the broker's:

- (1) full legal name;
- (2) physical and mailing address;
- (3) real estate license number;
- (4) telephone number;
- (5) email address;
- (6) social security number;
- (7) date of birth; and
- (8) description of the criminal conviction, military court-martial conviction, notarial commission sanction, or professional license disciplinary action, including the jurisdiction and file number.

History Note: Authority G.S. 93A-3(c); 93A-6(a); 93A-6(a)(10); 93A-6(b)(2); Eff. August 1, 1996; Amended Eff. July 1, 2016; July 1, 2009; January 1, 2008; April 1, 2006; July 1, 2003; 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, 2023.

21 NCAC 58A .0301 LICENSE APPLICATION

(a) An individual seeking licensure as a real estate broker shall submit a license application that is available on the Commission's website and shall include the applicant's:

- (1) legal name;
- (2) mailing, physical, and email address;
- (3) telephone number;
- (4) social security number and date of birth;
- (5) qualification for license application;
- (6) real estate license history;
- (7) places of residence for the past seven years;
- (8) employment history for the past three years;
- (9) criminal offenses, military courts-martial convictions, professional license disciplinary actions, including the jurisdiction, file number, and explanation of each offense;
- (10) liens or unpaid judgments;
- (11) certification the applicant has read the Real Estate Licensing in North Carolina brochure that is available on the Commission's website; and
- (12) declaration and signature.

(b) In addition to the application required by Paragraph (a) of this Rule, the applicant shall submit:

- (1) the license application fee pursuant to Rule .0302 of this Section; and
- (2) a criminal records report from a Commission-designated criminal reporting service obtained

within six months prior to application submission.

History Note: Authority G.S. 93A-3(c); 93A-4; Eff. February 1, 1976; Readopted Eff. September 30, 1977; Amended Eff. April 1, 2006; July 1, 2000; February 1, 1991; February 1, 1989; August 1, 1988; December 1, 1985; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018; Amended Eff. July 1, 2023.

21 NCAC 58A .0505 REINSTATEMENT OF A LICENSE

(a) The fee for reinstatement of a license that has been expired, revoked, or surrendered for less than two years shall be an amount equal to two times the current renewal license fee pursuant to Rule .0503 of this Section.

(b) The reinstatement application form is available on the Commission's website and shall include the applicant's:

- (1) legal name;
- (2) mailing, physical, and email address;
- (3) telephone number;
- (4) previous license number;
- (5) Secretary of State identification number, if applicable;
- (6) social security number and date of birth, if applicable;
- (7) qualifying broker and broker-in-charge's legal name and license number, if applicable;
- (8) criminal record report from a designated criminal reporting service obtained within six months prior to application;
- (9) certification; and
- (10) signature.

(c) An individual seeking reinstatement of a license that has been expired for less than six months shall:

- (1) submit the reinstatement fee pursuant to Paragraph (a) of this Rule;
- (2) disclose any criminal conviction, court-martial conviction, notarial commission sanction, or disciplinary action pursuant to Rule .0113 of this Section, including any conviction or disciplinary action incurred while the individual's license was expired; and
- (3) satisfy the license activation requirements of Rule .1703 of this Subchapter, if applicable.

(d) An individual seeking reinstatement of a license that has been expired for six months but no more than two years or revoked or surrendered for no more than two years shall:

- (1) submit a complete reinstatement application pursuant to Paragraph (b) of this Rule;
- (2) submit the reinstatement fee pursuant to Paragraph (a) of this Rule; and
- (3) pass:
 - (A) one Postlicensing course within six months prior to submitting a reinstatement application;

- (B) the "National" and "State" sections of the current license examination within 180 days after submitting a reinstatement application; or
- (C) the "State" section of the current license examination within 180 days after submitting a reinstatement application if the individual possesses an active broker license in another state.

(e) An individual seeking reinstatement of a license that has been expired, revoked, or surrendered for more than two years shall submit a license application and application fee pursuant to G.S. 93A-4 and Rules .0301, .0302, and .0511 of this Subchapter.

(f) A reinstated license shall be effective as of the date of reinstatement, not the date of initial licensure. If a license is reinstated after three years from the expiration, revocation, or surrender, the license shall be on provisional broker status pursuant to G.S. 93A-4(a1).

(g) A business entity seeking reinstatement of a license shall submit:

- (1) the reinstatement fee pursuant to Paragraph (a) of this Rule if the license has been expired for less than six months;
- (2) the reinstatement fee and a complete reinstatement application pursuant to Paragraphs (a) and (b) of this Rule if the license has been expired for six months but no more than two years or revoked or surrendered for no more than two years; or
- (3) a firm license application pursuant to G.S. 93A-4 and Rules .0301, .0302, and .0502 of this Subchapter if the license has been expired, revoked, or surrendered for more than two years.

(h) A broker seeking reinstatement of a license shall satisfy to the Commission that the broker possesses the character requisites pursuant to G.S. 93A-4(b).

History Note: Authority G.S. 93A-3(c); 93A-4; 93A-38.5; Eff. February 1, 1976; Readopted Eff. September 30, 1977; Temporary Amendment Eff. April 24, 1995 for a period of 180 days or until the permanent rule becomes effective, whichever is sooner; Amended Eff. July 1, 2017; January 1, 2012; July 1, 2009; January 1, 2008; April 1, 2004; July 1, 2000; August 1, 1998; July 1, 1996; August 1, 1995; July 1, 1995; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018; Amended Eff. July 1, 2023; July 1, 2018.

21 NCAC 58A .1705 ATTENDANCE AND PARTICIPATION REQUIREMENTS

(a) In order to receive credit for completing an approved continuing education course, a broker shall:

- (1) attend at least 90 percent of the scheduled instructional hours for the course;

- (2) provide the broker's legal name and license number to the education provider;
- (3) present the broker's pocket card or photo identification card, if necessary; and
- (4) personally perform all work required to complete the course.

(b) With the instructor or the education provider's permission, a 10 percent absence allowance may be permitted at any time during the course, except that it may not be used to skip the last 10 percent of the course unless the absence is:

- (1) approved by the instructor; and
- (2) for circumstances beyond the broker's control that could not have been reasonably foreseen by the broker, such as:
 - (A) an illness;
 - (B) a family emergency; or
 - (C) acts of God.

History Note: Authority G.S. 93A-3(c); 93A-38.5; Eff. July 1, 1994; Amended Eff. July 1, 2017; July 1, 2010; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018; Amended Eff. July 1, 2023; January 1, 2020.

21 NCAC 58A .1708 EQUIVALENT CREDIT

(a) The Commission shall award an approved instructor continuing education credit for teaching a Commission Update Course. An approved instructor seeking continuing education credit for teaching a Commission Update Course shall submit a form, available on the Commission's website, that requires the approved instructor to set forth the:

- (1) approved instructor's name, license number, instructor number, address, telephone number, and email address;
- (2) Update Course number;
- (3) education provider's name and number;
- (4) education provider's address; and
- (5) date the course was taught.

(b) The Commission shall award a broker continuing education elective credit the first time an approved continuing education elective course is taught by the broker. A broker seeking continuing education credit under this Paragraph shall submit a form, available on the Commission's website, that requires the broker to set forth the:

- (1) broker's name, license number, address, telephone number, and email address;
- (2) course title;
- (3) course number;
- (4) education provider's name and number;
- (5) education provider's address; and
- (6) date the course was taught.

(c) The Commission may award continuing education elective credit for developing a continuing education elective course the first time it is approved by the Commission pursuant to 21 NCAC 58H .0401. However, a broker shall only receive credit for the year in which the continuing education elective course is approved. A broker seeking continuing education credit under this Paragraph shall submit a form, available on the Commission's

website, that requires the broker to set forth the broker's name, license number, address, telephone number, and email address. Along with the form, the broker shall submit the course title, the course number, the date of the course approval, and a fifty dollar (\$50.00) fee for each course for which the broker seeks credit.

(d) In order for any application for equivalent credit to be considered and credits applied to the current licensing period, a complete application, the appropriate fee, and all supporting documents shall be received by the Commission no later than 5:00 p.m. Eastern Time on June 17.

History Note: Authority G.S. 93A-3(c); 93A-38.5; Eff. July 1, 1994; Amended Eff. July 1, 2017; April 1, 2006; July 1, 2001; July 1, 2000; March 1, 1996; July 1, 1995; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018; Amended Eff. July 1, 2023; July 1, 2020.

21 NCAC 58A .1711 CONTINUING EDUCATION REQUIRED OF NONRESIDENT BROKERS

History Note: Authority G.S. 93A-3(c); 93A-38.5; Eff. July 1, 1994; Amended Eff. July 1, 2017; July 1, 2015; January 1, 2008; April 1, 2006; October 1, 2000; March 1, 1996; July 1, 1995; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018; Amended Eff. July 1, 2020; July 1, 2018; Repealed Eff. July 1, 2023.

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, ELECTRONICALLY 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, 2023; July 1, 2022.

21 NCAC 58H .0202 APPLICATION FOR EDUCATION PROVIDER CERTIFICATION

(a) Any community college, junior college, or university located in this State and accredited by the Southern Association of Colleges and Schools seeking education provider certification shall apply to the Commission on a form available on the Commission's website and shall set forth the:

- (1) education provider's name;
- (2) education director's name and contact information;
- (3) education director's email address;
- (4) education provider's address;
- (5) education provider's telephone number;
- (6) education provider's website address;
- (7) type of public institution;
- (8) Prelicensing, Postlicensing, and Continuing Education courses to be offered by the applicant; and
- (9) a signed certification by the education director that courses shall be conducted in compliance with the rules of this Subchapter.

(b) Any other person or entity seeking education provider certification shall apply to the Commission on a form available on the Commission's website and shall set forth the following criteria in addition to the requirements in G.S. 93A-34(b1):

- (1) the website, physical and mailing address, and telephone number of the principal office of the education provider;
- (2) the education director's license number, if applicable, email and mailing address, and telephone number;
- (3) the North Carolina Secretary of State Identification Number, if applicable;
- (4) the physical address of each proposed branch location, if applicable;
- (5) the type of ownership entity;
- (6) a signed Consent to Service of Process and Pleadings form available on the Commission's website, if a foreign entity;

- (7) the Prelicensing, Postlicensing, and Continuing Education courses to be offered by the applicant; and
- (8) a signed certification by the education director that courses shall be conducted in compliance with the rules of this Subchapter.

(c) The certification application fee for an education provider applying under Paragraph (b) of this Rule shall be two hundred dollars (\$200.00) for each proposed education provider location. Provided however, education providers shall not be required to obtain a certification for every location a Continuing Education course is offered.

(d) If any education provider relocates any location or opens additional branch locations during any licensing period, the education director shall submit an original application for certification of that location pursuant to this Rule.

(e) In the event that any education provider advertises or operates in any manner using a name different from the name under which the education provider is certified, the education provider shall first file an assumed name certificate in compliance with G.S. 66-71.4 and shall notify the Commission in writing of the use of such an assumed name. An education provider shall not advertise or operate in any manner that would mislead a consumer as to the education provider's actual identity.

(f) An application from an individual or entity with an ownership interest of 10 percent or greater in a certified education provider that has been limited, denied, withdrawn, or terminated pursuant to Rule .0210 of this Section shall be denied if filed within one year from the effective date of the limitation, denial, withdrawal, or termination.

History Note: Authority G.S. 93A-4; 93A-34; 93A-35; Eff. July 1, 2017; Amended Eff. July 1, 2023; July 1, 2020.

21 NCAC 58H .0216 LIMITED EDUCATION PROVIDER PETITION FOR RECONSIDERATION

(a) An education provider may submit a written petition to reconsider the determination made pursuant to Rule .0210(c) of this Section. The petition shall be accompanied by any documentary evidence that contradicts the Commission's determination pursuant to Rule .0210(c) of this Section.

(b) The petition pursuant to Paragraph (a) of this Rule shall be submitted to the Commission within 60 days from the date of receipt of notification of the certification limitation or the Commission's determination shall be final.

(c) The Commission shall review a petition pursuant to Paragraph (b) of this Rule and any response submitted in writing by Commission staff and enter a final determination within 90 days from the date of receipt of such petition.

History Note: Authority G.S. 93A-3(c); 93A-4(d); 93A-38; Eff. July 1, 2023.

21 NCAC 58H .0302 APPLICATION AND CRITERIA FOR INSTRUCTOR APPROVAL

(a) An individual seeking original instructor approval shall submit an application on a form available on the Commission's website that shall require the instructor applicant to indicate the

course(s) for which approval is being sought and set forth the instructor applicant's:

- (1) legal name, address, email address, and telephone number;
- (2) real estate license number and instructor number, if any, assigned by Commission;
- (3) criminal and occupational licensing history, including any disciplinary actions;
- (4) education background, including specific real estate education;
- (5) experience in the real estate business;
- (6) real estate teaching experience, if any;
- (7) signed Consent to Service of Process and Pleadings for nonresident applicants; and
- (8) signature.

(b) An instructor applicant shall demonstrate that the instructor applicant possesses good reputation and character pursuant to G.S. 93A-34(c)(9) and has:

- (1) a North Carolina real estate broker license that is not on provisional status;
- (2) completed continuing education sufficient to activate a license under 21 NCAC 58A .1703;
- (3) completed 60 semester hours of college-level education at an institution accredited by any college accrediting body recognized by the U.S. Department of Education;
- (4) completed the New Instructor Seminar within the previous six months; and
- (5) within the previous seven years has either:
 - (A) two years full-time experience in real estate brokerage with at least one year in North Carolina;
 - (B) three years of instructor experience at a secondary or post-secondary level;
 - (C) real estate Prelicensing or Postlicensing instructor approval in another jurisdiction; or
 - (D) qualifications found to be equivalent by the Commission, including a current North Carolina law license and three years' full time experience in commercial or residential real estate transactions or representation of real estate brokers or firms.

(c) In order to complete the New Instructor Seminar, a broker shall:

- (1) attend at least ninety percent of all scheduled hours; and
- (2) demonstrate the ability to teach a 15-minute block of a single Prelicensing topic in a manner consistent with the course materials.

(d) Prior to teaching any Update course, an approved instructor shall take the Commission's annual Update Instructor Seminar for the current license period and attend at least 90 percent of all scheduled hours. The Update Instructor Seminar shall not be used to meet the requirement in Rule .0306(b)(4) of this Section.

History Note: Authority G.S. 93A-3(f); 93A-4; 93A-10; 93A-33; 93A-34;

Eff. July 1, 2017;

Amended Eff. July 1, 2023; July 1, 2020; July 1, 2019.

**21 NCAC 58H .0307 LIMITED INSTRUCTOR
PETITION FOR RECONSIDERATION**

(a) An instructor may submit a written petition to reconsider the determination made pursuant to Rule .0303(b) of this Section. The petition shall be accompanied by any documentary evidence that contradicts the Commission's determination pursuant to Rule .0303(b) of this Section.

(b) The petition pursuant to Paragraph (a) of this Rule shall be submitted to the Commission within 60 days from the date of

receipt of notification of the approval limitation or the Commission's determination shall be final.

(c) The Commission shall review a petition pursuant to Paragraph (b) of this Rule and any response submitted in writing by Commission staff and enter a final determination within 90 days from the date of receipt of such petition.

*History Note: Authority G.S. 93A-3(c); 93A-4(d);
Eff. July 1, 2023.*

RULES REVIEW COMMISSION

This Section contains information for the meeting of the Rules Review Commission July 20, 2023 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 2nd 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. (2nd Vice Chair)
Jay R. Hemphill
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 |
| Seth M. Ascher | 984-236-1934 |

RULES REVIEW COMMISSION MEETING DATES

| | |
|-----------------|--------------------|
| July 20, 2023 | September 21, 2023 |
| August 17, 2023 | October 19, 2023 |

AGENDA

RULES REVIEW COMMISSION
Thursday, July 20, 2023, 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. Medical Care Commission - 10A NCAC 13B .3801, .3903, .4103, .4104, .4106, .4305, .4603, .4801, .4805, .5102, .5105, .5406, .5408, .5411 (Liebman)
 - B. Environmental Management Commission - 15A NCAC 02D .0103, .0501, .0546, .0605, .1903, .1904, .1905, .2203; 02Q .0104, .0105, .0206, .0304, .0305, .0307, .0505, .0507, .0508, .0710 (Duke)
 - C. Environmental Management Commission - 15A NCAC 02H .1301, .1401, .1402, .1403, .1404, .1405 (Liebman)
 - D. Marine Fisheries Commission - 15A NCAC 03M .0101 (Duke)
 - E. Coastal Resources Commission - 15A NCAC 07H .0208, .0308; 07K .0207; 07M .0602, .0603 (Duke)
 - F. Coastal Resources Commission - 15A NCAC 07H .0501, .0502, .0503, .0505, .0506, .0507, .0508, .0509, .0510; 07I .0406, .0506, .0702; 07J .0203, .0204, .0206, .0207, .0208, .0312 (Liebman)
 - G. Coastal Resources Commission - 15A NCAC 07H .2305 (Duke)
 - H. Coastal Resources Commission - 15A NCAC 07M .0201, .0202, .0401, .0402, .0403, .0701, .0703, .0704, .1001, .1002, .1101 (Peaslee)
 - I. Medical Board - 21 NCAC 32B .1002 (Peaslee)
- IV. Review of Filings (Permanent Rules) for rules filed between May 21, 2023 through June 20, 2023
 1. Rural Electrification Authority (Duke)
 2. Department of Natural and Cultural Resources (Duke)
 3. Board of Barber and Electrolysis Examiners (Duke)
 4. Board of Registration for Foresters (Peaslee)
- 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
 1. Request for change to 2024-2027 Existing Rules Review Schedule
 - o Next meeting: August 17, 2023

**Commission Review
Log of Permanent Rule Filings
May 21, 2023 through June 20, 2023**

RURAL ELECTRIFICATION AUTHORITY

The rules in Chapter 8 concern rural electrification authority including general provisions (.0100); electric Membership Corporations (.0200); telephone membership corporations (.0300); petitions: hearings: temporary rules: declaratory rulings: contested cases.

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|----------------------------------------------|----|------|----|-------|
| <u>Meetings</u> Amend* | 04 | NCAC | 08 | .0107 |
| <u>Duties of the Administrator</u> Amend* | 04 | NCAC | 08 | .0109 |

NATURAL AND CULTURAL RESOURCES, DEPARTMENT OF

The rules in Subchapter 14B are general provisions that concern preservation of the zoo (.0100); refuse and rubbish (0200); traffic and parking (.0300); firearms:fires:etc. (.0400); disorderly conduct: public nuisance: etc. (.0500); commercial enterprises: advertising: meetings: exhibitions: etc. (.0600); and miscellaneous rules (.0700).

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|----------------------------------------------|----|------|-----|-------|
| <u>Smoking and Fires</u> Amend* | 07 | NCAC | 14B | .0403 |
| <u>Smoking</u> Repeal* | 07 | NCAC | 14B | .0404 |
| <u>Rock Climbing</u> Adopt* | 07 | NCAC | 14B | .0608 |
| <u>Trail Access and Activities</u> Adopt* | 07 | NCAC | 14B | .0609 |

BARBER AND ELECTROLYSIS EXAMINERS, BOARD OF

The rules in Subchapter 6N establish fees and provide for the use of various forms.

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|-----------------------------------------------|----|------|-----|-------|
| <u>Form Bar-10</u> Amend* | 21 | NCAC | 06N | .0111 |
| <u>Request for Temporary Permit</u> Adopt* | 21 | NCAC | 06N | .0117 |

FORESTERS, BOARD OF REGISTRATION FOR

The rules in Chapter 20 cover registered foresters. North Carolina forbids the use of the title "Forester," "registered forester," or any other descriptive term including those terms unless the person is registered under this act. It does not forbid the practice of forestry or anything that can be done by a registered forester. Forester means a person who by reason of special knowledge and training is qualified to engage in the practice of forestry, which is defined as giving professional forestry services, including consultation, investigation, evaluation, education, planning, or responsible supervision of any forestry activities requiring knowledge, training, and experience in forestry principles and techniques.

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|------------------------------------|----|------|----|-------|
| <u>Registration Fees</u> Amend* | 21 | NCAC | 20 | .0106 |
|------------------------------------|----|------|----|-------|