

# ***NORTH CAROLINA REGISTER***

**VOLUME 22 • ISSUE 11 • Pages 921 - 1161**

**December 3, 2007**

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## **Contact List for Rulemaking Questions or Concerns**

For questions or concerns regarding the Administrative Procedure Act or any of its components, consult with the agencies below. The bolded headings are typical issues which the given agency can address, but are not inclusive.

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

Office of Administrative Hearings  
Rules Division  
Capehart-Crocker House  
424 North Blount Street  
Raleigh, North Carolina 27601-2817  
(919) 733-2678  
(919) 733-3462 FAX

contact: Molly Masich, Codifier of Rules      molly.masich@ncmail.net      (919) 733-3367  
Dana Vojtko, Publications Coordinator      dana.vojtko@ncmail.net      (919) 733-2679  
Julie Edwards, Editorial Assistant      julie.edwards@ncmail.net      (919) 733-2696  
Felicia Williams, Editorial Assistant      felicia.s.williams@ncmail.net      (919) 733-3361

### **Rule Review and Legal Issues**

Rules Review Commission  
1307 Glenwood Ave., Suite 159  
Raleigh, North Carolina 27605  
(919) 733-2721  
(919) 733-9415 FAX

contact: Joe DeLuca Jr., Commission Counsel      joe.deluca@ncmail.net      (919) 715-8655  
Bobby Bryan, Commission Counsel      bobby.bryan@ncmail.net      (919) 733-0928

### **Fiscal Notes & Economic Analysis**

Office of State Budget and Management  
116 West Jones Street  
Raleigh, North Carolina 27603-8005  
(919) 807-4700  
(919) 733-0640 FAX

contact: Nathan Knuffman, Economist III      nathan.Knuffman@ncmail.net      (919)807-4728  
Jonathan Womer, Asst. State Budget Officer      jonathan.womer@ncmail.net      (919)807-4737

### **Governor's Review**

Reuben Young      reuben.young@ncmail.net  
Legal Counsel to the Governor      (919) 733-5811  
116 West Jones Street(919)  
Raleigh, North Carolina 27603

### **Legislative Process Concerning Rule-making**

Joint Legislative Administrative Procedure Oversight Committee  
545 Legislative Office Building  
300 North Salisbury Street  
Raleigh, North Carolina 27611  
(919) 733-2578  
(919) 715-5460 FAX

contact: Karen Cochrane-Brown, Staff Attorney      karenc@ncleg.net  
Jeff Hudson, Staff Attorney      jeffreyh@ncleg.net

### **County and Municipality Government Questions or Notification**

NC Association of County Commissioners  
215 North Dawson Street  
Raleigh, North Carolina 27603  
(919) 715-2893

contact: Jim Blackburn      jim.blackburn@ncacc.org  
Rebecca Troutman      rebecca.troutman@ncacc.org

NC League of Municipalities  
215 North Dawson Street  
Raleigh, North Carolina 27603  
(919) 715-4000

contact: Anita Watkins      awatkins@nclm.org

**NORTH CAROLINA REGISTER**  
Publication Schedule for January 2007 – December 2007

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	Earliest Eff. Date of Permanent Rule	Delayed Eff. Date of Permanent Rule (first legislative day of the next regular session)	270 <sup>th</sup> day from publication in the Register
21:13	01/02/07	12/07/06	01/17/07	03/05/07	03/20/07	05/01/07	05/08	09/29/07
21:14	01/16/07	12/20/06	01/31/07	03/19/07	03/20/07	05/01/07	05/08	10/13/07
21:15	02/01/07	01/10/07	02/16/07	04/02/07	04/20/07	06/01/07	05/08	10/29/07
21:16	02/15/07	01/25/07	03/02/07	04/16/07	04/20/07	06/01/07	05/08	11/12/07
21:17	03/01/07	02/08/07	03/16/07	04/30/07	05/21/07	07/01/07	05/08	11/26/07
21:18	03/15/07	02/22/07	03/30/07	05/14/07	05/21/07	07/01/07	05/08	12/10/07
21:19	04/02/07	03/12/07	04/17/07	06/01/07	06/20/07	08/01/07	05/08	12/28/07
21:20	04/16/07	03/23/07	05/01/07	06/15/07	06/20/07	08/01/07	05/08	01/11/08
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22:01	07/02/07	06/11/07	07/17/07	08/31/07	09/20/07	11/01/07	05/08	03/28/08
22:02	07/16/07	06/22/07	07/31/07	09/14/07	09/20/07	11/01/07	05/08	04/11/08
22:03	08/01/07	07/11/07	08/16/07	10/01/07	10/22/07	12/01/07	05/08	04/27/08
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22:09	11/01/07	10/11/07	11/16/07	12/31/07	01/21/08	03/01/08	05/08	07/28/08
22:10	11/15/07	10/25/07	11/30/07	01/14/08	01/21/08	03/01/08	05/08	08/11/08
22:11	12/03/07	11/08/07	12/18/07	02/01/08	02/20/08	04/01/08	05/08	08/29/08
22:12	12/17/07	11/26/07	01/01/08	02/15/08	02/20/08	04/01/08	05/08	09/12/08

## **EXPLANATION OF THE PUBLICATION SCHEDULE**

This Publication Schedule is prepared by the Office of Administrative Hearings as a public service and the computation of time periods are not to be deemed binding or controlling. Time is computed according to 26 NCAC 2C .0302 and the Rules of Civil Procedure, Rule 6.

### **GENERAL**

The North Carolina Register shall be published twice a month and contains the following information submitted for publication by a state agency:

- (1) temporary rules;
- (2) notices of rule-making proceedings;
- (3) text of proposed rules;
- (4) text of permanent rules approved by the Rules Review Commission;
- (5) notices of receipt of a petition for municipal incorporation, as required by G.S. 120-165;
- (6) Executive Orders of the Governor;
- (7) final decision letters from the U.S. Attorney General concerning changes in laws affecting voting in a jurisdiction subject of Section 5 of the Voting Rights Act of 1965, as required by G.S. 120-30.9H;
- (8) orders of the Tax Review Board issued under G.S. 105-241.2; and
- (9) other information the Codifier of Rules determines to be helpful to the public.

**COMPUTING TIME:** In computing time in the schedule, the day of publication of the North Carolina Register is not included. The last day of the period so computed is included, unless it is a Saturday, Sunday, or State holiday, in which event the period runs until the preceding day which is not a Saturday, Sunday, or State holiday.

### **FILING DEADLINES**

**ISSUE DATE:** The Register is published on the first and fifteen of each month if the first or fifteenth of the month is not a Saturday, Sunday, or State holiday for employees mandated by the State Personnel Commission. If the first or fifteenth of any month is a Saturday, Sunday, or a holiday for State employees, the North Carolina Register issue for that day will be published on the day of that month after the first or fifteenth that is not a Saturday, Sunday, or holiday for State employees.

**LAST DAY FOR FILING:** The last day for filing for any issue is 15 days before the issue date excluding Saturdays, Sundays, and holidays for State employees.

### **NOTICE OF 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.

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

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



U.S. Department of Justice

Civil Rights Division

JKT:RPL:DJ:maf  
DJ 166-012-3  
2007-4275  
2007-4276

Voting Section - NWB.  
950 Pennsylvania Avenue, N.W.  
Washington, DC 20530

RECEIVED

OCT 19 2007

October 16, 2007

Jonathan Blumberg, Esq.  
Tharrington Smith  
P.O. Box 1151  
Raleigh, North Carolina 27602-1151

Dear Mr. Blumberg:

This refers to Session Law 2007-316 (S.B. 19) (2007), which provides for a technical correction to the description of the boundary between the Edgecombe County School District in Edgecombe County, North Carolina, and the Nash-Rocky Mount School District in Edgecombe and Nash Counties, North Carolina, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act, 42 U.S.C. 1973c. We received your submission on August 29, 2007.

The Attorney General does not interpose any objection to the specified changes. However, we note that Section 5 expressly provides that the failure of the Attorney General to object does not bar subsequent litigation to enjoin the enforcement of the changes. Procedures for the Administration of Section 5 of the Voting Rights Act (28 C.F.R. 51.41).

Sincerely,

A handwritten signature in black ink, appearing to read "John Tanner", is written over a horizontal line.

John Tanner  
Chief, Voting Section



U.S. Department of Justice  
Civil Rights Division

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JKT:MSR:ALP:jdh  
DJ 166-012-3  
2007-4172

Voting Section - NWB  
950 Pennsylvania Avenue, NW  
Washington, DC 20530

October 29, 2007

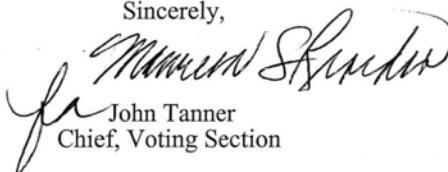
Mr. David A. Holec  
City Attorney  
P.O. Box 7207  
Greenville, North Carolina 27835-7207

Dear Mr. Holec:

This refers to an annexation (Ordinance No. 07-87 (2007)) and its designation to City Council District 3 of the City of Greenville in Pitt County, North Carolina, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act, 42 U.S.C. 1973c. We received your submission on August 29, 2007.

The Attorney General does not interpose any objection to the specified changes. However, we note that Section 5 expressly provides that the failure of the Attorney General to object does not bar subsequent litigation to enjoin the enforcement of the changes. Procedures for the Administration of Section 5 of the Voting Rights Act (28 C.F.R. 51.41).

Sincerely,

  
John Tanner  
Chief, Voting Section

**STATE OF NORTH CAROLINA**

**BEFORE THE  
TAX REVIEW BOARD**

**COUNTY OF WAKE  
IN THE MATTER OF:**

The Proposed Assessment of Unauthorized )  
Substance Tax dated May 2, 2006 by the )  
Secretary of Revenue of North Carolina )

**ADMINISTRATIVE DECISION**  
**NUMBER: 505**  
Docket Number 2006-175

vs. )

Leslie Michelle Yearwood )  
Appellant )

---

This Matter was heard before the regular Tax Review Board (hereinafter "Board") in the City of Raleigh, Wake County, North Carolina, in the office of the State Treasurer, on Thursday, July 12, 2007 pursuant to the petition of Leslie Michelle Yearwood (hereinafter "Appellant") for administrative review of the final decision entered by the Assistant Secretary of Revenue on December 15, 2006 regarding the proposed assessment of unauthorized substance tax dated May 2, 2006.

Appellant initially protested the proposed assessment and requested a hearing before the Secretary of Revenue. After conducting a hearing, the Assistant Secretary of Revenue entered a final decision that sustained the proposed assessment. From the Assistant Secretary's final decision, Appellant filed a notice of intent and petition for administrative review with the Board pursuant to N.C. Gen. Stat. § 105-241.2.

The scope of administrative review for petitions filed with the Tax Review Board is governed by N.C. Gen. Stat. § 105-241.2(b2). After the Tax Review Board conducts an administrative hearing, this statute provides in pertinent part:

(b2). "The Board shall confirm, modify, reverse, reduce or increase the assessment or decision of the Secretary."

Pursuant to N.C. Gen. Stat. § 105-241.1(a), a proposed tax assessment is presumed to be correct and the burden is on the taxpayer to rebut that presumption. In order to rebut the presumption, the taxpayer must offer evidence to show that the assessment is not correct.

And it appearing to the Board, after conducting an administrative hearing in this matter, at which appellant did not appear, and reviewing the Assistant Secretary's final decision, that the findings of fact made by the Assistant Secretary were supported by competent evidence in the record, that based upon the findings of fact, the Assistant Secretary's conclusions of law were fully supported by the findings of fact, and that the final decision of the Assistant Secretary was supported by the conclusions of law;

IT IS THEREFORE ORDERED that the Assistant Secretary's final decision is  
AFFIRMED.

Made and entered the 12<sup>th</sup> day of July 2007.



TAX REVIEW BOARD

A handwritten signature in cursive script, reading "Stacey A. Phipps".

Stacey A. Phipps, Chief Deputy Treasurer, on behalf  
of Richard H. Moore, Chairman, State Treasurer

A handwritten signature in cursive script, reading "Edward S. Finley, Jr.".

Edward S. Finley, Jr., Chair  
North Carolina Utilities Commission

A handwritten signature in cursive script, reading "Noel L. Allen".

Noel L. Allen, Esquire



STATE OF NORTH CAROLINA

BEFORE THE  
TAX REVIEW BOARD

COUNTY OF WAKE

**IN THE MATTER OF:**

The Proposed Assessments of Additional )  
Income tax for the Taxable year 2001 and )  
2002 by Secretary of Revenue of )  
North Carolina )

**ADMINISTRATIVE DECISION**

**NUMBER:** 506  
Docket Number 2006-2

vs. )

Thomas W. Hudson, Jr., and Mary J. Hudson )  
Appellants)

---

This Matter was heard before the regular Tax Review Board (hereinafter "Board") in the City of Raleigh, Wake County, North Carolina, in the office of the State Treasurer, on Thursday, July 12, 2007 pursuant to the petition of Thomas W. Hudson, Jr., and Mary J. Hudson (hereinafter "Appellants") for administrative review of the final decision entered by the Assistant Secretary of Revenue on June 26, 2006 sustaining the proposed assessments for additional income tax for tax years 2001 and 2002, modified to exclude the ten percent negligence penalties.

Pursuant to G.S. 105-241.2(a)2, Appellants, through counsel, filed a petition with the Board requesting administrative review of the Assistant Secretary's final decision that sustained the proposed assessments of additional income tax.

Appellants protested the proposed assessment of additional income tax and requested a hearing before the Secretary of Revenue. After conducting a hearing, the Assistant Secretary of Revenue sustained the proposed assessment of income tax and interest. From the Assistant Secretary's final decision, Appellants filed a timely notice of intent and petition for administrative review with the Board pursuant to N.C. Gen. Stat. § 105-241.2.

The scope of administrative review for petitions filed with the Tax Review Board is governed by N.C. Gen. Stat. § 105-241.2(b2). After the Tax Review Board conducts an administrative hearing, this statute provides in pertinent part:

(b2). "The Board shall confirm, modify, reverse, reduce or increase the assessment or decision of the Secretary."

Pursuant to N.C. Gen. Stat. § 105-241.1(a), a proposed tax assessment is presumed to be correct and the burden is on the taxpayer to rebut that presumption. In order to rebut the presumption, the taxpayer must offer evidence to show that the assessment is not correct.

Thus, it appearing to the Board, after conducting an administrative hearing in this matter, and reviewing the Assistant Secretary's final decision, at which counsel appeared on behalf of Appellants, that the findings of fact made by the Assistant Secretary were not supported by competent evidence in the record, that based upon the findings of fact, the Assistant Secretary's conclusions of law were not fully supported by the findings of fact, and that the final decision of the Assistant Secretary was not supported by the conclusions of law;

**IT IS THEREFORE ORDERED** that the Assistant Secretary's final decision is Reversed.

Ordered on July 12, 2007.

**TAX REVIEW BOARD**



*Stacey A. Phipps*

Stacey A. Phipps, Chief Deputy Treasurer, on behalf  
of Richard H. Moore, Chairman, State Treasurer

*Ed S. Finley Jr.*

Edward S. Finley, Jr., Chair  
North Carolina Utilities Commission

*Noel L. Allen*

Noel L. Allen, Esquire  
Appointed Member

STATE OF NORTH CAROLINA

BEFORE THE  
TAX REVIEW BOARD

COUNTY OF WAKE

**IN THE MATTER OF:**

The Proposed Assessment of Gift Tax       )  
for the Taxable year 2002 by the                )  
Secretary of Revenue of North Carolina       )

**ADMINISTRATIVE DECISION**

**NUMBER: 507**

Docket Number 2005-234

vs.    )

Estate of Bernhard von Nicolai,                )  
Appellant    )

---

This Matter was heard before the regular Tax Review Board (hereinafter "Board") in the City of Raleigh, Wake County, North Carolina, in the office of the State Treasurer, on Thursday, July 12, 2007 pursuant to the petition of Estate of Bernhard von Nicolai (hereinafter "Appellant") for administrative review of the final decision entered by the Assistant Secretary of Revenue on October 9, 2006 sustaining the proposed assessment of gift tax and interest.

Pursuant to G.S. 105-241.2(a)2, Appellant, through counsel, filed a petition with the Board requesting administrative review of the Assistant Secretary's final decision that sustained proposed assessment of gift tax and interest.

Appellant protested the proposed assessment of gift tax and requested a hearing before the Secretary of Revenue. After conducting a hearing, the Assistant Secretary of Revenue sustained the proposed assessment of gift tax and interest. From the Assistant Secretary's final decision, Appellant filed a timely notice of intent and petition for administrative review with the Board pursuant to N.C. Gen. Stat. § 105-241.2.

The scope of administrative review for petitions filed with the Tax Review Board is governed by N.C. Gen. Stat. § 105-241.2(b2). After the Tax Review Board conducts an administrative hearing, this statute provides in pertinent part:

(b2). "The Board shall confirm, modify, reverse, reduce or increase  
the assessment or decision of the Secretary."

Pursuant to N.C. Gen. Stat. § 105-241.1(a), a proposed tax assessment is presumed to be correct and the burden is on the taxpayer to rebut that presumption. In order to rebut the presumption, the taxpayer must offer evidence to show that the assessment is not correct.

Thus, it appearing to the Board, after conducting an administrative hearing in this matter, and reviewing the Assistant Secretary's final decision, at which counsel appeared on behalf of Appellant, that the findings of fact made by the Assistant Secretary were not supported by competent evidence in the record, that based upon the findings of fact, the Assistant Secretary's conclusions of law were not fully supported by the findings of fact, and that the final decision of the Assistant Secretary was not supported by the conclusions of law;

**IT IS THEREFORE ORDERED** that the Assistant Secretary's final decision is Reversed.

Ordered on July 12, 2007.

**TAX REVIEW BOARD**



Stacey A. Phipps, Chief Deputy Treasurer, on behalf  
of Richard H. Moore, Chairman, State Treasurer

Edward S. Finley, Jr., Chair  
North Carolina Utilities Commission

Noel L. Allen, Esquire  
Appointed Member

STATE OF NORTH CAROLINA

BEFORE THE  
TAX REVIEW BOARD

COUNTY OF WAKE

**IN THE MATTER OF:**

The Proposed Franchise Tax Assessments )  
for Tax years ending December 2001 )  
through December 31, 2002 by the )  
Secretary of Revenue of North Carolina )

**ADMINISTRATIVE DECISION**

NUMBER: 508

Docket Number 2006-217

vs. )

Bill Davis Racing, Inc., )  
Appellant )

This Matter was heard before the regular Tax Review Board (hereinafter "Board") in the City of Raleigh, Wake County, North Carolina, in the office of the State Treasurer, on Thursday, July 12, 2007 pursuant to the petition of Bill Davis Racing, Inc. (hereinafter "Appellant") for administrative review of the final decision entered by the Assistant Secretary of Revenue on December 15, 2006 affirming the proposed assessment of additional franchise tax, interest and penalties, as modified to waive one half of the penalties.

Pursuant to G.S. 105-241.2(a)2, Appellant filed a petition with the Board requesting administrative review of the Assistant Secretary's final decision that sustained the denial of credits for the tax years at issue. Appellant claimed tax credits under the Lee Act, found in Article 3A of Chapter 105 of the North Carolina General Statutes.

Appellant protested the proposed assessment of additional franchise tax and requested a hearing before the Secretary of Revenue. After conducting a hearing, the Assistant Secretary of Revenue entered a decision affirming the proposed assessment of additional franchise tax, interest and penalties, as modified to waive one half of the penalties. From the Assistant Secretary's final decision, Appellant filed a timely notice of intent and petition for administrative review with the Board pursuant to N.C. Gen. Stat. § 105-241.2.

The scope of administrative review for petitions filed with the Tax Review Board is governed by N.C. Gen. Stat. § 105-241.2(b2). After the Tax Review Board conducts an administrative hearing, this statute provides in pertinent part:

(b2). "The Board shall confirm, modify, reverse, reduce or increase the assessment or decision of the Secretary."

Pursuant to N.C. Gen. Stat. § 105-241.1(a), a proposed tax assessment is presumed to be correct and the burden is on the taxpayer to rebut that presumption. In order to rebut the presumption, the taxpayer must offer evidence to show that the assessment is not correct.

Thus, it appearing to the Board, after conducting an administrative hearing in this matter, and reviewing the Assistant Secretary's final decision, at which counsel appeared on behalf of Appellant, that the findings of fact made by the Assistant Secretary were not supported by competent evidence in the record, that based upon the findings of fact, the Assistant Secretary's conclusions of law were not fully supported by the findings of fact, and that the final decision of the Assistant Secretary was not supported by the conclusions of law;

**IT IS THEREFORE ORDERED** that the Assistant Secretary's final decision is Reversed.

Ordered on July 12, 2007.

**TAX REVIEW BOARD**



*Stacey A. Phipps*

Stacey A. Phipps, Chief Deputy Treasurer, on behalf  
of Richard H. Moore, Chairman, State Treasurer

*Edward S. Finley, Jr.*

Edward S. Finley, Jr., Chair  
North Carolina Utilities Commission

*Noel L. Allen*

Noel L. Allen, Esquire  
Appointed Member

## STATE OF NORTH CAROLINA

BEFORE THE  
TAX REVIEW BOARDCOUNTY OF WAKE  
IN THE MATTER OF:

The Proposed Assessments of Additional )  
Income Tax for the Taxable Years 2003, )  
2004, and 2005 by the Secretary of )  
Revenue of North Carolina )

## ADMINISTRATIVE DECISION

NUMBER: 509

Docket Number 2006-324

vs. )

James B. & Melanie A. Dunham, )  
Appellants )

THIS MATTER is before the regular Tax Review Board (hereinafter "Board") upon review of the petition for administrative review filed by James B. & Melanie A. Dunham (hereinafter "Appellants") regarding the Final Decision of Eugene Cella, Assistant Secretary of Revenue, sustaining in their entirety the proposed assessments of additional income tax for the taxable years 2003, 2004 and 2005.

Pursuant to N.C. Gen. Stat. § 105-241.1, assessments of tax, penalty and accrued interest for the taxable years at issue were mailed to the Appellants. The Appellants protested the assessment and filed a request for an administrative hearing. After conducting a hearing, the Assistant Secretary entered a Final Decision sustaining the proposed assessments. Pursuant to N.C. Gen. Stat. § 105-241.2, the Appellants filed a notice of intent and petition for administrative review with the Tax Review Board.

Pursuant to N.C. Gen. Stat. § 105-241.2(c), the Board has examined the petition, the records and documents transmitted by the North Carolina Secretary of Revenue pertaining to this matter; and it appearing to the Board that the Appellants' petition should be dismissed since the grounds and arguments upon which relief is sought are deemed lacking in legal merit. Thus, the Board concludes that Appellants' petition for administrative review is frivolous and is filed for the purpose of delay.

**IT IS THEREFORE ORDERED, ADJUDGED AND DECREED** that Appellants' petition for administrative review be and is hereby **Dismissed**.

Made and entered into the 31st day of October 2007.



TAX REVIEW BOARD

Stacey A. Phipps  
Stacey A. Phipps, Chief Deputy Treasurer, on behalf  
of Richard H. Moore, Chairman, State Treasurer

Ed S. Finley, Jr.  
Edward S. Finley, Jr., Chair  
North Carolina Utilities Commission

George W. Boylan  
George W. Boylan, Esquire  
Appointed Member



STATE OF NORTH CAROLINA

BEFORE THE  
TAX REVIEW BOARD

COUNTY OF WAKE  
IN THE MATTER OF:

The Two Proposed Assessments of  
Motor Fuels Tax for the period of  
January 1, 2004 through June 30, 2005

vs.

Coastal Power and Electric, Inc.  
Appellant

ADMINISTRATIVE DECISION

NUMBER: 510

Docket Number 2006-153

This Matter was heard before the regular Tax Review Board (hereinafter "Board") in the City of Raleigh, Wake County, North Carolina, in the office of the State Treasurer, on Thursday, August 2, 2007 pursuant to the petition of Coastal Power and Electric, Inc. (hereinafter "Appellant") for administrative review of the final decision entered by the Assistant Secretary of Revenue on March 30, 2007 regarding the two proposed assessments of Motor Fuels Tax for the period of January 1, 2004 through June 30, 2005.

Appellant initially protested the proposed assessment and requested a hearing before the Secretary of Revenue. After conducting a hearing, the Assistant Secretary of Revenue entered a final decision that sustained the proposed assessments. From the Assistant Secretary's final decision, Appellant filed a notice of intent and petition for administrative review with the Board pursuant to N.C. Gen. Stat. § 105-241.2.

The scope of administrative review for petitions filed with the Tax Review Board is governed by N.C. Gen. Stat. § 105-241.2(b2). After the Tax Review Board conducts an administrative hearing, this statute provides in pertinent part:

(b2). "The Board shall confirm, modify, reverse, reduce or increase the assessment or decision of the Secretary."

Pursuant to N.C. Gen. Stat. § 105-241.1(a), a proposed tax assessment is presumed to be correct and the burden is on the taxpayer to rebut that presumption. In order to rebut the presumption, the taxpayer must offer evidence to show that the assessment is not correct. And it appearing to the Board, after conducting an administrative hearing in this matter, at which counsel represented appellant, and reviewing the final decision and the record submitted to the Board, the Assistant Secretary failed to consider post-audit information submitted by the Appellant.

**IT IS THEREFORE ORDERED** that this matter is remanded to the Assistant Secretary for review of the post-audit information submitted at the hearing below.

This the 30th day of October, 2007.

TAX REVIEW BOARD



*Stacey A. Phipps*

Stacey A. Phipps, Chief Deputy Treasurer, on behalf  
of Richard H. Moore, Chairman, State Treasurer

*Edward S. Finley, Jr.*

Edward S. Finley, Jr., Chair  
North Carolina Utilities Commission

*George W. Boylan*

George W. Boylan, Esquire

**SUMMARY OF NOTICE OF  
INTENT TO REDEVELOP A BROWNFIELDS PROPERTY  
United Furniture Industries NC, LLC**

Pursuant to N.C.G.S. 130A-310.34, United Furniture Industries NC, LLC has filed with the North Carolina Department of Environment and Natural Resources ("DENR") a Notice of Intent to Redevelop a Brownfields Property ("Property") in Trinity, Randolph County, North Carolina. The Property, known as the former Conitron site, where former operations have included chair, textile, mattress and boat/canoe/kayak manufacturing, consists of approximately 54.8 acres and is located at 3761 Old Glenola Road. Environmental contamination exists on the Property in groundwater. United Furniture Industries NC, LLC has committed itself to furniture manufacturing, warehousing and distribution on the Property. The Notice of Intent to Redevelop a Brownfields Property includes: (1) a proposed Brownfields Agreement between DENR and United Furniture Industries NC, LLC, which in turn includes (a) a map showing the location of the Property, (b) a description of the contaminants involved and their concentrations in the media of the Property, (c) the above-stated description of the intended future use of the Property, and (d) proposed investigation and remediation; and (2) a proposed Notice of Brownfields Property prepared in accordance with G.S. 130A-310.35.

The full Notice of Intent to Redevelop a Brownfields Property may be reviewed at the Archdale Public Library, 10433 South Main St. (Hwy 311), Archdale NC 27263 by contacting the Branch Manager of the library at (336) 431-3811; or at NC Brownfields Program, 401 Oberlin Rd., Suite 150, Raleigh, NC 27605 by contacting Shirley Liggins at that address, at [shirley.liggins@ncmail.net](mailto:shirley.liggins@ncmail.net), or at (919) 508-8411, where DENR will provide auxiliary aids and services for persons with disabilities who wish to review the documents.

Written public comments may be submitted to DENR within 30 days after the date this Notice is published in a newspaper of general circulation serving the area in which the brownfields property is located, or in the North Carolina Register, whichever is later. Written requests for a public meeting may be submitted to DENR within 21 days after the period for written public comments begins. Thus, if United Furniture Industries NC, LLC, as it plans, publishes this Summary in the North Carolina Register after it publishes the Summary in a newspaper of general circulation serving the area in which the brownfields property is located, and if it effects publication of this Summary in the North Carolina Register on the date it expects to do so, the periods for submitting written requests for a public meeting regarding this project and for submitting written public comments will commence on December 4, 2007. All such comments and requests should be addressed as follows:

Mr. Bruce Nicholson  
Brownfields Program Manager  
Division of Waste Management  
NC Department of Environment and Natural Resources  
401 Oberlin Road, Suite 150  
Raleigh, North Carolina 27605

**SUMMARY OF NOTICE OF  
INTENT TO REDEVELOP A BROWNFIELDS PROPERTY  
Liberty + Plus Convenient, LLC**

Pursuant to N.C.G.S. 130A-310.34, Liberty + Plus Convenient, LLC has filed with the North Carolina Department of Environment and Natural Resources ("DENR") a Notice of Intent to Redevelop a Brownfields Property ("Property") in Winston-Salem, Forsyth County, North Carolina. The Property consists of 0.56 acres and is located at 3305 North Liberty Street. Environmental contamination exists on the Property in soil and groundwater. Liberty + Plus Convenient, LLC has redeveloped the Property as a convenience store/gas station, and has committed itself to make no use of the Property other than for that or, with prior written DENR approval, other commercial uses. The Notice of Intent to Redevelop a Brownfields Property includes: (1) a proposed Brownfields Agreement between DENR and Liberty + Plus Convenient, LLC, which in turn includes (a) a map showing the location of the Property, (b) a description of the contaminants involved and their concentrations in the media of the Property, (c) the above-stated description of the intended future use of the Property, and (d) proposed investigation and remediation; and (2) a proposed Notice of Brownfields Property prepared in accordance with G.S. 130A-310.35.

The full Notice of Intent to Redevelop a Brownfields Property may be reviewed at the City Manager's Office, 101 North Main Street, Winston Salem, NC 27101 by contacting Lee Garrity at that address or at 336-727-2123; or at the offices of the N.C. Brownfields Program, 401 Oberlin Rd., Suite 150, Raleigh, NC 27605 (where DENR will provide auxiliary aids and services for persons with disabilities who wish to review the documents) by contacting Shirley Liggins at that address, at shirley.liggins@ncmail.net, or at (919) 508-8411.

Written public comments, may be submitted to DENR within 30 days after the date this Notice is published in a newspaper of general circulation serving the area in which the brownfields property is located, or in the North Carolina Register, whichever is later. Written requests for a public meeting may be submitted to DENR within 21 days after the period for written public comments begins. Thus, if Liberty + Plus Convenient, LLC, as it plans, publishes this Summary in the North Carolina Register after it publishes the Summary in a newspaper of general circulation serving the area in which the brownfields property is located, and if it effects publication of this Summary in the North Carolina Register on the date it expects to do so, the periods for submitting written requests for a public meeting regarding this project and for submitting written public comments will commence on December 4, 2007. All such comments and requests should be addressed as follows:

Mr. Bruce Nicholson  
Brownfields Program Manager  
Division of Waste Management  
NC Department of Environment and Natural Resources  
401 Oberlin Road, Suite 150  
Raleigh, North Carolina 27605

**SUMMARY OF NOTICE OF  
INTENT TO REDEVELOP A BROWNFIELDS PROPERTY  
SilverGirls, LLC**

Pursuant to N.C.G.S. 130A-310.34, SilverGirls, LLC has filed with the North Carolina Department of Environment and Natural Resources ("DENR") a Notice of Intent to Redevelop a Brownfields Property ("Property") in Charlotte, Mecklenburg County, North Carolina. The Property consists of 0.85 acres and is located at 900 North College Street. The Property is bordered to the north by the former location of a Holiday Inn motel, to the south and southeast by railroad tracks and the site of the former Consolidated Metals facility (the subject of N.C. Brownfields Project No. 07009-03-60, now in residential use), to the east by land in commercial use, and to the west by Brookshire Freeway/Interstate I-277. Environmental contamination exists on the Property in soil and groundwater. SilverGirls, LLC has committed itself to make no use of the Property other than for residential, retail and other commercial purposes as defined in the Brownfields Agreement referenced in the next sentence. The Notice of Intent to Redevelop a Brownfields Property includes: (1) a proposed Brownfields Agreement between DENR and SilverGirls, LLC, which in turn includes (a) a map showing the location of the Property, (b) a description of the contaminants involved and their concentrations in the media of the Property, (c) the above-stated description of the intended future use of the Property, and (d) proposed investigation and remediation; and (2) a proposed Notice of Brownfields Property prepared in accordance with G.S. 130A-310.35.

The full Notice of Intent to Redevelop a Brownfields Property may be reviewed at the Public Library of Charlotte & Mecklenburg County, 310 N. Tryon St., Charlotte, NC 28202 by contacting Rita Rouse at that address or at (704) 336-2725; or at the offices of the N.C. Brownfields Program, 401 Oberlin Rd., Suite 150, Raleigh, NC 27605 (where DENR will provide auxiliary aids and services for persons with disabilities who wish to review the documents) by contacting Shirley Liggins at that address, at shirley.liggins@ncmail.net, or at (919) 508-8411.

Written public comments, may be submitted to DENR within 30 days after the date this Notice is published in a newspaper of general circulation serving the area in which the brownfields property is located, or in the North Carolina Register, whichever is later. Written requests for a public meeting may be submitted to DENR within 21 days after the period for written public comments begins. Thus, if SilverGirls, LLC, as it plans, publishes this Summary in the North Carolina Register after it publishes the Summary in a newspaper of general circulation serving the area in which the brownfields property is located, and if it effects publication of this Summary in the North Carolina Register on the date it expects to do so, the periods for submitting written requests for a public meeting regarding this project and for submitting written public comments will commence on December 4, 2007. All such comments and requests should be addressed as follows:

Mr. Bruce Nicholson  
Brownfields Program Manager  
Division of Waste Management  
NC Department of Environment and Natural Resources  
401 Oberlin Road, Suite 150  
Raleigh, North Carolina 27605

**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 10A – DEPARTMENT OF HEALTH AND HUMAN SERVICES**

*Notice is hereby given in accordance with G.S. 150B-21.2 that the NC Medical Care Commission intends to adopt the rules cited as 10A NCAC 13F .1601 - .1605; 13G .1601 - .1605.*

**Proposed Effective Date:** April 1, 2008

**Public Hearing:**

**Date:** January 22, 2008

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

**Location:** Room 201 Council Building, NC Division of Health Service Regulation, Dorothea Dix Campus, 701 Barbour Drive, Raleigh, NC 27603

**Reason for Proposed Action:** *The proposed adoption will establish rules for inspection rating certificates for adult care homes and family care homes pursuant to G.S. 131D-10 which resulted from Section 3(b) of Senate Bill 56.*

**Procedure by which a person can object to the agency on a proposed rule:** *An individual may object to the agency on the proposed rules by submitting written comments on the proposed rule. They may also object by attending the public hearing and personally voice their objections during that time.*

**Comments may be submitted to:** Nadine Pfeiffer, 2701 Mail Service Center, Raleigh, NC 27699-2701, phone (919) 855-3758, fax (919) 733-2757, email Nadine.Pfeiffer@ncmail.net

**Comment period ends:** February 1, 2008

**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. If the Rules Review Commission receives written and signed objections 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 919-733-2721.

**Fiscal Impact:** A copy of the fiscal note can be obtained from the agency.

- ☒ **State**
- ☐ **Local**
- ☐ **Substantive (≥\$3,000,000)**
- ☐ **None**

**CHAPTER 13 – NC MEDICAL CARE COMMISSION**

**SUBCHAPTER 13F – LICENSING OF HOMES FOR THE AGED AND INFIRM**

**SECTION .1600 – RATED CERTIFICATES**

**10A NCAC 13F .1601 SCOPE**

- (a) This Section shall apply to all licensed adult care homes that have been in operation for more than one year.
- (b) As used in this Section a "rated certificate" means a certificate issued to an adult care home on or after January 1, 2009 and based on factors contained in G.S. 131D-10.

*Authority G.S. 131D-4.5; 131D-10.*

**10A NCAC 13F .1602 ISSUANCE OF RATED CERTIFICATES**

- (a) A rated certificate shall be issued to the facility by the Division of Health Service Regulation within 45 days completion of the activity set out in Rule .1604.
- (b) If the facility experiences a change of ownership, the rated certificate in effect at the time of the change of ownership shall remain in effect until the next annual survey or until a new rating is issued pursuant to Rule .1604(b) of this Subchapter.
- (c) The certificate and any worksheet the Division uses to calculate the rating shall be posted in a place in the facility visible to residents, staff and visitors.
- (d) The facility may contest the rating by requesting a contested case hearing pursuant to G.S. 150B. The rating and any subsequent ratings shall remain in effect during any contested case hearing process.

*Authority G.S. 131D-4.5; 131D-10.*

**10A NCAC 13F .1603 STATUTORY AND RULE REQUIREMENTS AFFECTING RATED CERTIFICATES**  
The following Statutes and Rules shall comprise the standards that contribute to rated certificates:

- (1) G.S. 131D-21 Resident's Rights;
- (2) 10A NCAC 13F .0300 Physical Plant Requirements;

- (3) 10A NCAC 13F .0700 Admission and Discharge Requirements;
- (4) 10A NCAC 13F .0800 Resident Assessment and Care Plan;
- (5) 10A NCAC 13F .0900 Resident Care and Services;
- (6) 10A NCAC 13F .1000 Medication Management;
- (7) 10A NCAC 13F .1300 Special Care Units for Alzheimer's and Related Disorders;
- (8) 10A NCAC 13F .1400 Special Care Units for Mental Health Disorders; and
- (9) 10A NCAC 13F .1500 Use of Physical Restraints and Alternatives.

*Authority G.S. 131D-4.5; 131D-10.*

#### **10A NCAC 13F .1604 RATING CALCULATION**

(a) Ratings shall be based on:

- (1) Inspections completed pursuant to G.S. 131D-2(b)(1a);
- (2) Statutory and Rule requirements contained in Rule .1603;
- (3) Type A or uncorrected Type B penalty violations identified pursuant to G.S. 131D-34; and
- (4) Other items contained in Subparagraphs (c)(1) and (c)(2) of this Rule.

(b) The initial rating a facility receives shall remain in effect until the next inspection. If an activity occurs which results in the assignment of additional merit or demerit points, a new certificate shall be issued pursuant to Rule .1602(a).

(c) The rating shall be based on a 100 point scale. Beginning with the initial rating and repeating with each annual inspection, the facility shall be assigned 100 points and shall receive merits or demerits, which shall be added or subtracted from the 100 points, respectively. The merits and demerits shall be assigned as follows:

(1) **Merit Points**

- (A) If the facility corrects citations of noncompliance with the statutes or rules listed in Rule .1603 of this Subchapter, which are not related to the identification of a Type A violation or an uncorrected Type B violation, the facility shall receive 1.25 merit points for each corrected deficiency;
- (B) If the facility receives only standard citations on its annual inspection with no Type A or Type B violations and the rating from the annual inspection is one star, the facility may request DHSR to conduct a follow-up inspection not less than 60 days after the date of the annual inspection. As determined by the follow-up review, the facility shall receive 1.25 merit points for each corrected deficiency;

- (C) If the facility corrects the citation for which a Type A violation was identified, the facility shall receive 5 merit points;
- (D) If the facility corrects a previously uncorrected Type B violation, the facility shall receive 2.5 merit points;
- (E) If the facility's admissions have been suspended, the facility shall receive 5 merit points if the suspension is removed;
- (F) If the facility participates in any quality improvement program approved by the Department, the facility shall receive 2.5 merit points;
- (G) If the facility receives NC NOVA special licensure designation, the facility shall receive 2.5 merit points;
- (H) On or after the effective date of this Rule, if the facility permanently installs a generator or has a contract with a generator provider to provide emergency power for essential functions of the facility, the facility shall receive 2 merit points. For purposes of this Section, essential functions mean those functions necessary to maintain the health or safety of residents during power outages greater than 6 hours. If the facility has an existing permanently installed generator or an existing contract with a generator provider, the facility shall receive 1 merit point for maintaining the generator in working order or continuing the contract with a generator provider; and
- (I) On or after the effective date of this Rule, if the facility installs automatic sprinklers in compliance with the North Carolina Building Code, the facility shall receive 3 merit points. If the facility has an existing automatic sprinkler, the facility shall receive 2 merit points for subsequent ratings for maintaining the automatic sprinklers in good working order.

(2) **Demerit Points**

- (A) For each citation of noncompliance with the statutes or rules listed in Rule .1603 of this Subchapter, the facility shall receive a demerit of 2 points. The facility shall receive demerit points only once for citations in which the findings are identical to those findings used for another citation;

- (B) For each citation of a Type A violation, the facility shall receive a demerit of 10 points;
- (C) For each uncorrected Type B violation, the facility shall receive a demerit of 5 points;
- (D) If the facility's admissions are suspended, the facility shall receive a demerit of 10 points; however, if the facility's admissions are suspended pursuant to G.S. 131D-4.2, the facility shall not receive any demerit points; and
- (E) If the facility receives a notice of revocation against its license, the facility shall receive a demerit of 15 points.

(d) Facilities shall be given a rating of one to four stars depending on the score assigned pursuant to Paragraph (a), (b) or (c) of this Rule. Ratings shall be assigned as follows:

- (1) Four stars shall be assigned to any facility whose score is 100 points or greater and has received NC NOVA special licensure designation;
- (2) Three stars shall be assigned for scores of 90 – 99.9 points;
- (3) Two stars shall be assigned for scores of 80 – 89.9 points; and
- (4) One star shall be assigned for scores of 79.9 points or lower.

*Authority G.S. 131D-4.5; 131D-10.*

#### **10A NCAC 13F .1605 CONTENTS OF RATED CERTIFICATE**

- (a) The certificate shall contain a rating determined pursuant to Rule .1604 of this Subchapter. The rating shall be printed on the certificate in bold type with a font not less than 24.
- (b) The certificate or accompanying worksheet from which the score is derived shall contain a breakdown of the point merits and demerits by the factors listed in Rules .1603 and .1604(c) of this Subchapter in a manner that the public can determine how the rating was assigned and the factors that contributed to the rating.
- (c) The certificate shall be printed on the same type of paper that is used to print the facility's license.

*Authority G.S. 131D-4.5; 131D-10.*

### **SUBCHAPTER 13G – LICENSING OF FAMILY CARE HOMES**

#### **SECTION .1600 – RATED CERTIFICATES**

##### **10A NCAC 13G .1601 SCOPE**

- (a) This Section shall apply to all licensed family care homes that have been in operation for more than one year.

- (b) As used in this Section a "rated certificate" means a certificate issued to a family care home on or after January 1, 2009 and based on factors contained in G.S. 131D-10.

*Authority G.S. 131D-4.5; 131D-10.*

##### **10A NCAC 13G .1602 ISSUANCE OF RATED CERTIFICATES**

- (a) A rated certificate shall be issued to the facility by the Division of Health Service Regulation within 45 days completion of the activity set out in Rule .1604.
- (b) If the facility experiences a change of ownership, the rated certificate in effect at the time of the change of ownership shall remain in effect until the next annual survey or until a new rating is issued pursuant to Rule .1604(b) of this Subchapter.
- (c) The certificate and any worksheet the Division uses to calculate the rating shall be posted in a place in the facility visible to residents, staff and visitors.
- (d) The facility may contest the rating by requesting a contested case hearing pursuant to G.S. 150B. The rating and any subsequent ratings shall remain in effect during any contested case hearing process.

*Authority G.S. 131D-4.5; 131D-10.*

##### **10A NCAC 13G .1603 STATUTORY AND RULE REQUIREMENTS AFFECTING RATED CERTIFICATES** The following Statutes and Rules shall comprise the standards that contribute to rated certificates:

- (1) G.S. 131D-21 Resident's Rights;
- (2) 10A NCAC 13G .0300 The Building;
- (3) 10A NCAC 13G .0700 Admission and Discharge Requirements;
- (4) 10A NCAC 13G .0800 Resident Assessment and Care Plan;
- (5) 10A NCAC 13G .0900 Resident Care and Services;
- (6) 10A NCAC 13G .1000 Medications; and
- (7) 10A NCAC 13G .1300 Use of Physical Restraints and Alternatives.

*Authority G.S. 131D-4.5; 131D-10.*

##### **10A NCAC 13G .1604 RATING CALCULATION**

- (a) Ratings shall be based on:
  - (1) Inspections completed pursuant to G.S. 131D-2(b)(1a)a;
  - (2) Statutory and Rule requirements contained in Rule .1603;
  - (3) Type A or uncorrected Type B penalty violations identified pursuant to G.S. 131D-34; and
  - (4) Other items contained in Subparagraphs (c)(1) and (c)(2) of this Rule.
- (b) The initial rating a facility receives shall remain in effect until the next inspection. If an activity occurs which results in the assignment of additional merit or demerit points, a new certificate shall be issued pursuant to Rule .1602(a).



(c) The rating shall be based on a 100 point scale. Beginning with the initial rating and repeating with each annual inspection, the facility shall be assigned 100 points and shall receive merits or demerits, which shall be added or subtracted from the 100 points, respectively. The merits and demerits shall be assigned as follows:

(1) Merit Points

- (A) If the facility corrects citations of noncompliance with the statutes or rules listed in Rule .1603 of this Subchapter, which are not related to the identification of a Type A violation or an uncorrected Type B violation, the facility shall receive 1.25 merit points for each corrected deficiency;
- (B) If the facility receives only standard citations on its annual inspection with no Type A or Type B violations and the rating from the annual inspection is one star, the facility may request DHSR to conduct a follow-up inspection not less than 60 days after the date of the annual inspection. As determined by the follow-up review, the facility shall receive 1.25 merit points for each corrected deficiency;
- (C) If the facility corrects the citation for which a Type A violation was identified, the facility shall receive 5 merit points;
- (D) If the facility corrects a previously uncorrected Type B violation, the facility shall receive 2.5 merit points;
- (E) If the facility's admissions have been suspended, the facility shall receive 5 merit points if the suspension is removed;
- (F) If the facility participates in any quality improvement program approved by the Department, the facility shall receive 2.5 merit points;
- (G) If the facility receives NC NOVA special licensure designation, the facility shall receive 2.5 merit points;
- (H) On or after the effective date of this Rule, if the facility permanently installs a generator or has a contract with a generator provider to provide emergency power for essential functions of the facility, the facility shall receive 2 merit points. For purposes of this Section, essential functions mean those functions necessary to maintain the health or safety of residents during power outages greater than 6 hours. If the facility has an existing permanently installed generator or an existing

contract with a generator provider, the facility shall receive 1 merit point for maintaining the generator in working order or continuing the contract with a generator provider; and

- (I) On or after the effective date of this Rule, if the facility installs automatic sprinklers in compliance with the North Carolina Building Code, the facility shall receive 3 merit points. If the facility has an existing automatic sprinkler, the facility shall receive 2 merit points for subsequent ratings for maintaining the automatic sprinklers in good working order.

(2) Demerit Points

- (A) For each citation of noncompliance with the statutes or rules listed in Rule .1603 of this Subchapter, the facility shall receive a demerit of 2 points. The facility shall receive demerit points only once for citations in which the findings are identical to those findings used for another citation;
- (B) For each citation of a Type A violation, the facility shall receive a demerit of 10 points;
- (C) For each uncorrected Type B violation, the facility shall receive a demerit of 5 points;
- (D) If the facility's admissions are suspended, the facility shall receive a demerit of 10 points; however, if the facility's admissions are suspended pursuant to G.S. 131D-4.2, the facility shall not receive any demerit points; and
- (E) If the facility receives a notice of revocation against its license, the facility shall receive a demerit of 15 points.

(d) Facilities shall be given a rating of one to four stars depending on the score assigned pursuant to Paragraph (a), (b) or (c) of this Rule. Ratings shall be assigned as follows:

- (1) Four stars shall be assigned to any facility whose score is 100 points or greater and has received NC NOVA special licensure designation;
- (2) Three stars shall be assigned for scores of 90 – 99.9 points;
- (3) Two stars shall be assigned for scores of 80 – 89.9 points; and
- (4) One star shall be assigned for scores of 79.9 points or lower.

*Authority G.S. 131D-4.5; 131D-10.*

**10A NCAC 13G .1605 CONTENTS OF RATED CERTIFICATE**

- (a) The certificate shall contain a rating determined pursuant to Rule .1604 of this Subchapter. The rating shall be printed on the certificate in bold type with a font not less than 24.
- (b) The certificate or accompanying worksheet from which the score is derived shall contain a breakdown of the point merits and demerits by the factors listed in Rules .1603 and .1604(c) of this Subchapter in a manner that the public can determine how the rating was assigned and the factors that contributed to the rating.
- (c) The certificate shall be printed on the same type of paper that is used to print the facility's license.

*Authority G.S. 131D-4.5; 131D-10.*

**TITLE 15A – DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES**

*Notice is hereby given in accordance with G.S. 150B-21.2 that the North Carolina Wildlife Resources Commission intends to amend the rules cited as 15A NCAC 10B .0216, .0404; 10H .0101, .0301, .0904.*

**Proposed Effective Date:** *May 1, 2008*

**Public Hearing:**

**Date:** *January 3, 2008*

**Time:** *7:00 p.m.*

**Location:** *Wildlife Resources Commission Headquarters, Room 118 (auditorium), 1751 Varsity Drive, Raleigh, NC*

**Reason for Proposed Action:**

**15A NCAC 10B .0216** – *To simplify the current rules on falconry.*

**15A NCAC 10B .0404** – *Clarify that trappers need to obtain tags for fox, bobcat and otter before leaving NC.*

**15A NCAC 10H .0101** – *Allow controlled shooting preserve operators to propagate game birds under their operator licenses.*

**15A NCAC 10H .0301** – *To conform rules pertaining to rehabilitation of fawns to current practice.*

**15A NCAC 10H .0904** – *Correct a reference in this rule to paragraph (b) of Rule 15A NCAC 10H .0901 to refer instead to Item (2).*

**Procedure by which a person can object to the agency on a proposed rule:** *Any person who wishes to object to the proposed rules may do so by writing (or emailing) the person specified in connection with a given rule within the public comment period set up for these rules. For these rules, the contact person is Joan Troy.*

**Comments may be submitted to:** *Joan Troy, 1717 Mail Service Center, Raleigh, NC 27699-1717*

**Comment period ends:** *February 1, 2008*

**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. If the Rules Review Commission receives written and signed objections 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 919-733-2721.

**Fiscal Impact:**

- ☐ **State**
- ☐ **Local**
- ☐ **Substantive** (≥\$3,000,000)
- ☒ **None**

**CHAPTER 10 - WILDLIFE RESOURCES AND WATER SAFETY**

**SUBCHAPTER 10B - HUNTING AND TRAPPING**

**SECTION .0200 - HUNTING**

**15A NCAC 10B .0216 FALCONRY**

(a) **Seasons.** Except as provided in Paragraphs (d) and (e) of this Rule, the open seasons for the practice of falconry as permitted by the rules contained in 15A NCAC 10H .0800 shall coincide with the regular open seasons contained in this Section for squirrels, rabbits, quail, ruffed grouse and pheasant, and with the open seasons set forth in the Code of Federal Regulations for migratory game birds in this state.

(b) **Bag Limits.** The daily bag, possession and season limits set forth in this Section for squirrels, rabbits, quail, ruffed grouse and pheasant and the daily bag, field possession, and total possession limits set forth in the Code of Federal Regulations for migratory game birds shall apply to falconry except as provided in Paragraph (e) of this Rule.

(c) **Out of Season Kills.** When any raptor being used in falconry kills any species of wildlife for which there is no open season or a species of game on which the season is then closed, the falconer or person using such raptor shall not take such dead wildlife into his possession but shall leave the same where it lies, provided that the said raptor may be allowed to feed on such dead wildlife before leaving the site of the kill. If the species so killed is a resident species of game on which there is a season limit, the kill shall be included as part of the season limit of the person using the raptor for falconry.

(d) **Hunting After Limit** ~~Taken~~ Taken. After a falconer has acquired the daily bag, possession or season limit of any lawful species, regardless of the manner of taking, the falconer shall not release any raptor.

- ~~(1) When any falconer shall have taken a daily bag limit of any species of wildlife named or included in Paragraph (a) of this Rule, regardless of the manner of such taking, such falconer shall not release any raptor during the remainder of the day.~~
- ~~(2) When any falconer shall have in his actual or constructive possession a possession limit of any species of wildlife named or included in Paragraph (a) of this Rule, regardless of the manner in which such limit was taken, such falconer shall not thereafter release any raptor for falconry purposes until the number of such species in his possession shall be reduced to a number below such possession limit.~~
- ~~(3) When any falconer shall have taken a season limit of any species of wildlife named in Paragraph (a) of this Rule, regardless of the manner in which such limit was taken, such falconer shall not during the remainder of the applicable falconry season release any raptor for falconry purposes.~~

(e) ~~Extended~~ Extended Seasons. An extended falconry season on gray and red squirrels and rabbits shall be the Monday on or nearest October 15 until the last day of February. Bag limits for those portions of the season outside the regular seasons shall be 4 squirrels daily, Possession 8; and 3 rabbits daily, Possession 6.

*Authority G.S. 113-134; 113-270.3(b)(4); 50 C.F.R. 21.28; 50 C.F.R. 21.29.*

#### **SECTION .0400 - TAGGING FURS**

##### **15A NCAC 10B .0404 TRAPPERS AND HUNTERS**

- (a) Every fox taken in an area of open season as provided by G.S. 113-291.4 shall be tagged at the scene of taking.
- (b) Every person taking any bobcat or otter in this State, or any foxes under a depredation permit, general statute, rule, or local law that permits taking, shall obtain and affix the proper tag to the necessary tags and affix each carcass or pelt with a proper tag before selling or transferring the same to any other person or transporting the same for any purpose, except that:
  - (1) A person may transport the same from the place of taking to his North Carolina residence and from his North Carolina residence to a fur tag agent or taxidermist's place of business.
  - (2) A person may transport the same from the place of taking to the nearest place in this State where the appropriate tag may be obtained.
  - (3) The carcass, pelt or mounted specimen is exempt from tagging requirements while in the taxidermist's place of business or after the mount is completed.
  - (4) A licensed trapper may take live foxes during any legal trapping season, except foxes taken under G.S. 113-291.4, without tagging them and sell them to a licensed controlled hunting preserve for fox in accordance with G.S. 113-273(g).

- (5) A person may take live foxes pursuant to a valid depredation permit issued under G.S. 113-274(c)(1a), without tagging them and sell them to a licensed controlled hunting preserve for fox in accordance with G.S. 113-273(g).

No carcass or pelt of any bobcat, otter or fox taken within this State may be removed from the state without a proper fur tag having been affixed thereto, except a licensed taxidermist may ship the same to a tannery for processing. Any carcass or pelt remaining in a person's ~~possession, possession after the end of the season,~~ except those in a licensed taxidermist's place of business or his taxidermy preservation facility, ~~after the end of the season~~ shall be properly tagged by him within 10 days following the close of such season.

(c) In any case where the taking of foxes with weapons or traps and the sale thereof is authorized by local legislation, except live foxes taken by licensed trappers who live-trap foxes for sale during any open season or persons who take live foxes pursuant to a depredation permit in accordance with Rule .0409 of this Section, the hunter or trapper taking any such fox shall, in the absence of a specific provision to the contrary, obtain and affix the carcass or pelt with a proper tag before selling or transferring the same to any other person, or transporting the same for any purpose than as authorized by Paragraph (a) of this Rule.

*Authority G.S. 113-134; 113-276.1; 113-291.4; S.L. 1985, chs. 108, 179, 180, 664 and 722.*

#### **SUBCHAPTER 10H - REGULATED ACTIVITIES**

##### **SECTION .0100 - CONTROLLED HUNTING PRESERVES FOR DOMESTICALLY RAISED GAME BIRDS**

##### **15A NCAC 10H .0101 LICENSE TO OPERATE**

A controlled hunting preserve license shall entitle the holder or holders and their ~~guests, to kill or take, during an extended season, starting October 1 and ending March 31, on such preserves by shooting only, and without regard to sex or bag limits,~~ guests on that preserve to take or kill by shooting only, and without regard to sex or bag limits, starting October 1 and ending March 31, domestically-raised pheasants, chukar partridges, Hungarian partridges, Mallard ducks (as defined by the United States Fish and Wildlife Service) or other domestically raised game birds, except wild turkey. A controlled hunting preserve license also authorizes the holder or holders to purchase, possess, propagate, sell, transport and release propagated migratory game birds and their eggs, and propagated upland game birds, except wild turkey, subject to the limitations and conditions in Section .0900 of this Subchapter. Application for controlled hunting preserve licenses shall be made on standard forms obtainable from the commission. Applicants must be prepared to show proof of ownership of the land contained in the proposed hunting preserve or proof that they have this land under lease for the duration of the license period.

*Authority G.S. 113-134; 113-273.*

**SECTION .0300 - HOLDING WILDLIFE IN CAPTIVITY**

**15A NCAC 10H .0301 GENERAL REQUIREMENTS**

**(a) Captivity Permit or License Required**

- (1) Requirement. The possession of any species of wild animal that is or once was native to this State or any species of wild bird, native or migratory, that naturally occurs or historically occurred in this State or any member of the family Cervidae is unlawful unless the institution or individual in possession obtains from the North Carolina Wildlife Resources Commission (Commission) a captivity permit or a captivity license as provided by this Rule.
- (2) Injured, Crippled or Orphaned Wildlife. When an individual has taken possession of an injured, crippled or orphaned wild animal or wild bird, that individual shall contact the Commission within 24 hours of taking possession in order to apply for a captivity permit, provided, however, that under no circumstances shall an individual take possession of an injured, crippled or orphaned wild turkey, black bear, deer, elk or any other member of the family ~~Cervidae~~ Cervidae except as described in Subparagraph (3) of this Paragraph.
- (3) Rehabilitation of white-tailed deer fawns. An individual may apply to the Commission to become a permitted white-tailed deer fawn rehabilitator for the State of North Carolina. Individuals deemed to be qualified to rehabilitate injured or orphaned fawns may receive a captivity permit to possess fawns only for such a period of time as may be required for the rehabilitation and release of the fawns to the wild. These captivity permits shall apply only to wild white-tailed deer fawns and are available only to individuals recognized by the Commission as white-tailed deer fawn rehabilitators.

(b) Captivity Permit. A captivity permit shall be requested by mail, phone, facsimile or electronic transmission or in person. A captivity permit shall authorize possession of the animal or bird only for such period of time as may be required for the rehabilitation and release of the animal or bird to the wild; or to obtain a captivity license as provided by Paragraph (c) of this Rule, if such a license is authorized; or to make a proper disposition of the animal or bird if the application for such license is denied, or when an existing captivity license is not renewed or is terminated. Captivity permits shall not be issued for wild turkey, black bear, deer, elk or any other member of the family ~~Cervidae~~ Cervidae except as described in Subparagraph (a)(3) of this Rule.

**(c) Captivity License.**

- (1) The purpose of captivity license is to provide humane treatment for wild animals or wild birds that are unfit for release. For purposes of this Rule, wild animals are considered "unfit"

if they are incapacitated by injury or otherwise; if they are a non-native species that poses a risk to the habitat or to other species in that habitat; or if they have been rendered tame by proximity to humans to the extent that they cannot feed or care for themselves without human assistance. Persons interested in obtaining a captivity license shall contact the Commission for an application.

- (2) Denial of captivity license. Circumstances or purposes for which a captivity license shall not be issued include the following:

- (A) For the purpose of holding a wild animal or wild bird that was acquired unlawfully.
- (B) For the purpose of holding the wild animal or wild bird as a pet. For purposes of this Rule, the term "pet" means an animal kept for amusement or companionship. The term shall not be construed to include cervids held in captivity for breeding for sale to another licensed operator.
- (C) For the purpose of holding wild animals or wild birds for hunting in North Carolina.
- (D) For the purpose of holding wild turkey or black bear.
- (E) For the purpose of holding deer, elk or any other member of the family Cervidae on a facility licensed after May 17, 2002, until the U.S. Department of Agriculture (USDA) establishes a Chronic Wasting Disease (CWD) program that includes a test to detect Chronic Wasting Disease along with requirements for monitoring cervids that shall establish a basis for determining whether a cervid and any cervid herd or farm with which the tested cervid has resided has been free of CWD for five years, provided that the program, test and monitoring requirements are recommended for application to wild animals by the Southeastern Cooperative Wildlife Disease Study.

- (3) Required Facilities. No captivity license shall be issued until the applicant has constructed or acquired a facility for keeping the animal or bird in captivity that complies with the standards set forth in Rule .0302 of this Section and the adequacy of such facility has been verified on inspection by a representative of the Commission.

**(4) Term of License**

- (A) Dependent Wildlife. If the wild animal or wild bird has been

- permanently rendered incapable of subsisting in the wild, the license authorizing its retention in captivity shall be an annual license terminating on December 31 of the year for which issued.
- (B) **Rehabilitable Wildlife.** When the wild animal or wild bird is temporarily incapacitated, and may be rehabilitated for release to the wild, any captivity license that is issued shall be for a period less than one year as rehabilitation may require.
- (C) **Concurrent Federal Permit.** No State captivity license for an endangered or threatened species or a migratory bird, regardless of the term specified, shall operate to authorize retention thereof for a longer period than is allowed by any concurrent federal permit that may be required for retention of the bird or animal.
- (5) **Holders of Captivity License for cervids.**
- (A) **Inspection of records.** The licensee shall make all records pertaining to tags, licenses or permits issued by the Commission available for inspection by the Commission at any time during normal business hours, or at any time an outbreak of CWD is suspected or confirmed within five miles of the facility or within the facility itself.
- (B) **Inspection.** The licensee shall make all enclosures at each licensed facility and the record-book(s) documenting required monitoring of the outer fence of the enclosure(s) available for inspection by the Commission at any time during normal business hours, or at any time an outbreak of CWD is suspected or confirmed within five miles of the facility or within the facility itself.
- (C) **Fence Monitoring Requirement.** The fence surrounding the enclosure shall be inspected by the licensee or licensee's agent once a week during normal weather conditions to verify its stability and to detect the existence of any conditions or activities that threaten its stability. In the event of severe weather or any other condition that presents potential for damage to the fence, inspection shall occur every three hours until cessation of the threatening condition, except that no inspection shall be required under circumstances that threaten the safety of the person conducting the inspection.
- (D) A record-book shall be maintained to record the time and date of the inspection, the name of the person who performed the inspection, and the condition of the fence at time of inspection. The person who performs the inspection shall enter the date and time of detection and the location of any damage threatening the stability of the fence. If damage has caused the fence to be breachable, the licensee shall enter a description of measures taken to prevent ingress or egress by cervids. Each record-book entry shall bear the signature or initials of the licensee attesting to the veracity of the entry. The record-book shall be made available to inspection by a representative of the Commission upon request during normal business operating hours.
- (E) **Maintenance.** Any opening or passage through the enclosure fence that results from damage shall, within one hour of detection, be sealed or otherwise secured to prevent a cervid from escape. Any damage to the enclosure fence that threatens its stability shall be repaired within one week of detection.
- (F) **Escape.** The licensee or designee shall immediately upon discovery report any cervid escape from the facility to the Commission. If possible, the escaped cervid shall be recaptured alive. If live recapture is not possible, the licensee shall request a wildlife take permit and take the escaped cervid pursuant to the terms of the permit. A recaptured live cervid shall be submitted to the Commission for Chronic Wasting Disease (CWD) testing using a test recognized by the Southeastern Cooperative Wildlife Disease Study unless the executive director determines that the risk of CWD transmission as a result of this escape is negligible based upon:
- (i) amount of time the escaped cervid remained out of the facility;
  - (ii) proximity of the escaped cervid to wild populations;
  - (iii) known susceptibility of the escaped cervid species to CWD;

- (iv) nature of the terrain in to which the cervid escaped.
- (G) Chronic Wasting Disease (CWD)
  - (i) Detection. Each licensee shall immediately notify the Commission if any cervid within the facility exhibits clinical symptoms of CWD or if a quarantine is placed on the facility by the State Veterinarian. All captive cervids that exhibit symptoms of CWD shall be tested for CWD.
  - (ii) Cervid death. The carcass of any captive cervid that was six months or older at time of death shall be transported and submitted by the licensee to a North Carolina Department of Agriculture diagnostic lab for CWD evaluation within 48 hours of the cervid's death, or by the end of the next business day, whichever is later. Ear tags distributed by the Commission and subsequently affixed to the cervids as required by this Rule, may not be removed from the cervid's head prior to submitting the head for CWD evaluation.
  - (iii) The Commission may require testing or forfeiture of cervids from a facility holding cervids in this state should the following circumstances or conditions occur:
    - (I) The facility has transferred a cervid that is received by a facility in which CWD is confirmed within five years of the cervid's transport date.
    - (II) The facility has received a cervid that originated from a facility in which CWD has been confirmed within five years of the cervid's transport date.
- (H) Tagging Required. Effective upon receipt of tags from the Commission, each licensee shall implement the tagging requirement using only the tags provided by the Commission as follows:
  - (i) All cervids born within a facility shall be tagged by March 1 following the birthing season each year.
  - (ii) All cervids transferred to a facility shall be tagged within five days of the cervid's arrival at the licensee's facility. However, no cervids shall be transported from one facility to another until restrictions on importation (10B .0101) and transportation (Paragraph (f) of this Rule) no longer apply.
  - (iii) All cervids in the possession of a licensee as of October 8, 2002 shall be tagged within six months of the licensee's receipt of the tags.
- (I) Application for Tags.
  - (i) Application for tags for newborn cervid. Application for tags for cervids born within a facility shall be made by the licensee by December 1 following the birthing season of each year. The licensee shall provide the following information, along with a statement and licensee's signature verifying that the information is accurate:
    - (I) Applicant name, mailing address, and telephone number;
    - (II) Facility name and site address;
    - (III) Captivity license number;
    - (IV) Species of each cervid; and
    - (V) Birth year of each cervid.
  - (ii) Application for tags for cervids that were not born at the facility site shall be made by written request for the appropriate number of tags along with the licensee's

application for transportation of the cervid, along with a statement and licensee's signature verifying that the information is accurate. These tag applications shall not be processed unless accompanied by a completed application for transportation. However, no transportation permits shall be issued nor shall cervids be transported from one facility to another until restrictions on importation (10B .0101) and transportation (Paragraph (f) of this Rule) no longer apply.

**(J) Placement of Tags.**

- (i) A single button ear tag provided by the Commission shall be permanently affixed by the licensee onto either the right or left ear of each cervid, provided that the ear chosen to bear the button tag shall not also bear a bangle tag, so that each ear of the cervid bears only one tag.
- (ii) A single bangle ear tag provided by the Commission shall be permanently affixed by the licensee onto the right or left ear of each cervid except Muntjac deer, provided that the ear bearing the bangle tag does not also bear the button tag, so that each ear of the cervid bears only one tag. Muntjac deer are not required to be tagged with the bangle tag.
- (iii) Once a tag is affixed in the manner required by this Rule, it shall not be removed.

**(K) Reporting Tags Requirement.** For all cervids not in the possession of a licensee as of October 8, 2002, the licensee shall submit a Cervidae Tagging Report within 30 days receipt of the tags. With regard to all cervids in the possession of a licensee as of October 8, 2002, the licensee shall submit a Cervidae Tagging report to the Commission within seven months of the licensee's receipt of the tags. A Cervidae Tagging

Report shall provide the following information and be accompanied by a statement and licensee's signature verifying that the information is accurate:

- (i) Licensee name, mailing address, and telephone number;
- (ii) Facility name and site address, including the County in which the site is located;
- (iii) Captivity license number;
- (iv) Species and sex of each cervid;
- (v) Tag number(s) for each cervid; and
- (vi) Birth year of each cervid.

**(L) Replacement of Tags.** The Commission shall replace tags that are lost or unusable and shall extend the time within which a licensee shall tag cervids consistent with time required to issue a replacement.

- (i) **Lost Tags.** The loss of a tag shall be reported to the Commission by the licensee and application shall be made for a replacement upon discovery of the loss. Application for a replacement shall include the information required by Subparagraph (c)(5)(C) of this Rule along with a statement and applicant's signature verifying that the information is accurate. Lost tags shall be replaced on the animal by the licensee within 30 days of receipt of the replacement tag.
- (ii) **Unusable Tags.** Tags that cannot be properly affixed to the ear of a cervid or that cannot be read because of malformation or damage to the tags or obscurement of the tag numbers shall immediately be returned to the Commission along with an application for a replacement tag with a statement and applicant's signature verifying that the information in the application is accurate.

**(6) Renewal of captivity license for cervids.** Existing captivity licenses for the possession

of cervids at existing facilities shall be renewed as long as the applicant for renewal continues to meet the requirements of this Section for the license, provided however, no renewal of an existing license shall permit the expansion of pen size or number of pens on the licensed facility to increase the holding capacity of that facility. No renewals shall be issued for a license that has been allowed to lapse due to the negligence of the former licensee.

- (7) Provision for licensing the possession of cervids in an existing facility. A captivity license shall only be issued to an individual who is 18 years of age or older. If the licensee of an existing facility voluntarily surrenders his or her captivity license, becomes incapacitated or mentally incompetent, or dies, a person who has obtained lawful possession of the facility from the previous licensee or that licensee's estate, may apply for and may receive a captivity license to operate the existing facility. Any license issued under this provision shall be subject to the same terms and conditions imposed on the original licensee at the time of his or her surrender or death and shall be valid only for the purpose of holding the cervids of the existing facility within that existing facility. In addition, any actions pending from complaint, investigation or other cause shall be continued notwithstanding the termination of the original license.

(d) Nontransferable. No license or permit or tag issued pursuant to this Rule shall be transferable, either as to the holder or the site of a holding facility.

(e) Sale, Transfer or Release of Captive Wildlife.

- (1) It is unlawful for any person to transfer or receive any wild animal or wild bird that is being held under a captivity permit issued under Paragraph (b) of this Rule, except that any such animal or bird may be surrendered to an agent of the Commission.
- (2) It is unlawful for any person holding a captivity license issued under Paragraph (c) of this Rule to sell or transfer the animal or bird held under such license, except that such animal or bird may be surrendered to an agent of the Commission, and any such licensee may sell or transfer the animal or bird (except members of the family Cervidae) to another person who has obtained a license to hold it in captivity. Upon such a sale or transfer, the seller or transferor shall obtain a receipt for the animal or bird showing the name, address, and license number of the buyer or transferee, a copy of which shall be provided to the Commission.

- (3) It is unlawful for any person to release into the wild for any purpose or allow to range free:
  - (A) any species of deer, elk or other members of the family Cervidae, or
  - (B) any wolf, coyote, or other non-indigenous member of the family Canidae, or
  - (C) any member of the family Suidae.

(f) Transportation Permit.

- (1) Except as otherwise provided herein, no transportation permit shall be required to move any lawfully held wild animal or wild bird within the State.
- (2) No person shall transport black bear or Cervidae for any purpose without first obtaining a transportation permit from the Commission.
- (3) Except as provided in Subparagraph (f)(4) of this Rule, no transportation permits shall be issued for deer, elk, or other species in the family Cervidae until the U.S. Department of Agriculture (USDA) establishes a Chronic Wasting Disease (CWD) program that includes a test to detect Chronic Wasting Disease, along with requirements for monitoring cervids that shall establish a basis for determining whether a cervid and any cervid herd or farm on which the tested animal has resided has been free of CWD for five years, provided that the program, test and monitoring requirements are recommended for application to wild animals by the Southeastern Cooperative Wildlife Disease Study.
- (4) Cervid Transportation. A permit to transport deer, elk, or other species in the family Cervidae may be issued by the Commission to an applicant for the purpose of transporting the animal or animals for export out of state, to a slaughterhouse for slaughter or to a veterinary medical facility for treatment provided that the animal for which the permit is issued does not exhibit clinical symptoms of Chronic Wasting Disease. No person shall transport a cervid to slaughter or export out of state without bearing a copy of the transportation permit issued by the Commission authorizing that transportation. No person shall transport a cervid for veterinary treatment without having obtained approval from the Commission as provided by Subparagraph (f)(4)(C) of this Rule. Any person transporting a cervid shall present the transportation permit to any law enforcement officer or any representative of the Commission upon request, except that a person transporting a cervid by verbal authorization for veterinary treatment shall provide the name of the person who issued the approval to any law enforcement officer or any



representative of the Commission upon request.

(A) Slaughter. Application for a transportation permit for purpose of slaughter shall be submitted in writing to the Commission and shall include the following information along with a statement and applicant's signature verifying that the information is accurate:

- (i) Applicant name, mailing address, and telephone number;
- (ii) Facility site address;
- (iii) Captivity license number;
- (iv) Name, address, county and phone number of the slaughter house to which the cervid will be transported;
- (v) Vehicle or trailer license plate number and state of issuance of the vehicle or trailer used to transport the cervid;
- (vi) Name and location of the North Carolina Department of Agriculture Diagnostic lab where the head of the cervid is to be submitted for CWD testing;
- (vii) Date of transportation;
- (viii) Species and sex of each cervid; and
- (ix) Tag number(s) for each cervid.

(B) Exportation. Nothing in this rule shall be construed to prohibit the lawful exportation of a member of the family Cervidae for sale out of state. Application for a transportation permit for purpose of exportation out of state shall be submitted in writing to the Commission and shall include the following information along with a statement and applicant's signature verifying that the information is accurate:

- (i) Applicant's name, mailing address and telephone number;
- (ii) Facility site address;
- (iii) Captivity license number;
- (iv) Vehicle or trailer license plate number and state of issuance of the vehicle or trailer used to transport the cervid;
- (v) Name, site address, county, state and phone number of

the destination facility to which the cervid is exported;

(vi) A copy of the importation permit from the state of the destination facility that names the destination facility to which the animal is to be exported;

(vii) Date of departure;

(viii) Species and sex of each cervid; and

(ix) Tag number(s) for each cervid.

(C) Veterinary treatment. No approval shall be issued for transportation of a cervid to a veterinary clinic out of the state of North Carolina, or for transportation from a facility out of the state of North Carolina to a veterinary clinic in North Carolina. An applicant from a North Carolina facility seeking to transport a cervid for veterinary treatment to a facility within North Carolina shall contact the Wildlife Telecommunications Center or the Wildlife Management Division of the Commission to obtain verbal authorization to transport the cervid to a specified veterinary clinic and to return the cervid to the facility. Verbal approval to transport a cervid to a veterinary clinic shall authorize transport only to the specified veterinary clinic and directly back to the facility, and shall not be construed to permit intervening destinations. To obtain verbal authorization to transport, the applicant shall provide staff of the Commission the applicant's name and phone number, applicant's facility name, site address and phone number, the cervid species, sex and tag numbers, and the name, address and phone number of the veterinary facility to which the cervid shall be transported. Within five days of transporting the cervid to the veterinary facility for treatment, the licensee shall provide the following information in writing to the Commission, along with a statement and applicant's signature verifying that the information is correct:

(i) Applicant's name, mailing address and telephone number;

(ii) Facility name and site address;

- (iii) Captivity license number;
- (iv) Vehicle or trailer license plate number and state of issuance of the vehicle or trailer used to transport the cervid;
- (v) Date of transportation;
- (vi) Species and sex of each cervid;
- (vii) Tag number(s) for each cervid;
- (viii) Name, address and phone number of the veterinarian and clinic that treated the cervid;
- (ix) Symptoms for which cervid received treatment; and
- (x) Diagnosis of veterinarian who treated the cervid.

(g) Slaughter at cervid facility. Application for a permit for purpose of slaughter at the cervid facility shall be submitted in writing to the Commission and shall include the following information along with a statement and applicant's signature verifying that the information is accurate:

- (1) Applicant name, mailing address, and telephone number;
- (2) Facility site address;
- (3) Captivity license number;
- (4) Name and location of the North Carolina Department of Agriculture Diagnostic lab where the head of the cervid is to be submitted for CWD testing;
- (5) Date of slaughter;
- (6) Species and sex of each cervid; and
- (7) Tag number(s) for each cervid.

Permits or authorization may not be sold or traded by the licensee to any individual for the hunting or collection of captive cervids. Only the licensee may kill a cervid within the cervid enclosure.

(h) No provision within this Rule other than those that permit transport for export, slaughter or veterinary treatment shall be construed to permit transportation of cervids until restrictions on transportation provided within this Subchapter, and 15A NCAC 10B .0101 no longer apply.

*Authority G.S. 106-549.97(b); 113-134; 113-272.5; 113-272.6; 113-274.*

## **SECTION .0900 – GAME BIRD PROPAGATORS**

### **15A NCAC 10H .0904 DISPOSITION OF BIRDS OR EGGS**

(a) Diseased Birds. No game bird propagator licensed under this Section shall knowingly sell or otherwise transfer possession of any live game bird that shows evidence of any communicable disease, except that such transfer may be made to a qualified veterinarian or pathologist for examination and diagnosis. Disposition of any game bird having a communicable disease in

a manner not likely to infect wild game bird populations shall be the responsibility of the licensee.

(b) Waterfowl shall be tested as follows:

- (1) Waterfowl shall be tested for Avian Influenza (AI) and Exotic Newcastle Disease (END) by use of serological screening methods and according to the following sample sizes:  
  - <100 birds - test 95% of source flock or shipment
  - 101-200 birds - test 44% of source flock or shipment
  - 201-300 birds - test 26% of source flock or shipment
  - 301-400 birds - test 18% of source flock or shipment
  - 401-500 birds - test 14% of source flock or shipment
  - >500 birds - test 58 individuals from source flock or shipment.
- (2) Waterfowl that have tested positive in seriological tests shall be tested further by virus isolation/polymerase-chain-reaction (PCR) tests and identification techniques.
- (3) Cloacal swabs pooled into groups of no more than five samples for testing shall be used for virus isolation or PCR tests for AI and END.
- (4) Final virus isolation/PCR tests that are required because of positive results of serological tests shall be conducted within 10 days prior to release of birds.
- (5) The Wildlife Resources Commission shall not accept Directigen® test results for AI tests on captive-reared waterfowl.
- (6) Test results shall not be used to accept or reject any individual bird(s) from shipments or flocks that have positive results on any assay.
- (7) All test results shall be submitted directly from the testing lab to the Wildlife Resources Commission, Division of Wildlife Management.
- (8) Neither permit nor license shall be issued until tests are negative for AI and END.

(c) Sale of Live Birds or Eggs. Subject to the limitations set forth in Paragraph (b) of Rule .0901 of this Section, any healthy game birds which are authorized to be propagated under this Section, or the eggs thereof, may be sold or transferred alive by any licensed game bird propagator to any other licensed game bird propagator. Licensed game bird propagators may also sell or transfer healthy live game birds to licensed controlled shooting preserve operators or to any person who holds a valid state license or permit to possess the same. Upon any such sale or transfer, a receipt or other written evidence of the transaction shall be prepared in duplicate showing the date, the names and license or permit numbers of both parties, and the species and quantity of the game birds or eggs transferred. A copy of such receipt or writing shall be retained by each of the parties as a part of his records as provided by Rule .0906 of this Section. Any live migratory waterfowl sold or transferred to any person for use in training retrievers or conducting retriever trials must

be marked by one of the methods provided by 50 C.F.R. 21.13. Each pheasant sold or transferred for such purposes shall be banded prior to the transfer with a metal leg band which is imprinted with the number of the propagator's license.

(d) Sale of Dead Game Birds as Food. Subject to the limitations and conditions indicated in ~~Paragraph (b)~~ of Rule .0901 of this Section and to any applicable laws and regulations relating to pure foods, public health and advertising, game birds produced by game bird propagators licensed under this Section may be killed at any time in any manner, except by shooting during the closed season on the species concerned, and sold for food purposes as provided by the following Subparagraphs:

- (1) Sale Direct to Consumer. Unprocessed dead game birds may be sold directly to a consumer when accompanied by a receipt showing the name of the consumer, the name and license number of the propagator, and the quantity and species of the game birds sold. A copy of such receipt shall be retained by the propagator as part of his records. No such bird shall be resold by any such consumer.
- (2) Sale To or Through a Processor. Game birds may be sold to any commercial food processor who holds a permit to possess them or delivered to such a processor for processing and packaging prior to sale. In either case, the transfer shall be evidenced by a duplicate receipt identifying the processor by name and permit number and the propagator by name and license number, and indicating the number and species of birds transferred. A copy of such receipt shall be retained by each of the parties as part of his records. The processed carcasses of the birds shall be enclosed in a wrapper or container on the outside of which is indicated the number and species of birds contained, the license number of the propagator, and the fact that such birds were domestically raised. When so packaged, such processed game birds may be sold at wholesale or at retail through ordinary channels of commerce. This Paragraph shall not apply to dead quail marketed for food purposes under the regulations of the North Carolina Department of Agriculture.
- (3) The eggs of propagated game birds may not be sold for food purposes.

Authority G.S. 113-134; 113-273; 50 C.F.R., Part 21.13.

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*Notice is hereby given in accordance with G.S. 150B-21.2 that the North Carolina Wildlife Resources Commission intends to adopt the rules cited as 15A NCAC 10B .0125; 10C .0601 - .0603 and amend the rules cited as 15A NCAC 10B .0106, .0119, .0201 - .0203, .0205 - .0207, .0302 - .0303; 10C .0107, .0205 - .0206, .0305, .0401 - .0402, .0404, .0503; 10D .0102 - .0103; 10I .0103 - .0105.*

**Proposed Effective Date:** May 1, 2008

**Public Hearing:**

**Date:** January 7, 2008

**Time:** 7:00 p.m.

**Location:** Courthouse, 106 E Broad Street, Elizabethtown, NC

**Public Hearing:**

**Date:** January 9, 2008

**Time:** 7:00 p.m.

**Location:** Courthouse, 212 W. Elm Street, Graham, NC

**Public Hearing:**

**Date:** January 10, 2008

**Time:** 7:00 p.m.

**Location:** South Stanly High School, 40488 South Stanly School Road, Norwood, NC

**Public Hearing:**

**Date:** January 15, 2008

**Time:** 7:00 p.m.

**Location:** Morganton Municipal Auditorium, 401 South College Street, Morganton, NC

**Public Hearing:**

**Date:** January 16, 2008

**Time:** 7:00 p.m.

**Location:** Southwestern Community College, 447 College Drive, Sylva, NC

**Public Hearing:**

**Date:** January 17, 2008

**Time:** 7:00 p.m.

**Location:** Starmount High School, 2516 Longtown Road, Boonville, NC

**Public Hearing:**

**Date:** January 22, 2008

**Time:** 7:00 p.m.

**Location:** Swain Auditorium, 100 Court Street, Edenton, NC

**Public Hearing:**

**Date:** January 23, 2008

**Time:** 7:00 p.m.

**Location:** Courthouse, 302 Broad Street, New Bern, NC

**Public Hearing:**

**Date:** January 24, 2008

**Time:** 7:00 p.m.

**Location:** Annex Building, District Courtroom, 102 S. Main Street, Louisburg, NC

**Reason for Proposed Action:**

**15A NCAC 10B .0106** – To amend the rule to set forth additional circumstances under which a depredation permit may be issued.

**15A NCAC 10B .0119** – To amend the rule to clarify language on the taking of reptiles and amphibians and to add provisions

that limit the number of certain turtles that may be collected per calendar year.

**15A NCAC 10H .0125** – This rule is proposed for the purpose of regulating the possession of mute swans.

**15A NCAC 10B .0201** – To amend the rule so that falconers are able to hunt on Sundays.

**15A NCAC 10B .0202** – To adjust the season for bear.

**15A NCAC 10B .0203** – To adjust the season for white tailed deer.

**15A NCAC 10B .0205** – To adjust bag limits and season for raccoon.

**15A NCAC 10B .0206** – To adjust bag limits and seasons for squirrels.

**15A NCAC 10B .0216** – To adjust bag limit and season for rabbits.

**15A NCAC 10B .0302** – To adjust provisions pertaining to seasons and taking of furbearing animals (as defined in G.S. 113 – 129(7a)), coyotes and groundhogs.

**15A NCAC 10B .0303** – To adjust bag limits for furbearers (as defined in G.S. 113-129(7a)), coyotes, groundhogs.

**15A NCAC 10C .0107** – To adjust provision regarding striped bass and striped bass hybrids.

**15A NCAC 10C .0205** – To adjust seasons.

**15A NCAC 10C .0206** – To clarify provisions applicable to trotline, set-hooks and jug hooks.

**15A NCAC 10C .0305** – To adjust creel and size limits.

**15A NCAC 10C .0401** – Adjustment of herring limits.

**15A NCAC 10C .0402** – To adjust provisions that apply to the manner in which nongame fishes may be taken for bait or personal consumption and to change the title of the rule to reflect the change that adds "personal consumption" to the rule.

**15A NCAC 10C .0404** – To remove automobile tires from the description of traps that may be used under a special device fishing license and specify that collapsible crab traps are not permissible for use under a special device fishing license.

**15A NCAC 10C .0503** – To adjust boundaries for primary nursery areas.

**15A NCAC 10C .0601** – To describe the scope and purpose of rules affecting the spawning areas of anadromous fishes.

**15A NCAC 10C .0602** – To define anadromous fish spawning areas.

**15A NCAC 10C .0603** – To describe the boundaries for anadromous fish spawning areas.

**15A NCAC 10D .0102** – To move the camping restrictions for Butner-Falls of the Neuse, Caswell and Sandhills game lands that are listed in this rule to the list of restrictions applied to each one of these game lands individually in 15A NCAC 10D .0103 Hunting on Game Lands.

**15A NCAC 10D .0103** – To move the camping restrictions for Butner-Falls of the Neuse, Caswell and Sandhills game lands that are listed 15A NCAC 10D .0102 General Regulations Regarding Use to the list of restrictions applied to each one of these game lands individually in this rule; add Halifax County to the description of Shocco Creek Game Land; and change the description of Mitchell River Game Land from a six day per week area to a three day per week area.

**15A NCAC 10I .0103 – .0105** - To conform species' names to federal conventions.

**Procedure by which a person can object to the agency on a proposed rule:** Any person who wishes to object to the proposed rules may do so by writing (or emailing) the person specified in connection with a given rule within the public comment period set up for these rules. For these rules, the contact person is Joan Troy.

**Comments may be submitted to:** Joan Troy, 1717 Mail Service Center, Raleigh, NC 27699-1717, email joan.troy@ncwildlife.org

**Comment period ends:** February 1, 2008

**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. If the Rules Review Commission receives written and signed objections 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 919-733-2721.

**Fiscal Impact:**

- ☐ State
- ☐ Local
- ☐ Substantive (≥\$3,000,000)
- ☒ None

**CHAPTER 10 - WILDLIFE RESOURCES AND WATER SAFETY**

**SUBCHAPTER 10B - HUNTING AND TRAPPING**

**SECTION .0100 - GENERAL REGULATIONS**

**15A NCAC 10B .0106 WILDLIFE TAKEN FOR DEPREDATIONS OR ACCIDENTALLY**

(a) Depredation Permit:

- (1) Endangered or Threatened Species. No permit shall be issued to take any endangered or threatened species of wildlife listed under 15A NCAC 10I by reason of depredations to property. An individual may take an endangered or threatened species in immediate defense of his own life or of the lives of others without a permit. Any endangered or threatened species which may constitute a demonstrable but non-immediate threat to human safety shall be reported to a federal or state wildlife enforcement officer, who, upon verification of the report, may take or remove

- the specimen as provided by 15A NCAC 10I .0102.
- (2) Other Wildlife Species. Except as provided in Subparagraph (1) of this Paragraph, the Executive Director or an agent of the Wildlife Resources Commission may, upon application of a landholder and after such investigation of the circumstances as he may require, issue a permit to such landholder to take any species of wildlife which is or has been damaging or destroying his property provided there is evidence of property damage in excess of fifty dollars (\$50.00). No permit may be issued for the taking of any migratory birds and other federally protected animals unless a corresponding valid U.S. Fish and Wildlife Service depredation permit has been issued. The permit shall name the species allowed to be taken and, in the discretion of the Executive Director or an agent, may contain limitations as to age, sex or any other condition within the species so named. The permit may be used only by the landholder or another person named on the permit.
- (3) Special Circumstances. In addition to the circumstances described in Subparagraph (2) of this Paragraph, the Executive Director or his designee may issue a permit to a person or persons for take of wildlife resources in circumstances of overabundance or when the wildlife resources present a danger to human safety. Municipalities must first attempt to use the Urban Archery Season to remedy an overabundance of deer before the Executive Director or his designee will issue a depredation permit for deer overabundance.
- ~~(3)~~(4) Wildlife Damage Control Agents: Upon completion of a training course designed for the purpose of reviewing and updating information on wildlife laws and safe, humane wildlife handling techniques and demonstration of a knowledge of wildlife laws and safe, humane wildlife handling techniques, an individual with no record of wildlife law violations may apply to the Wildlife Resources Commission (Commission) to become a Wildlife Damage Control Agent (WDCA). Those persons who demonstrate knowledge of wildlife laws and safe, humane wildlife handling techniques by a passing score of at least 85 percent on a written examination provided by a representative of the Wildlife Resources Commission in cooperation with the training course provider shall be approved. Those persons failing to obtain a passing score will be given one chance for re-testing without re-taking the course. Those persons approved as agents by the Commission may then issue depredation permits to landholders and be

listed as a second party to provide the control service. WDCAs may not issue depredation permits for big game animals, bats, or species listed as endangered, threatened or special concern under 15A NCAC 10I .0103, .0104 and .0105 of this Chapter. WDCAs must report to the Wildlife Resources Commission the number and disposition of animals taken, by county, annually. Records must be available for inspection by a Wildlife Enforcement officer at any time during normal business hours. Wildlife Damage Control Agent status may be revoked at any time by the Executive Director when there is evidence of violations of wildlife laws, failure to report, or inhumane treatment of animals by the WDCA. A WDCA may not charge for the permit, but may charge for his or her investigations and control services. In order to maintain a knowledge of current laws, rules, and techniques, each WDCA must renew his or her agent status every three years by showing proof of having attended at least one training course provided for the purpose of reviewing and updating information on wildlife laws and safe, humane wildlife handling techniques within the previous 12 months.

(b) Term of Permit. Each depredation permit issued by the Executive Director or an agent shall have entered thereon a date or time of expiration after which date or time the same shall become invalid for any purpose, except as evidence of lawful possession of any wildlife that may be retained thereunder.

(c) Manner of Taking:

- (1) Taking Without a Permit. Wildlife taken without a permit while committing depredations to property may, during the open season on the species, be taken by the landholder by any lawful method. During the closed season such depredating wildlife may be taken without a permit only by the use of firearms.
- (2) Taking With a Permit. Wildlife taken under a depredation permit may be taken only by the method or methods specifically authorized by the permit. When trapping is authorized, in order to limit the taking to the intended purpose, the permit may specify a reasonable distance from the property sought to be protected, according to the particular circumstances, within which the traps must be set. The Executive Director or agent may also state in a permit authorizing trapping whether or not bait may be used and the type of bait, if any, that is authorized. In addition to any trapping restrictions that may be contained in the permit the method of trapping must be in accordance with the requirements and restrictions imposed by G.S. 113-291.6 and

other local laws passed by the General Assembly. No depredation permit shall authorize the use of poisons or pesticides in taking wildlife except in accordance with the provisions of the North Carolina Pesticide Law of 1971, the Structural Pest Control Act of 1955, and G.S. 113, Article 22A. No depredation permit shall authorize the taking of wildlife by any method by any landholder upon the lands of another.

- (3) Intentional Wounding. It is unlawful for any landholder, with or without a depredation permit, intentionally to wound a wild animal in a manner so as not to cause its immediate death as suddenly and humanely as the circumstances permit.

(d) Disposition of Wildlife Taken:

- (1) Generally. Except as provided by the succeeding Subparagraphs of this Paragraph, any wildlife killed accidentally or without a permit while committing depredations shall be buried or otherwise disposed of in a safe and sanitary manner on the property. Wildlife killed under a depredation permit may be transported to an alternate disposal site if desired. Anyone in possession of carcasses of animals being transported under a depredation permit must have the depredation permit in their possession. Except as provided by the succeeding Subparagraphs of (d)(2) through (6) of this Rule, all wildlife killed under a depredation permit must be buried or otherwise disposed of in a safe and sanitary manner.
- (2) Deer. The edible portions of up to five deer may be retained by the landholder for consumption but must not be transported from the property where the depredations took place without a valid depredation permit. An enforcement officer, if so requested by the permittee, shall provide the permittee a written authorization for the use by a charitable organization of the edible portions of the carcass. The nonedible portions of the carcass, including head, hide, feet, and antlers, shall be disposed of as specified in Subparagraph (1) of this Paragraph or turned over to a wildlife enforcement officer for disposition. When a deer is accidentally killed on a road or highway by reason of collision with a motor vehicle, the law enforcement officer who investigates the accident shall, upon request of the operator of the vehicle, provide such operator a written permit authorizing him to possess and transport the carcass of such deer for his personal and lawful use, including delivery of such carcass to a second person for his private use or the use by a charitable organization upon endorsement of such permit

to such person or organization by name and when no money or other consideration of value is received for such delivery or endorsement.

- (3) Fox. Any fox killed accidentally shall be disposed of in the manner provided by Subparagraph (1) or (6) of this Paragraph. Any fox killed under a depredation permit may be disposed of in the same manner or, upon compliance with the fur tagging requirements of 15A NCAC 10B .0400, the carcass or pelt thereof may be sold to a licensed fur dealer. Any live fox taken under a depredation permit may be sold to a licensed controlled hunting preserve for fox in accordance with G.S. 113-273(g).
- (4) Furbearing Animals. The carcass or pelt of any furbearing animal killed during the open season for taking such furbearing animal either accidentally or for control of depredations to property, whether with or without a permit, may be sold to a licensed fur dealer provided that the person offering such carcass or pelt for sale has a valid hunting or trapping license, provided further that, bobcats and otters may only be sold upon compliance with any required fur tagging requirement set forth in 15A NCAC 10B .0400.
- (5) Animals Taken Alive. Wild animals in the order Carnivora and beaver shall be humanely euthanized either at the site of capture or at a facility designed to humanely handle the euthanasia or released on the property where captured. Animals transported or held for euthanasia must be euthanized within 12 hours of capture. Anyone in possession of live animals being transported for relocation or euthanasia under a depredation permit must have the depredation permit in their possession.
- (6) A person killing a wild bird or wild animal accidentally with a motor vehicle or finding a dead wild bird or wild animal which was killed accidentally may possess that wild bird or wild animal for a period not to exceed 10 days for the purpose of delivering it to a licensed taxidermist for preparation. The licensed taxidermist may accept the wild bird or wild animal after satisfying himself that the animal was killed accidentally. The taxidermist shall certify and record the circumstances of acquisition as determined by the injuries to the animal. Licensed taxidermists shall keep accurate records of each wildlife specimen received pursuant to the rule as required by 15A NCAC 10H .1003 of this Chapter. Upon delivery of the finished taxidermy product to the person presenting the animal, the taxidermist shall give the person a receipt

indicating the sex and species, date of delivery, circumstances of initial acquisition and the name, address, and signature of the taxidermist. The receipt shall be permanently affixed to the back or bottom of the finished product and shall be retained by the person for as long as the mounted specimen is kept. Mounted specimens possessed pursuant to this Rule may not be sold and, if such specimens are transferred by gift or inheritance, the new owner must retain the permit to document the legality of possession. This provision does not allow possession of accidentally killed raptors; nongame migratory birds; species listed as endangered, threatened, or of special concern under 15A NCAC 10I .0103, .0104, and .0105 of this Chapter; black bear or wild turkey.

- (7) Edible portions of wild boar taken under depredation permit may be retained by the landowner for consumption or, if stipulated on the permit, donated to a charitable food organization.

(e) Reporting Requirements. Any landholder who kills a deer, bear or wild turkey under a currently valid depredation permit shall report such kill on the form provided with the permit and mail the form immediately upon the expiration date to the Wildlife Resources Commission. The killing and method of disposition of every game animal and game bird, every furbearing animal, and every nongame animal or nongame bird for which there is no open season, when killed for committing depredations to property, without a permit, shall be reported to the Wildlife Resources Commission within 24 hours following the time of such killing, except that when the carcass or pelt of a fox, killed under a depredation permit, or of a furbearing animal, killed with or without a permit, is lawfully sold to a licensed fur dealer in this State the fur dealer is required to report the source of acquisition and no report is required of the seller.

*Authority G.S. 113-134; 113-273; 113-274; 113-291.4; 113-291.6; 113-300.1; 113-300.2; 113-307; 113-331; 113-333; 113-334(a); 113-337.*

#### **15A NCAC 10B .0119 WILDLIFE COLLECTORS**

(a) Collection Licenses. The Executive Director is authorized to license qualified individuals to take or collect any species of wildlife resources except that endangered, threatened, special concern species and spotted turtles (*Clemmys guttata*) may not be taken or collected except under a special permit issued by the Executive Director for research purposes. This Rule shall not prohibit an individual from killing an endangered, threatened, or special concern species in defense of his own life or the lives of others without a permit. Individuals who ~~hold annually collect~~ less than five reptiles or less than 25 amphibians that are not on the endangered, threatened or special concern lists and not including spotted turtles (*Clemmys guttata*) are exempted from this license requirement. Such license shall be issued upon payment of a fee in accordance with the General Statutes, except that licenses may be issued to representatives of educational or scientific institutions or of governmental agencies without

charge. Such license shall be used in lieu of any other hunting or trapping license required by law and shall authorize possession and transportation of the wildlife incidental to the authorized taking, except that it shall not authorize the taking, possession or transportation of any species of wildlife in violation of federal laws or regulations.

(b) Limits on collection. Individuals shall collect no more than 10 turtles from the family Chelydridae (snapping turtles) per day and no more than 100 per calendar year. Individuals shall collect no more than 10 turtles from the family Kinosternidae (mud and musk turtles) per day and no more than 100 per calendar year.

~~(b)(c)~~ Qualifications of Licensees. In addition to representatives of educational and scientific institutions and governmental agencies the collection license may be issued to any individual for any purpose when such is not deemed inimical to the efficient conservation of the species to be collected or to some other wildlife species that may be dependent thereon.

~~(e)(d)~~ Methods of Taking. The manner of taking wildlife resources under a collection license may be specified by the Executive Director pursuant to G.S. 113-272.4(d) and need not be restricted to the usual methods of hunting or trapping.

~~(d)(c)~~ Term of License. The Executive Director may, pursuant to G.S. 113-272.4(c), impose time limits and other restrictions on the duration of any collection license, but unless so restricted the license shall be valid from January 1 through December 31 of the applicable year.

~~(e)(f)~~ Report of Collecting Activity. Each individual licensed under this Rule shall submit a written report to the Executive Director within 15 days following the date of expiration of the license. The report shall be on a form supplied by the Wildlife Resources Commission and shall show the numbers of each species taken under the license and the use or disposition thereof. The Executive Director may require additional information for statistical purposes such as the dates and places of the taking and the sex, size, weight, condition, and approximate age of each specimen taken. Such additional information may be required on the form of report or by a separate writing accompanying the form.

~~(f)(g)~~ Other Requirements and Restrictions. The Executive Director may, pursuant to G.S. 113-272.4(d), impose such other requirements and restrictions on persons licensed under this Rule as he may deem to be necessary to the efficient administration of the wildlife conservation laws and regulations.

*Authority G.S. 113-134; 113-272.4.*

#### **15A NCAC 10B .0125 RELEASE OF MUTE SWANS**

It is unlawful for any individual to release any mute swan (*Cygnus olor*) into the public waters of North Carolina. Any individual who releases a mute swan on private property must ensure before release that the animal has been pinioned. Individuals who currently confine mute swans on their property must pinion all of their mute swans by January 1, 2009.

*Authority G.S. 113-292(d).*

#### **SECTION .0200 - HUNTING**

**15A NCAC 10B .0201 PROHIBITED TAKING AND MANNER OF TAKE**

(a) It is unlawful for any person to take, or have in possession, any wild animal or wild bird listed in this Section except during the open seasons and in accordance with the limits herein prescribed, or as prescribed by 15A NCAC 10B .0300 pertaining to trapping or by 15A NCAC 10D applicable to game lands managed by the Wildlife Resources Commission, unless otherwise specifically permitted by law. Lawful seasons and bag limits for each species apply beginning with the first day of the listed season and continue through the last day of the listed season, with all dates being included except Sundays. On military installations under the exclusive jurisdiction of the federal government and for those individuals engaged in the practice of falconry, the open seasons include Sundays. When any hunting season ends on a January 1 that falls on a Sunday, that season is extended to Monday, January 2.

(b) Those animals not classified as game animals in G.S. 113-129(7c), and for which a season is set under this Section, may be taken during the hours and methods authorized for taking game animals.

Note: Where local laws govern hunting, or are in conflict with these regulations, the local law shall prevail.

*Authority G.S. 103-2; 113-291.1(a); 113-134; 113-291.2; 113-291.3.*

**15A NCAC 10B .0202 BEAR**

(a) Open Seasons for bear shall be from the:

- (1) Monday on or nearest October 15 to the Saturday before Thanksgiving and the third Monday after Thanksgiving to January 1 in and west of the boundary formed by I-77 from the Virginia State line to the intersection with I-40, continuing along I-40 west until the intersection of NC 18 and NC 18 to the South Carolina State line.
- (2) Second Monday in November to the following Saturday and the third Monday after Thanksgiving to the following Wednesday in all of Hertford County and Martin counties; and in the following parts of counties:  
Halifax: that part east of US 301.  
Northampton: that part east of US 301.
- (3) Second Monday in November to January 1 in all of Bladen, Carteret, Cumberland, Duplin, New Hanover, Onslow, Pender and Sampson counties.
- (4) First Monday in December to the third Saturday thereafter in Brunswick and Columbus counties.
- (5) Second Monday in November to the following Saturday and the third Monday after Thanksgiving to the fifth Saturday after Thanksgiving in all of Beaufort, Camden, Chowan, Craven, Dare, Hyde, Jones, Pamlico, Pasquotank, Tyrrell, and Washington counties.

(6) Saturday preceding the second Monday in November to the following Saturday and the third Monday after Thanksgiving to the fifth Saturday after Thanksgiving in Bertie, Currituck, Gates and Perquimans counties.

(7) Second Monday in November to the following Saturday in Greene, Lenoir and Pitt counties.

(b) No Open Season. There is no open season in any area not included in Paragraph (a) of this Rule or in those parts of counties included in the following posted bear sanctuaries:

Avery, Burke and Caldwell counties--Daniel Boone bear sanctuary  
Beaufort, Bertie and Washington counties--Bachelor Bay bear sanctuary  
Beaufort and Pamlico counties--Gum Swamp bear sanctuary  
Bladen County--Suggs Mill Pond bear sanctuary  
Brunswick County--Green Swamp bear sanctuary  
Buncombe, Haywood, Henderson and Transylvania counties--Pisgah bear sanctuary  
Carteret, Craven and Jones counties--Croatan bear sanctuary  
Clay County--Fires Creek bear sanctuary  
Columbus County--Columbus County bear sanctuary  
Currituck County--North River bear sanctuary  
Dare County--Bombing Range bear sanctuary except by permit only  
Haywood County--Harmon Den bear sanctuary  
Haywood County--Sherwood bear sanctuary  
Hyde County--Gull Rock bear sanctuary  
Hyde County--Pungo River bear sanctuary  
Jackson County--Panthertown-Bonas Defeat bear sanctuary  
Macon County--Standing Indian bear sanctuary  
Macon County--Wayah bear sanctuary  
Madison County--Rich Mountain bear sanctuary  
McDowell and Yancey counties--Mt. Mitchell bear sanctuary except by permit only.  
Mitchell and Yancey counties--Flat Top bear sanctuary  
Wilkes County--Thurmond Chatham bear sanctuary

(c) Bag limits shall be:

- (1) daily, one;
- (2) possession, one;
- (3) season, one.

(d) Kill Reports. The carcass of each bear shall be tagged and the kill reported as provided by 15A NCAC 10B .0113.

*Authority G.S. 113-134; 113-291.2; 113-291.7; 113-305.*

**15A NCAC 10B .0203 DEER (WHITE-TAILED)**

(a) Closed Season. All counties and parts of counties not listed under the open seasons in Paragraph (b) in this Rule shall be closed to white-tailed deer hunting.

(b) Open Seasons (All Lawful Weapons)

- (1) Deer With Visible Antlers. Deer with antlers or spikes protruding through the skin, as distinguished from knobs or buttons covered by skin or velvet, may be taken during the following seasons:



- (A) Saturday on or nearest October 15 through January 1 in all of Beaufort, Bertie, Bladen, Brunswick, Camden, Carteret, Chowan, Columbus\*, Cumberland, Craven, Currituck, Dare, Duplin, Edgecombe, Franklin, Gates, Greene, Halifax, Harnett, Hertford, Hoke, Hyde, Johnston, Jones, Lenoir, Martin, Nash, New Hanover, Northampton, Onslow, Pamlico, Pasquotank, Pender, Perquimans, Pitt, Richmond\*\*, Robeson, Sampson, Scotland\*\*, Tyrrell, Vance, Wake, Warren, Washington, Wayne, and Wilson counties, and the following parts of counties:  
Moore\*\*: All of the county except that part north of NC 211 and west of US 1.  
\*Unlawful to hunt or kill deer in Lake Waccamaw or within 50 yards of its shoreline.  
\*\*Refer to 15A NCAC ~~10D .0103(f)~~ 10D .0103(h) for seasons on Nicholson Creek, Rockfish Creek and Sandhills Game Lands.
- (B) Saturday before Thanksgiving through the fourth Saturday after Thanksgiving Day in all Alexander, Alleghany, Ashe, Catawba, Cleveland\*, Davie, Forsyth, Gaston, Iredell, Lincoln, Rutherford\*, Stokes, Surry, Watauga, ~~Wilkes, Wilkes\*~~, and Yadkin counties. \* Refer to 15A NCAC 10D .0103(h) for seasons on South Mountains and Buffalo Cove game lands.
- (C) Monday of Thanksgiving week through the third Saturday after Thanksgiving Day in all of Avery, Buncombe, Burke, Caldwell, Cherokee, Clay, Graham, Haywood, Henderson, Jackson, Macon, Madison, McDowell, Mitchell, Polk, Swain, Transylvania, and Yancey counties.
- (D) Two Saturdays before Thanksgiving through January 1 in all of Alamance, Anson, Cabarrus, Caswell, Chatham, Davidson, Durham, Granville, Guilford, Lee, Mecklenburg, Montgomery, Orange, Person, Randolph, Rockingham, Rowan, Stanly, and Union counties, and in the following parts of counties:  
Moore: That part north of NC 211 and west of US 1.
- (E) Saturday on or nearest September 10 through January 1 in those parts of Camden, Gates and Pasquotank counties known as the Dismal Swamp National Wildlife Refuge, in those parts of Hyde, Tyrrell and Washington counties known as the Pocosin Lakes National Wildlife Refuge, in those parts of Anson and Richmond counties known as the Pee Dee National Wildlife Refuge, and in that part of Currituck County known as the Mackay Island National Wildlife Refuge.
- ~~(F) Monday of Thanksgiving week through the fifth Saturday after Thanksgiving Day in all of Cleveland and Rutherford counties, except for South Mountain Game Land.~~
- (2) Deer of Either Sex. Except on Game Lands, deer of either sex may be taken during the open seasons and in the counties and portions of counties listed in this Subparagraph (Refer to 15A NCAC 10D . 0103 for either sex seasons on Game Lands):
- (A) The open either-sex deer hunting dates established by the U.S. Fish and Wildlife Service during the period from the Saturday on or nearest September 10 through January 1 in those parts of Camden, Gates and Pasquotank counties known as the Dismal Swamp National Wildlife Refuge, in those parts of Hyde, Tyrrell and Washington counties known as the Pocosin Lakes National Wildlife Refuge, in those parts of Anson and Richmond counties known as the Pee Dee National Wildlife Refuge, and in that part of Currituck County known as the Mackay Island National Wildlife Refuge.
- (B) The open either-sex deer hunting dates established by the appropriate military commands during the period from Saturday on or nearest October 15 through January 1 in that part of Brunswick County known as the Sunny Point Military Ocean Terminal, in that part of Craven County known and marked as Cherry Point Marine Base, in that part of Onslow County known and marked as the Camp Lejeune Marine Base, on Fort Bragg Military Reservation, and on Camp Mackall Military Reservation.
- (C) Youth either sex deer hunts. First Saturday in October for youth either

sex deer hunting by permit only on a portion of Belews Creek Steam Station in Stokes County designated by agents of the Commission and the third Saturday in October for youth either-sex deer hunting by permit only on Mountain Island State Forest in Lincoln and Gaston counties; and the second Saturday in November for youth either-sex deer hunting by permit only on apportion of Warrior Creek located on W. Kerr Scott Reservoir, Wilkes County designated by agents of the Commission.

- (D) The last open day of the Deer with Visible Antlers season described in Subparagraph (b)(1) of this Rule in all of Buncombe, Haywood, Henderson, Madison and Transylvania counties and the following parts of counties:

Avery: That part south of the Blue Ridge Parkway;

~~Dare, except the Outer Banks north of Whalebone;~~

Scotland: That part south of US 74; and

Yancey: That part south of US 19 and US 19E.

- (E) The last six open days of the Deer With Visible Antlers season described in Subparagraph (b)(1) of this Rule in all of Burke, Caldwell, McDowell, Mitchell, Polk and the following parts of counties:

Avery: That part north of the Blue Ridge Parkway; and Parkway;

Dare, except that part of the county located on the Outer Banks north of Whalebone; and

Yancey: That part north of US 19 and US 19E.

- (F) The first six open days and the last six open days of the Deer with Visible Antlers season described in Subparagraph (b)(1) of this Rule in all of ~~Carteret~~, Catawba, Cleveland, Gaston, ~~Hoke~~, Lincoln, ~~Richmond~~, Robeson, Rutherford, and Watauga counties and in the following parts of counties:

~~Moore: All of the county except that part north of NC 211 and west of US 1; and~~

Scotland: That part north of US 74.

- (G) All the open days of the Deer With Visible Antlers season described in Subparagraph (b)(1) of this Rule in all of Alamance, Alexander,

Alleghany, Anson, Ashe, Beaufort, Bertie, Bladen, Brunswick, Cabarrus, Camden, Carteret, Caswell, Chatham, Chowan, Columbus, Cumberland, Currituck, Craven, Davidson, Davie, Duplin, Durham, Edgecombe, Forsyth, Franklin, Gates, Granville, Greene, Guilford, Halifax, Harnett, Hertford, Hoke, Hyde, Iredell, Johnston, Jones, Lee, Lenoir, Martin, Mecklenburg, Montgomery, Moore, Nash, New Hanover, Northampton, Onslow, Orange, Pamlico, Pasquotank, Pender, Perquimans, Person, Pitt, Randolph, Richmond, Rockingham, Rowan, Sampson, Stanly, Stokes, Surry, Tyrrell, Union, Vance, Wake, Warren, Washington, Wilkes, Wayne, Wilson, and Yadkin counties, and in the following parts of counties:

Buncombe: That part east of NC 191, south of the French Broad and Swannanoa Rivers, west of US 25, and north of NC 280;

Dare: That part of the Outer Banks north of Whalebone;

Henderson. That part east of NC 191 and north and west of ~~NC 280; NC 280.~~

~~Moore: That part north of NC 211 and west of US 1; and~~

~~Richmond: That part west of Little River.~~

(c) Open Seasons (Bow and Arrow)

- (1) Authorization. Subject to the restrictions set out in Subparagraph (2) of this Paragraph and the bag limits set out in Paragraph (f) of this Rule, deer of either sex may be taken with bow and arrow during the following seasons:

- (A) Saturday on or nearest September 10 to the fourth Friday thereafter in the counties and parts of counties having the open season for Deer With Visible Antlers specified by Part (A) of Subparagraph (b)(1) of this Rule, except on Nicholson Creek, Rockfish Creek, and Sandhills Game Lands and the area known as the Outer Banks in Currituck County.

- (B) Saturday on or nearest September 10 to the second Friday before Thanksgiving in the counties counties\* and parts of counties having the open seasons for Deer with Visible Antlers specified by Part (B) of Subparagraph (b)(1) of this ~~Rule~~ ~~except for that portion of Buffalo~~

~~Cove Game Land in Wilkes County.~~  
~~Rule.~~

\* Refer to 15A NCAC 10D .0103(h) for seasons on South Mountains and Buffalo Cove game lands.

- (C) Monday on or nearest September 10 to the fourth Saturday thereafter, and Monday on or nearest October 15 to the Saturday before Thanksgiving in the counties and parts of counties having the open seasons for Deer With Visible Antlers specified by Part (C) of Subparagraph (b)(1) of this ~~Rule and in Cleveland and Rutherford counties.~~ Rule.
- (D) Saturday on or nearest September 10 to the third Friday before Thanksgiving in the counties and parts of counties having the open season for Deer With Visible Antlers specified by Part (D) of Subparagraph (b)(1) of this Rule, and on Nicholson Creek, Rockfish Creek and Sandhills Game Lands.

(2) Restrictions

- (A) Dogs may not be used for hunting deer during the bow and arrow season.
- (B) It is unlawful to carry any type of firearm while hunting with a bow during the bow and arrow deer hunting season.
- (C) Only bows and arrows of the types authorized in 15A NCAC 10B .0116 for taking deer may be used during the bow and arrow deer hunting season.

(d) Open Seasons (Muzzle-Loading Rifles, Shotguns and Bow and Arrow)

- (1) Authorization. Subject to the restrictions set out in Subparagraph (2) of this Paragraph, deer may be taken only with muzzle-loading firearms and, on private lands only, bow and arrow (except that bow and arrow may be used on designated and posted game land Archery Zones) during the following seasons:
  - (A) The Saturday on or nearest October 8 to the following Friday in the counties and parts of counties having the open seasons for Deer With Visible Antlers specified by Part (A) of Subparagraph (b)(1) of this Rule, except on Nicholson Creek, Rockfish Creek and Sandhills Game Lands and the area known as the Outer Banks in Currituck County.
  - (B) The second Saturday preceding Thanksgiving until the following Friday in the ~~counties~~ counties\* and

parts of counties having the open seasons for Deer With Visible Antlers specified by Part (B) of Subparagraph (b)(1) of this Rule.

\* Refer to 15A NCAC 10D .0103(h) for seasons on South Mountains and Buffalo Cove game lands.

- (C) Monday on or nearest October 8 to the following Saturday ~~in Cleveland and Rutherford counties and~~ in the counties and parts of counties having the open seasons for Deer With Visible Antlers specified by Part C of Subparagraph (b)(1) of this Rule
- (D) The third Saturday preceding Thanksgiving until the following Friday in the counties and parts of counties having the open season for Deer With Visible Antlers specified by Part (D) of Subparagraph (b)(1) of this Rule, and on Nicholson Creek, Rockfish Creek and Sandhills Game Lands.

(2) Restrictions

- (A) Deer of either sex may be taken during muzzle-loading firearms and bow and arrow season in and east of the following counties: Polk, Rutherford, McDowell, Burke, Caldwell, Watauga, and Ashe. Deer of either sex may be taken on the last day of muzzle-loading firearms and bow and arrow season in all other counties.
- (B) Dogs shall not be used for hunting deer during the muzzle-loading firearms and bow and arrow seasons.
- (C) Pistols shall not be carried while hunting deer during the muzzle-loading firearms and bow and arrow seasons.

(e) Open Season (Urban Season)

- (1) Authorization. Subject to the restrictions set out in Subparagraph (3) of this Paragraph and the bag limits set out in Paragraph (f) of this Rule, deer of either sex may be taken with bow and arrow in participating cities in the state, as defined in G.S. 160A-1(2), from the second Saturday following January 1 to the fifth Saturday thereafter. Deer shall not be taken on any game land or part thereof that occurs within a city boundary.
- (2) Participation. Cities that intend to participate in the urban season must send a letter to that effect no later than April 1 of the year prior to the start of the urban season to the Executive Director or his designee. Cities must also submit a map of the city's boundaries within which the urban season shall apply.

- (3) Restrictions:
- (A) Dogs shall not be used for hunting deer during the urban season.
  - (B) It is unlawful to carry any type of firearm while hunting with a bow during the urban season.
  - (C) Only bows and arrows of the types authorized in 15A NCAC 10B .0116 for taking deer shall be used during the urban season.

(f) ~~In those counties or parts of counties listed in Part (b)(1)(A) of Subparagraph (b)(1) of this Rule, the daily bag limit shall be two and the possession limit six, two of which shall be antlerless. The season limit shall be six, two of which shall be antlerless. In all other counties or parts of counties, the~~ The daily bag limit shall be two and the possession limit six, four of which shall be antlerless. The season limit shall be six, four of which shall be antlerless. In addition to the bag limits described above, a hunter may obtain multiple bonus antlerless deer harvest report cards from the Wildlife Resources Commission or any Wildlife Service Agent to allow the harvest of two additional antlerless deer per card on private lands during any open deer season in all counties and parts of counties of the State identified in Part (G) of Subparagraph (b)(2) of this Rule. Antlerless deer harvested and reported on the bonus antlerless harvest report card shall not count as part of the possession and season limit, however the daily bag limit shall be two. Hunters may also use the bonus antlerless harvest report cards for deer harvested during the season described in Paragraph (e) of this Rule within the boundaries of participating municipalities, except on state-owned game lands. Antlerless deer include males with knobs or buttons covered by skin or velvet as distinguished from spikes protruding through the skin. The ~~antlerless~~ bag limits described above do not apply to ~~antlerless~~ deer harvested in areas covered in the Deer Management Assistance Program as described in G.S. 113-291.2(e). Individual daily ~~antlerless~~ bag limits on these areas shall be determined by the number of special tags, issued by the Division of Wildlife Management as authorized by the Executive Director, that shall be in the possession of the hunter. Season ~~antlerless~~ bag limits shall be set by the number of tags available. All ~~antlerless~~ deer harvested on these areas, regardless of the date of harvest, shall be tagged with these special tags but the hunter does not have to validate the Big Game Harvest Report Card provided with the hunting license.

*Authority G.S. 113-134; 113-270.3; 113-276.1; 113-291.1; 113-291.2.*

#### **15A NCAC 10B .0205 RACCOON AND OPOSSUM**

- (a) Open Season: The open season for taking raccoon and opossum shall be from sunrise Monday on or nearest October 15 through the last day of February.
- (b) Bag Limits:
  - (1) The daily bag limit for raccoon is three and there are no season and no possession limits. shall be one per individual up to a maximum of two per hunting party. The possession limit shall be two and the season limit 20, except

~~that in and east of Rockingham, Guilford, Randolph, Montgomery and Anson counties the limits are 3 daily with a possession limit of 6 and a season limit of 30. The field possession limit while hunting is the same as the applicable daily limit.~~

- (2) There is no restriction on bag limits for opossum.

Note: See 15A NCAC 10B .0111 prohibiting axes, saws and shooting in certain western counties.

*Authority G.S. 113-134; 113-291.2.*

#### **15A NCAC 10B .0206 SQUIRRELS**

- (a) Open Seasons:
  - (1) Gray and Red Squirrels: Monday on or nearest October 15 to January 31 statewide.
  - (2) Fox Squirrels: Monday on or nearest October 15 to December 31 in the counties of Alleghany, Anson, Ashe, Bladen, Brunswick, Cumberland, Duplin, Edgecombe, Greene, Harnett, Hoke, Johnston, Jones, Lenoir, Moore, New Hanover, Onslow, Pender, Pitt, Richmond, Sampson, Scotland and Wayne.
- (b) Bag Limits: ~~Daily, eight; possession, 16; season, 75. These statewide limits include the following limits of fox squirrels taken in those counties having an open season: daily, one; possession, two; season, 10.~~
  - (1) Gray and Red Squirrels: daily bag limit is eight; there are no season and no possession limits.
  - (2) Fox Squirrels: In those counties listed in Subparagraph (a)(2) of this Rule, the daily bag limit is one; the possession limit is two, and the season limit is 10.

*Authority G.S. 113-134; 113-291.2.*

#### **15A NCAC 10B .0207 RABBITS**

- (a) Open Season: The open season for taking rabbits ~~shall be is~~ the first Saturday preceding Thanksgiving through the last day of February.
- (b) Bag Limits: The daily bag limit ~~shall be is five and there are no season and no possession limits five. The possession limit shall be 10. The season limit shall be 75.~~
  - (c) Box-traps: During the hunting season specified in Paragraph (a) of this Rule and subject to the ~~bag, possession and season~~ bag limits set forth in Paragraph (b) of this Rule, rabbits may be taken with box-traps. A valid hunting license shall serve as a transportation permit for live rabbits taken pursuant to this Rule.

*Authority G.S. 113-134; 113-274; 113-291.1; 113-291.2.*

### **SECTION .0300 - TRAPPING**

#### **15A NCAC 10B .0302 OPEN SEASONS**

- (a) General. Subject to the restrictions set out in Paragraph (b) of this Rule, the following seasons for taking fur-bearing

animals as defined in G.S. 113-129(7a), coyotes, and groundhogs shall apply as indicated, all dates being inclusive:

- (1) ~~November 1 through the last day of February.~~
- (1) ~~November 7 through February 12 in and west of Surry, Wilkes, Alexander, Catawba, Burke and Cleveland counties.~~
- (2) ~~December 15 through February 28 in and east of Hertford, Bertie, Martin, Pitt, Greene, Lenoir, Duplin, Pender and New Hanover counties, except that in the marshes adjoining Currituck Sound in Currituck County the season is December 15 through March 12 and nutria may not be shot at any time (day or night) during the open season for migratory waterfowl.~~
- (3) ~~December 1 through February 20 in all other counties.~~
- (4) ~~November 1 through March 31 statewide for beaver only.~~
- (5)(2) Trapping coyotes is allowed during times and with methods described by local laws in counties where local laws have established fox trapping seasons even when those seasons fall outside the regular trapping seasons described above.
- (6)(3) Nutria may be trapped at any time east of I-77.
- (b) ~~Restrictions.~~ Restrictions. It is unlawful to trap raccoon in and west of Madison, Buncombe, Henderson and Polk counties.
  - (1) ~~It is unlawful to trap or take otter on Roanoke Island north of US 64/264 in Dare County.~~
  - (2) ~~It is unlawful to set steel traps for muskrat or mink in and west of Surry, Wilkes, Alexander, Catawba, Burke and Cleveland counties except in or adjacent to the waters of lakes, streams or ponds.~~
  - (3) ~~It is unlawful to trap raccoon in and west of Madison, Buncombe, Henderson and Polk counties.~~

Note: See 15A NCAC 10D .0102(f) for other trapping restrictions on game lands.

*Authority G.S. 113-134; 113-291.1; 113-291.2.*

#### **15 NCAC 10B .0303 BAG LIMITS**

##### **(a) Raccoon**

- (1) ~~In and east of Rockingham, Guilford, Randolph, Montgomery and Anson counties, the season limit shall be 30 raccoons taken by trapping.~~
- (2) ~~In Cabarrus, Davidson, Davie, Forsyth, Iredell, Mecklenburg, Rowan, Stanly, Stokes and Union counties, the season limit for raccoons taken by trapping shall be 20.~~

(b) There shall be no restrictions on bag limits of furbearers, coyotes, or groundhogs except that a season limit of five otters shall apply to otters trapped in and west of Stokes, Forsyth, Davie, Iredell, and Mecklenburg counties.

Note: Where local laws govern trapping, or are in conflict with these regulations, the local law shall prevail.

*Authority G.S. 113-134; 113-291.2.*

### **SUBCHAPTER 10C - INLAND FISHING REGULATIONS**

#### **SECTION .0100 - JURISDICTION OF AGENCIES: CLASSIFICATION OF WATERS**

##### **15A NCAC 10C .0107 SPECIAL REGULATIONS: JOINT WATERS**

In order to effectively manage all fisheries resources in joint waters and in order to confer enforcement powers on both fisheries enforcement officers and wildlife enforcement officers with respect to certain rules, the Marine Fisheries Commission and the Wildlife Resources Commission deem it necessary to adopt special rules for joint waters. Such rules supersede any inconsistent rules of the Marine Fisheries Commission or the Wildlife Resources Commission that would otherwise be applicable in joint waters under the provisions of 15A NCAC 10C .0106:

- (1) Striped Bass
  - (a) It ~~shall be~~ is unlawful to possess any striped bass or striped bass hybrid ~~taken by any means that~~ is less than 18 inches long (total length).
  - (b) It is unlawful to possess striped bass or striped bass hybrids between 22 and 27 inches (total length) in joint fishing waters of the Central Southern Management Area as designated in 15A NCAC 03R .0201.
  - (c) It is unlawful to possess striped bass or striped bass hybrids May through September in the fishing waters of the Central Southern Management Area and the Albemarle Sound Management Area.
  - (d) It is unlawful to possess striped bass or striped bass hybrids taken from the joint waters of the Cape Fear River.
  - (b)(c) ~~It shall be~~ is unlawful to possess more than one daily creel limit of striped bass or ~~their striped bass~~ hybrids, in the aggregate, per person per day, regardless of the number of management areas fished, fished, and fish possessed by the individual shall be in compliance with the size and creel limits for the management area being fished.
  - (f) Possession of fish shall be assessed for the creel and size limits of the management area in which the individual is found to be fishing, regardless of the size or creel limits for other management areas visited by that individual in a given day.
  - (e)(g) ~~It shall be~~ is unlawful to engage in net fishing for striped bass or their

- hybrids in joint waters except as authorized by rules of the Marine Fisheries Commission.
- (2) Lake Mattamuskeet
- (a) It ~~shall be~~ is unlawful to set or attempt to set any gill net in Lake Mattamuskeet canals designated as joint waters.
- (b) It ~~shall be~~ is unlawful to use or attempt to use any trawl net or seines in Lake Mattamuskeet canals designated as joint waters.
- (3) Cape Fear River. It ~~shall be~~ is unlawful to use or attempt to use any ~~net or net~~ net stakes or electrical fishing device within 800 feet of the dam at Lock No. 1 on the Cape Fear River.
- (4) Shad: It ~~shall be~~ is unlawful to possess more than 10 American shad or hickory shad, in the aggregate, per person per day taken by hook-and-line.

*Authority G.S. 113-132; 113-134; 113-138; 113-292.*

## SECTION .0200 - GENERAL REGULATIONS

### 15A NCAC 10C .0205 PUBLIC MOUNTAIN TROUT WATERS

(a) Designation of Public Mountain Trout Waters. For the purposes of this Rule, artificial lure is defined as a fishing lure that neither contains nor has been treated by any substance that attracts fish by the sense of taste or smell. Natural bait is defined as any living or dead organism (plant or animal), or parts thereof, or prepared substances designed to attract fish by the sense of taste or smell. The waters listed herein or in 15A NCAC 10D .0104 are designated as Public Mountain Trout Waters and further classified as Wild Trout Waters or Hatchery Supported Waters. For specific classifications, see Subparagraphs (1) through (6) of this Paragraph. These waters are posted and lists thereof are filed with the clerks of superior court of the counties in which they are located:

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

New River (not trout water)  
 Little River (Whitehead to McCann Dam)  
 Crab Creek  
 Brush Creek (except where posted against trespass)  
 Big Pine Creek  
 Laurel Branch  
~~Big (Big)~~ Glade Creek  
 Bledsoe Creek  
 Pine Swamp Creek  
 South Fork New River (not trout water)  
 Prather Creek  
 Cranberry Creek  
 Piney Fork  
 Meadow Fork  
 Yadkin River (not trout water)  
 Roaring River (not trout water)  
 East Prong Roaring River (that portion on Stone Mountain State Park)  
 [Delayed Harvest Regulations apply. See Subparagraph (a)(5) of this Rule.]

- (B) Ashe County:  
 New River (not trout waters)  
 North Fork New River (Watauga Co. line to Sharp Dam)  
 Helton Creek (Virginia State line to New River)  
 [Delayed Harvest Regulations apply. See Subparagraph (a)(5) of this Rule.]  
 Big Horse Creek (Mud Creek at SR 1363 to confluence with North Fork New River)  
 Buffalo Creek (headwaters to junction of NC 194-88 and SR 1131)  
 Big Laurel Creek  
 Three Top Creek (portion not on game lands)  
 Hoskins Fork (Watauga County line to North Fork New River)  
 South Fork New River (not trout waters)

- Cranberry Creek  
(Alleghany County  
line to South Fork  
New River)  
Nathans Creek  
Peak Creek  
(headwaters to  
Trout Lake, except  
Blue Ridge  
Parkway waters)  
Trout Lake  
[Delayed Harvest  
Regulations apply.  
See Subparagraph  
(a)(5) of this Rule.]  
Roan Creek  
Beaver Creek  
Pine Swamp Creek  
(all forks)  
Old Fields Creek  
Mill Creek (except  
where posted  
against trespass)
- (C) Avery County:  
Nolichucky River (not trout waters)  
North Toe River (headwaters  
to Mitchell County line,  
except where posted against  
trespass)  
Squirrel Creek  
Elk River (SR 1305 crossing  
immediately upstream of Big  
Falls to the Tennessee State  
line, including portions of  
tributaries on game lands)  
Catawba River (not trout water)  
Johns River (not trout water)  
Wilson Creek [not Hatchery  
Supported trout water, see  
Subparagraph (a)(2) of this  
Rule.]  
Lost Cove Creek  
[not Hatchery  
Supported trout  
water, see  
Subparagraph (a)(4)  
of this Rule.]  
Buck Timber Creek  
[not Hatchery  
Supported trout  
water, see  
Subparagraph (a)(2)  
of this Rule.]  
Cary Flat Branch  
[not Hatchery  
Supported trout  
water, see  
Subparagraph (a)(2)  
of this Rule.]
- Boyde Coffey Lake  
Linville River [Land Harbor line  
(below dam) to Blue Ridge Parkway  
boundary line, except where posted  
against trespass]  
Milltimber Creek
- (D) Buncombe County:  
French Broad River (not trout water)  
Ivy Creek (Ivy River)  
(Dillingham Creek to US  
19-23 bridge)  
Dillingham Creek (Corner  
Rock Creek to Ivy Creek)  
Stony Creek  
Mineral Creek (including  
portions of tributaries on  
game lands)  
Corner Rock Creek  
(including tributaries, except  
Walker Branch)  
Reems Creek (Sugar Camp Fork to  
US 19-23 bridge, except where  
posted against trespass)  
Swannanoa River (SR 2702  
bridge near Ridgecrest to  
Wood Avenue Bridge,  
intersection of NC 81W and  
US 74A in Asheville, except  
where posted against  
trespass)  
Bent Creek (headwaters to  
N.C. Arboretum boundary  
line, including portions of  
tributaries on game lands)  
Lake Powhatan  
Cane Creek (headwaters to  
SR 3138 bridge)
- (E) Burke County:  
Catawba River (Muddy Creek to the  
City of Morganton water intake dam)  
[Special Regulations apply. See  
Subparagraph (a)(7) of this Rule.]  
South Fork Catawba River  
(not trout water)  
Henry Fork (lower South  
Mountains State Park line  
downstream to SR 1919 at Ivy Creek)  
Jacob Fork (Shinny  
Creek to lower  
South Mountain  
State Park  
boundary)  
[Delayed Harvest  
Regulations apply.  
See Subparagraph  
(a)(5) of this Rule.]  
Johns River (not trout water)  
Parks Creek (portion not on  
game lands not trout water)

- Carroll Creek (game lands portion above SR 1405 including tributaries)
- Linville River (portion within Linville Gorge Wilderness Area, including tributaries, and portion below Lake James powerhouse from upstream bridge on SR 1223 to Muddy Creek)
- (F) Caldwell County:  
Catawba River (not trout water)  
Johns River (not trout water)  
Wilson Creek (Phillips Branch to Browns Mountain Beach dam, except where posted against trespass)  
Estes Mill Creek (not trout water)  
Thorps Creek (falls to NC 90 bridge)  
Mulberry Creek (portion not on game lands not trout water)  
Boone Fork [not Hatchery Supported trout water. See Subparagraph (a)(2) of this Rule.]  
Boone Fork Pond  
Yadkin River (not trout water)  
Buffalo Creek (mouth of Joes Creek to McCloud Branch)  
Joes Creek (first falls upstream of SR 1574 to confluence with Buffalo Creek)
- (G) Cherokee County:  
Hiwassee River (not trout water)  
~~Shuler Creek (headwaters (Joe Brown Highway (SR 1325) bridge to Tennessee line, except where posted against trespass including portions of tributaries on game lands)-line~~  
North Shoal Creek (Crane Creek) (headwaters to SR 1325, including portions of tributaries on game lands)  
~~Persimmon Creek~~  
Davis Creek (confluence of Bald and Dockery creeks to Hanging Dog Creek)  
~~Beaver Dam Creek (headwaters to SR 1326 bridge, including portions of tributaries on game lands)~~  
Valley River (headwaters to US 19 business bridge in Murphy)  
Hyatt Creek (including portions of tributaries on game lands)
- Webb Creek (including portions of tributaries on game lands)  
Junaluska Creek (Ashturn Creek to Valley River, including portions of tributaries on game lands)
- (H) Clay County:  
Hiwassee River (not trout water)  
Fires Creek (first bridge above the lower game land line on US Forest Service road 442 to SR 1300)  
Tusquitee Creek (headwaters to lower SR 1300 bridge, including portions of Bluff Branch on game lands)  
Big Tuni Creek (including portions of tributaries on game lands)  
Chatuge Lake (not trout water)  
Shooting Creek (SR 1349 bridge to US 64 bridge at SR 1338)  
Hothouse Branch (including portions of tributaries on gamelands)  
Vineyard Creek (including portions of tributaries on game lands)
- (I) Graham County:  
Little Tennessee River (not trout water)  
Calderwood Reservoir (Cheoah Dam to Tennessee State line)  
Cheoah River (not trout water)  
Yellow Creek  
Santeetlah Reservoir (not trout water)  
West Buffalo Creek  
Little Buffalo Creek  
Santeetlah Creek (Johns Branch to mouth including portions of tributaries within this section located on game lands, excluding Johns Branch and Little Santeetlah Creek)  
(Big) Snowbird Creek (old railroad junction to SR 1127 bridge, including portions of tributaries on game lands)  
Mountain Creek (game lands boundary to SR 1138 bridge)  
Long Creek (portion not on game lands)  
Tulula Creek (headwaters to lower bridge on SR 1275)  
Franks Creek  
Cheoah Reservoir



- (J) Fontana Reservoir (not trout water)
- Stecoah Creek
- Sawyer Creek
- Panther Creek (including portions of tributaries on game lands)
- Haywood County:
- Pigeon River (Stamey Cove Branch to upstream US 19-23 bridge)
- Cold Springs Creek (including portions of tributaries on game lands)
- Jonathans Creek - lower (SR 1394 bridge to Pigeon River)
- Jonathans Creek - upper [SR 1302 bridge (west) to SR 1307 bridge]
- Hemphill Creek
- West Fork Pigeon River (triple arch bridge on highway NC 215 to Queens Creek, including portions of tributaries within this section located on game lands, except Middle Prong)
- Richland Creek (Russ Avenue bridge to US 19A-23 bridge)
- West Fork Pigeon River (Queen Creek to the first game land boundary upstream of Lake Logan) [Delayed Harvest Regulations apply. See Subparagraph (a)(5) of this Rule.]
- (K) Henderson County:
- (Rocky) Broad River (one-half mile north of Bat Cave to Rutherford County line)
- Green River - upper (mouth of Joe Creek to mouth of Bobs Creek)
- Green River - lower (Lake Summit Dam to I-26 bridge)
- Camp Creek (SR 1919 to Polk County line)
- (Big) Hungry River
- Little Hungry River
- French Broad River (not trout water)
- Cane Creek (SR 1551 bridge to US 25 bridge)
- Mud Creek (not trout water)
- Clear Creek (SR 1591 bridge at Jack Mountain Lane to SR 1572)
- Mills River (not trout water)
- North Fork Mills River (game lands portion below the Hendersonville watershed dam). [Delayed Harvest Regulations apply. See Subparagraph (a)(5) of this Rule.]
- (L) Jackson County:
- Tuckasegee River (confluence with West Fork Tuckasegee River to SR 1534 bridge at Wilmot) [Delayed Harvest Regulations apply to that portion between NC 107 bridge at Love Field and the Dillsboro dam. See Subparagraph (a)(5) of this Rule.]
- Scott Creek (entire stream, except where posted against trespass)
- Dark Ridge Creek (Jones Creek to Scotts Creek)
- ~~Buff Creek (uppermost crossing on SR 1457 to Scott Creek)~~
- Savannah Creek (Headwaters to Bradley's Packing House on NC 116)
- Greens Creek (Greens Creek Baptist Church on SR 1730 to Savannah Creek)
- Cullowhee Creek (Tilley Creek to Tuckasegee River)
- Bear Creek Lake
- Wolf Creek [not Hatchery Supported trout water, see Subparagraph (a)(2) of this Rule.]
- Wolf Creek Lake
- Balsam Lake
- Tanasee Creek [not Hatchery Supported trout water, see Subparagraph (a)(2) of this Rule.]
- Tanasee Creek Lake
- ~~West Fork Tuckasegee River (Shoal Creek to existing water level of Little Glenville Lake)~~
- ~~Shoal Creek (Glenville Reservoir pipeline to mouth)~~
- (M) Macon County:
- Little Tennessee River (not trout water)
- Nantahala River (Nantahala Dam to Swain County line) [Delayed Harvest Regulations apply to the portion from Whiteoak Creek to the Nantahala Power and Light powerhouse hydropower discharge canal. See Subparagraph (a)(5) of this Rule.]
- Queens Creek Lake
- Burningtown Creek (including portions of tributaries on game lands)

- Cullasaja River Sequoyah Dam to US 64 bridge near junction of SR 1672, including portions of tributaries on game lands, excluding those portions of Buck Creek and Turtle Pond Creek on game lands. [Wild Trout Regulations apply. See Subparagraphs (a)(2) and (a)(6) of this Rule.]
- Ellijay Creek (except where posted against trespass, including portions of tributaries on game lands)
- Skitty Creek
- Cliffside Lake
- Cartoogechaye Creek (US 64 bridge to Little Tennessee River)
- Tessentee Creek (Nichols Branch to Little Tennessee River, except where posted against trespassing)
- ~~Savannah River (not trout water)~~
- ~~Big Creek (base of falls to Georgia State line, including portions of tributaries within this Section located on game lands)~~
- (N) Madison County:  
 French Broad River (not trout water)  
 Shut-In Creek (including portions of tributaries on game lands)  
 Spring Creek (junction of NC 209 and NC 63 to lower US Forest Service boundary line, including portions of tributaries on game lands)  
 Meadow Fork Creek  
 Roaring Fork (including portions of tributaries on game lands)  
 Little Creek  
 Max Patch Pond  
 Big Laurel Creek (Mars Hill Watershed boundary to the SR 1318 bridge, also known as Big Laurel Road bridge, downstream of Bearpen Branch)
- Big Laurel Creek (NC 208 bridge to US 25-70 bridge) [Delayed Harvest Regulations apply. See Subparagraph (a)(5) of this Rule.]
- Spillcorn Creek (entire stream, excluding tributaries)
- Shelton Laurel Creek (confluence of Big Creek and Mill Creek to NC 208 bridge at Belva)
- Shelton Laurel Creek (NC 208 bridge at Belva to the confluence with Big Laurel Creek) [Delayed Harvest Regulations apply. See Subparagraph (a)(5) of this Rule.]
- Mill Creek (headwaters to confluence with Big Creek)
- Puncheon Fork (Hampton Creek to Big Laurel Creek)
- Big Pine Creek (SR 1151 bridge to French Broad River)
- Ivy Creek (not trout waters)
- Little Ivy Creek (confluence of Middle Fork and Paint Fork at Beech Glen to confluence with Ivy Creek at Forks of Ivy)
- (O) McDowell County:  
 Catawba River (Catawba Falls Campground to Old Fort Recreation Park)
- Buck Creek (portion not on game lands, not trout water)
- Little Buck Creek (game land portion including portions of tributaries on game lands)
- Curtis Creek game lands portion downstream of US Forest Service boundary at Deep Branch. [Delayed Harvest Regulations apply. See Subparagraph (a)(5) of this Rule.]
- North Fork Catawba River (headwaters to SR 1569 bridge)
- Armstrong Creek (Cato Holler line downstream to upper Greenlee line)
- Mill Creek (upper railroad bridge to U.S. 70 Bridge, except where posted against trespass)
- (P) Mitchell County:  
 Nolichucky River (not trout water)

- Big Rock Creek (headwaters to NC 226 bridge at SR 1307 intersection)
- Little Rock Creek (Green Creek Bridge to Big Rock Creek, except where posted against trespass)
- Cane Creek (SR 1219 to NC 226 bridge)
- Cane Creek (NC 226 bridge to NC 80 bridge) [Delayed Harvest Regulations apply. See Subparagraph (a)(5) of this Rule.]
- Grassy Creek (East Fork Grassy Creek to mouth)
- East Fork Grassy Creek
- North Toe River (Avery County line to SR 1121 bridge)
- North Toe River (US 19E bridge to NC 226 bridge)  
[Delayed Harvest Regulations apply. See Subparagraph (a)(5) of this Rule.]
- (Q) Polk County:  
Broad River (not trout water)
- North Pacolet River (Pacolet Falls to NC 108 bridge)
- Fork Creek (Fork Creek Church on SR 1100 to North Pacolet River)
- Big Fall Creek (portion above and below water supply reservoir)
- Green River (Fishtop Falls Access Area to mouth of Brights Creek) [Delayed Harvest Regulations apply to the portion from Fishtop Falls Access Area to Cove Creek. See Subparagraph (a)(5) of this Rule.]
- Little Cove Creek (including portions of tributaries on game lands)
- Cove Creek (including portions of tributaries on game lands)
- Camp Creek [Henderson County line (top of falls) to Green River]
- (R) Rutherford County:  
(Rocky) Broad River (Henderson County line to US 64/74 bridge, except where posted against trespass)
- (S) Stokes County:
- Dan River (Virginia State line downstream to a point 200 yards below the end of SR 1421)
- (T) Surry County:  
Yadkin River (not trout water)
- Ararat River (SR 1727 bridge downstream to the NC 103 bridge)
- Stewarts Creek (not trout water)
- Pauls Creek (Virginia State line to 0.3 mile below SR 1625 bridge - lower Caudle property line)
- Fisher River (Cooper Creek) (Virginia State line to Interstate 77)
- Little Fisher River (Virginia State line to NC 89 bridge)
- Mitchell River (0.6 mile upstream of the end of SR 1333 to the SR 1330 bridge below Kapps Mill Dam) [Delayed Harvest Regulations apply. See Subparagraph (a)(5) of this Rule.]
- (U) Swain County:  
Little Tennessee River (not trout water)
- Calderwood Reservoir (Cheoah Dam to Tennessee State line)
- Cheoah Reservoir
- Fontana Reservoir (not trout water)
- Alarka Creek (game lands boundary to Fontana Reservoir)
- Nantahala River (Macon County line to existing Fontana Reservoir water level)
- Tuckasegee River (not trout water)
- Deep Creek (Great Smoky Mountains National Park boundary line to Tuckasegee River)
- Connelly Creek (including portions of tributaries on game lands)
- (V) Transylvania County:  
French Broad River (junction of west and north forks to US 276 bridge)
- Davidson River (Avery Creek to lower US Forest Service boundary line)
- East Fork French Broad River (Glady Fork to French

- Broad River) [Delayed Harvest Regulations apply. See Subparagraph (a)(5) of this Rule.]  
 Little River (confluence of Lake Dense outflow to Hooker Falls) [Delayed Harvest Regulations apply. See Subparagraph (a)(5) of this Rule.]  
 Middle Fork French Broad River  
 West Fork French Broad River (SR 1312 and SR 1309 intersection to junction of west and north forks, including portions of tributaries within this section located on game lands)
- (W) Watauga County:  
 New River (not trout waters)  
     North Fork New River (from confluence with Maine and Mine branches to Ashe County line)  
     Maine Branch (headwaters to North Fork New River)  
     South New Fork River (not trout water)  
     Meat Camp Creek  
     Norris Fork Creek  
     Howard Creek (downstream from lower falls)  
     Middle Fork New River (Lake Chetola Dam to South Fork New River)  
 Yadkin River (not trout water)  
     Stony Fork (headwaters to Wilkes County line)  
     Elk Creek (headwaters to gravel pit on SR 1508, except where posted against trespass)  
 Watauga River (SR 1557 bridge to NC 105 bridge and SR 1114 bridge to NC 194 bridge at Valle Crusis). [Delayed Harvest Regulations apply. See Subparagraph (a)(5) of this Rule.]  
 Beech Creek  
     Buckeye Creek Reservoir  
     Coffee Lake  
     Beaverdam Creek (confluence of Beaverdam Creek and Little Beaverdam Creek to an unnamed tributary adjacent to the intersection of SR 1201 and SR 1203)  
     Laurel Creek
- Cove Creek (SR 1233 bridge at Zionville to SR 1233 bridge at Amantha)  
 Dutch Creek (second bridge on SR 1134 to mouth)  
 Wilkes County:  
 Yadkin River (not trout water)  
 Roaring River (not trout water)  
     East Prong Roaring River (Bullhead Creek to Brewer's Mill on SR 1943) [Delayed Harvest Regulations apply to portion on Stone Mountain State Park. See Subparagraph (a)(5) of this Rule.]  
     Stone Mountain Creek [Delayed Harvest Regulations apply. See Subparagraph (a)(5) of this Rule.]  
     Middle Prong Roaring River (headwaters to second bridge on SR 1736)  
     Bell Branch Pond  
     Boundary Line Pond  
     West Prong Roaring River (not trout waters)  
     Pike Creek  
     Pike Creek Pond  
     Cub Creek (0.5 miles upstream of SR 2460 bridge to SR 1001 bridge)  
     Reddies River (not trout water) (Town of North Wilkesboro water intake dam to confluence with Yadkin River) [Delayed Harvest Regulations apply. See Subparagraph (a)(5) of this Rule.]  
     Middle Fork Reddies River (Clear Prong) (headwaters to bridge on SR 1580)  
     South Fork Reddies River (headwaters to confluence with Middle Fork Reddies River)  
     North Fork Reddies River (Vannoy Creek) (headwaters

- to Union School  
bridge on SR 1559)  
Darnell Creek  
(North Prong  
Reddies River)  
(downstream  
ford on SR  
1569 to  
confluence  
with North  
Fork Reddies  
River)
- Lewis Fork Creek (not trout  
water)
- South Prong Lewis Fork  
(headwaters to Lewis Fork Baptist  
Church)
- Fall Creek (except portions  
posted against trespass)
- (Y) Yancey County:  
Nolichucky River (not trout water)  
Cane River [Bee Branch (SR  
1110) to Bowlens Creek]  
Bald Mountain Creek  
(except portions posted against  
trespass)  
Indian Creek (not trout  
water)  
Price Creek (junction of SR  
1120 and SR 1121 to Indian Creek)  
North Toe River (not trout  
water)
- South Toe River (Clear  
Creek to lower  
boundary line of  
Yancey County  
recreation park except  
where posted against  
trespass)
- (2) Wild Trout Waters. All waters designated as  
Public Mountain Trout Waters on the game  
lands listed in Subparagraph (b)(2) of 15A  
NCAC 10D .0104, are classified as Wild Trout  
Waters unless specifically classified otherwise  
in Subparagraph (a)(1) of this Rule. The trout  
waters listed in this Subparagraph are also  
classified as Wild Trout Waters.
- (A) Alleghany County:  
Big Sandy Creek (portion on Stone  
Mountain State Park)  
Ramey Creek (entire stream)  
Stone Mountain Creek (that portion  
on Stone Mountain State Park)
- (B) Ashe County:  
Big Horse Creek (Virginia State Line  
to Mud Creek at SR 1363) [Catch and  
Release/Artificial Lures Only  
Regulations apply. See Subparagraph  
(a)(3) of this Rule.]
- Unnamed tributary of Three Top  
Creek (portion located on Three Top  
Mountain Game Land) [Catch and  
Release/Artificial Lures Only  
Regulations apply. See Subparagraph  
(a)(3) of this Rule.]
- (C) Avery County:  
Birchfield Creek (entire stream)  
Cow Camp Creek (entire stream)  
Cranberry Creek (headwaters to US  
19E/NC 194 bridge)  
Elk River (portion on Lees-McRae  
College property, excluding the  
millpond) [Catch and  
Release/Artificial Flies Only  
Regulations apply. See Subparagraph  
(a)(4) of this Rule.]  
Gragg Prong (entire stream)  
Horse Creek (entire stream)  
Jones Creek (entire stream)  
Kentucky Creek (entire stream)  
North Harper Creek (entire stream)  
Plumtree Creek (entire stream)  
Roaring Creek (entire stream)  
Rockhouse Creek (entire stream)  
South Harper Creek (entire stream)  
Webb Prong (entire stream)  
Wilson Creek [Catch and  
Release/Artificial Lures Only  
Regulations apply. See Subparagraph  
(a)(3) of this Rule.]
- (D) Buncombe County:  
Carter Creek (game land portion)  
[Catch and Release/Artificial Lures  
only Regulations apply. See  
Subparagraph (a)(3) of this Rule.]
- (E) Burke County:  
All waters located on South Mountain  
State Park, except the main stream of  
Jacob Fork  
Between the mouth of Shinny Creek  
and the lower park boundary where  
Delayed Harvest Regulations apply,  
and Henry Fork and tributaries where  
Catch and Release/Artificial Lures  
Only Regulations apply. See  
Subparagraphs (a)(3) and (a)(5) of  
this Rule.  
Nettle Branch (game land portion)
- (F) Caldwell County:  
Buffalo Creek (Watauga County line  
to Long Ridge Branch including  
tributaries on game lands)  
Joes Creek (Watauga County line to  
first falls upstream of the end of SR  
1574)  
Rockhouse Creek (entire stream)
- (G) Cherokee County:

- Bald Creek (game land portions, including tributaries) [Wild Trout/Natural Bait Waters Regulations apply. See Subparagraph (a)(6) of this Rule.]
- Dockery Creek (game land portions, including tributaries) [Wild Trout/Natural Bait Waters Regulations apply. See Subparagraph (a)(6) of this Rule.]
- (H) Graham County:  
Little Buffalo Creek (entire stream)  
South Fork Squally Creek (entire stream)  
Squally Creek (entire stream)
- (I) Haywood County  
Hurricane Creek (including portions of tributaries on game lands) [Wild Trout/Natural Bait Waters Regulations apply. See Subparagraph (a)(6) of this Rule.]
- (J) Henderson County:  
Green River (I-26 bridge to Henderson/Polk County line)
- (K) Jackson County:  
Buff Creek (entire stream) [Wild Trout/Natural Bait Waters Regulations apply. See Subparagraph (a)(6) of this Rule.]  
Gage Creek (entire stream)  
North Fork Scott Creek (entire stream)  
Shoal Creek (Glenville Reservoir pipeline to mouth) [Wild Trout/Natural Bait Waters Regulations apply. See Subparagraph (a)(6) of this Rule.]  
Tanasee Creek (entire stream)  
West Fork Tuckasegee River (Shoal Creek to existing water level of Little Glenville Lake) [Wild Trout/Natural Bait Waters Regulations apply. See Subparagraph (a)(6) of this Rule.]  
Whitewater River (downstream from Silver Run Creek to South Carolina State line)  
Wolf Creek (entire stream, except Balsam Lake and Wolf Creek Lake)
- (L) Madison County:  
Big Creek (headwaters to the lower game land boundary, including tributaries) [Wild Trout/Natural Bait Waters Regulations apply. See Subparagraph (a)(6) of this Rule.]
- (M) Mitchell County:  
Green Creek (headwaters to Green Creek Bridge, except where posted against trespass)
- Little Rock Creek (headwaters to Green Creek Bridge, including all tributaries, except where posted against trespass)  
Wiles Creek (game land boundary to mouth)
- (N) Polk County  
Green River (Henderson County line to Fishtop Falls Access Area)  
Pulliam (Fulloms) Creek and tributaries (game lands portions)
- (O) Transylvania County:  
All waters located on Gorges State Park  
Whitewater River (downstream from Silver Run Creek to South Carolina State line)
- (P) Watauga County:  
Dugger Creek (portions on Laurelmore development, including tributaries. Anglers must check in at Laurelmore security office on Triplett Rd. prior to fishing) [Catch and Release/Artificial Lure Only Trout Waters Regulations apply. See subparagraph (a)(3) of this Rule.]  
Dutch Creek (headwaters to second bridge on SR 1134 1134)  
Howards Creek (headwaters to lower falls)  
Laurel Creek (portions on Laurelmore development, including tributaries. Anglers must check in at Laurelmore security office on Triplett Rd. prior to fishing) [Catch and Release/Artificial Lure Only Trout Waters Regulations apply. See subparagraph (a)(3) of this Rule.]  
Watauga River (Avery County line to steel bridge at Riverside Farm Road)
- (Q) Wilkes County:  
Big Sandy Creek (portion on Stone Mountain State Park)  
Dugger Creek (portions on Laurelmore development, including tributaries. Anglers must check in at Laurelmore security office on Triplett Rd. prior to fishing) [Catch and Release/Artificial Lure Only Trout Waters Regulations apply. See subparagraph (a)(3) of this Rule.]  
Garden Creek (portion on Stone Mountain State Park)  
Harris Creek and tributaries (portions on Stone Mountain State Park) [Catch and Release  
Artificial Lures Only Regulations apply. See Subparagraph (a)(4) of this Rule.]

- Widow Creek (portion on Stone Mountain State Park)
- (R) Yancey County:  
Cattail Creek (Bridge at Mountain Farm Community Road (Private) to NC 197 bridge)  
Lickskillet Creek (entire stream)  
Middle Creek (game land boundary to mouth)
- (3) Catch and Release/Artificial Lures Only Trout Waters. Those portions of designated wild trout waters as listed in this Subparagraph, including tributaries except as noted, are further classified as Catch and Release/Artificial Lures Only waters. Only artificial lures having one single hook may be used. No fish may be harvested or be in possession while fishing these streams:
- (A) Ashe County:  
Big Horse Creek (Virginia State line to Mud Creek at SR 1363 excluding tributaries)  
Unnamed tributary of Three Top Creek (portion located on Three Top Mountain Game Lands)
- (B) Avery County:  
Wilson Creek (game land portion)
- (C) Buncombe County:  
Carter Creek (game land portion)
- (D) Burke County:  
Henry Fork (portion on South Mountains State Park)
- (E) Jackson County:  
Flat Creek  
Tuckasegee River (upstream of Clarke property)
- (F) McDowell County:  
Newberry Creek (game land portion)
- (G) Watauga County:  
Dugger Creek (portions on Laurelmor development, including tributaries. Anglers must check in at Laurelmor security office on Triplett Rd. prior to fishing)  
Laurel Creek (portions on Laurelmor development, including tributaries. Anglers must check in at Laurelmor security office on Triplett Rd. prior to fishing)
- ~~(G)~~(H) Wilkes County:  
Dugger Creek (portions on Laurelmor development, including tributaries. Anglers must check in at Laurelmor security office on Triplett Rd. prior to fishing)  
Harris Creek (portion on Stone Mountain State Park)
- ~~(H)~~(I) Yancey County:
- Lower Creek  
Upper Creek
- (4) Catch and Release/Artificial Flies Only Trout Waters. Those portions of designated wild trout waters as listed in this Subparagraph, including tributaries except as noted, are further classified as Catch and Release/Fly Fishing Only waters. Only artificial flies having one single hook may be used. No fish may be harvested or be in possession while fishing these streams:
- (A) Avery County:  
Elk River (portion on Lees-McRae College property, excluding the millpond)  
Lost Cove Creek (game land portion, excluding Gragg Prong and Rockhouse Creek)
- (B) Transylvania County:  
Davidson River (headwaters to Avery Creek, excluding Avery Creek, Looking Glass Creek and Grogan Creek)
- (C) Yancey County:  
South Toe River (portion from the concrete bridge above Black Mountain Campgroup downstream to game land boundary, excluding Camp Creek and Big Lost Cove Creek)
- (5) Delayed Harvest Trout Waters. Those portions of designated Hatchery Supported Trout Waters as listed in this Subparagraph, excluding tributaries except as noted, are further classified as Delayed Harvest Waters. Between 1 October and one-half hour after sunset on the Friday before the first Saturday of the following June, inclusive, it is unlawful to possess natural ~~bait and only artificial lures with one single hook may be used. No fish may be harvested or be in possession while fishing these streams during this time. bait, use more than a single hook on an artificial lure, or harvest or possess trout while fishing these waters.~~ These waters are closed to fishing between one-half hour after sunset on the Friday before the first Saturday in June and 6:00 a.m. on the first Saturday in June. At 6:00 a.m. on the first Saturday in June these ~~streams—waters~~ are open for fishing under Hatchery Supported Waters ~~rules—rules for youth anglers only. Youth is defined as a person under 16 years of age. At 12:00 p.m. on the first Saturday in June these streams open for fishing under Hatchery Supported Waters rules for all anglers:~~
- (A) Ashe County:  
Trout Lake

- Helton Creek (Virginia state line to New River)
- (B) Burke County:  
Jacob Fork (Shinny Creek to lower South Mountains State Park boundary)
- (C) Haywood County:  
West Fork Pigeon River (Queen Creek to the first game land boundary upstream of Lake Logan)
- (D) Henderson County:  
North Fork Mills River (game land portion below the Hendersonville watershed dam)
- (E) Jackson County:  
Tuckasegee River (NC 107 bridge at Love Field Downstream to the Dillsboro dam)
- (F) Macon County:  
Nantahala River (Whiteoak Creek to the Nantahala hydropower discharge canal)
- (G) Madison County:  
Big Laurel Creek (NC 208 bridge to the US 25-70 bridge)  
Shelton Laurel Creek (NC 208 bridge at Belva to the confluence with Big Laurel Creek)
- (H) McDowell County:  
Curtis Creek (game lands portion downstream of U.S. Forest Service boundary at Deep Branch)
- (I) Mitchell County:  
Cane Creek (NC 226 bridge to NC 80 bridge)  
North Toe River (US 19E bridge to NC 226 bridge)
- (J) Polk County:  
Green River (Fishtop Falls Access Area to confluence with Cove Creek)
- (K) Surry County:  
Mitchell River (0.6 mile upstream of the end of SR 1333 to the SR 1330 bridge below Kapps Mill Dam)
- (L) Transylvania County:  
East Fork French Broad River (Gladly Fork to French Broad River)  
Little River (confluence of Lake Dense outflow to Hooker Falls)
- (M) Watauga County:  
Watauga River (SR 1557 bridge to NC 105 bridge and SR 1114 bridge to NC 194 bridge at Valle Crucis)
- (N) Wilkes County:  
East Prong Roaring River (from Bullhead Creek downstream to the Stone Mountain State Park lower boundary)
- Stone Mountain Creek (from falls at Allegheny County line to confluence with East Prong)  
Roaring River and Bullhead Creek in Stone Mountain State Park)  
Reddies River (Town of North Wilkesboro water intake dam to confluence with Yadkin River)
- (6) Wild Trout/Natural Bait Waters. Those portions of designated Wild Trout Waters as listed in this Subparagraph, including tributaries except as noted, are further classified as Wild Trout/Natural Bait Waters. All artificial lures and natural baits, except live fish, are allowed provided they are fished using only one single hook. The creel limit, size limit, and open season are the same as other Wild Trout Waters [see 15A NCAC 10C .0305(a)].
- (A) Cherokee County:  
Bald Creek (game land portions)  
Dockery Creek (game land portions)  
Tellico River (Fain Ford to Tennessee state line excluding tributaries)
- (B) Clay County:  
Buck Creek (game land portion downstream of US 64 bridge)
- (C) Graham County:  
Deep Creek  
Long Creek (game land portion)
- (D) Haywood County:  
Hurricane Creek (including portions of tributaries on game lands)
- (E) Jackson County:  
Buff Creek  
Chattooga River (SR 1100 bridge to South Carolina state line)  
(lower) Fowler Creek (game land portion)  
Scotsman Creek (game land portion)  
Shoal Creek (Glennville Reservoir pipeline to mouth)  
West Fork Tuckasegee River (Shoal Creek to existing water level of Little Glennville Lake)
- (F) Macon County:  
Chattooga River (SR 1100 bridge to South Carolina state line)  
Jarrett Creek (game land portion)  
Kimsey Creek  
Overflow Creek (game land portion)  
Park Creek  
Tellico Creek (game land portion)  
Turtle Pond Creek (game land portion)
- (G) Madison County:  
Big Creek (headwaters to the lower game land boundary, including tributaries)



- (H) Transylvania County:  
North Fork French Broad River  
(game land portions downstream of  
SR 1326)  
Thompson River (SR 1152 to South  
Carolina state line, except where  
posted against trespass,  
including portions of tributaries  
within this section located on game  
lands)

may be used. No person shall possess  
natural bait while fishing wild trout  
waters except those waters listed in  
15A NCAC 10C .0205(a)(6).

- (E) Night Fishing. Fishing on wild trout  
waters is not allowed between  
one-half hour after sunset and  
one-half hour before sunrise.

*Authority G.S. 113-134; 113-272; 113-292.*

- (7) Special Regulation Trout Waters. Those  
portions of Designated Public Mountain Trout  
Waters as listed in this Subparagraph,  
excluding tributaries as noted, are further  
classified as Special Regulation Trout Waters.  
Regulations specific to each water are defined  
below:

Burke County  
Catawba River (Muddy Creek to City  
of Morganton water intake dam).  
Regulation: The daily creel limit is 7  
trout and only one of which may be  
greater than 14 inches in length; no  
bait restrictions; no closed season.

(b) Fishing in Trout Waters

- (1) Hatchery Supported Trout Waters. It is  
unlawful to take fish of any kind by any  
manner whatsoever from designated public  
mountain trout waters during the closed  
seasons for trout fishing. The seasons, size  
limits, creel limits and possession limits apply  
in all waters, whether designated or not, as  
public mountain trout waters. Except in power  
reservoirs and city water supply reservoirs so  
designated, it is unlawful to fish in designated  
public mountain trout waters with more than  
one line. Night fishing is not allowed in most  
hatchery supported trout waters on game lands  
[see 15A NCAC 10D .0104(b)(1)].
- (2) Wild Trout Waters. Except as otherwise  
provided in Subparagraphs (a)(3), (a)(4), and  
(a)(6) of this Rule, the following rules apply to  
fishing in wild trout waters.

- (A) Open Season. There is a year round  
open season for the licensed taking of  
trout.
- (B) Creel Limit. The daily creel limit is  
four trout.
- (C) Size Limit. The minimum size limit  
is seven inches.
- (D) Manner of Taking. Only artificial  
lures having only one single hook

**15A NCAC 10C .0206 TROT LINES AND SET-HOOKS**

Trotlines and set-hooks may be set in the inland waters of North  
Carolina, provided no live bait is used; except that no trotlines or  
set-hooks may be set in designated public mountain trout waters  
or in any of the impounded waters on the Sandhills Game Land.  
In Lake Waccamaw, trotlines or set-hooks may be set only from  
October 1 through April 30. For the purposes of this Rule, a  
set-hook is defined as any hook and line ~~which that~~ is attached at  
one end only to a stationary or floating object and ~~which that~~ is  
not under immediate control and attendance of the person using  
~~such the~~ device. Each ~~trotline and set hook, except jug hooks,~~  
~~trotline, set hook, and jug hook shall bear legible and indelible~~  
~~identification of the user's name and address. shall have attached~~  
~~the name and address of the user legibly and indelibly inscribed.~~  
For purposes of this Rule, a "jug-hook" is a single hook and line  
attached to a ~~floating jug float~~. Each trotline shall be  
conspicuously marked at each end and each set-hook  
conspicuously marked at one end with a flag, float, or other  
prominent object so that its location is readily discernable by  
boat operators and swimmers. Trotlines must be set parallel to  
the nearest shore in all inland fishing waters unless otherwise  
prohibited. The number of jug-hooks that may be fished is  
limited to 100 per boat. All ~~trotlines and throwlines-trotlines,~~  
~~throwlines, set-hooks, and jug-hooks~~ must be fished at least once  
daily and all fish removed at that time. ~~Untended trotlines and~~  
~~set hooks other than jug hooks-trotlines, set-hooks, and jug-~~  
~~hooks~~ may be removed from the water by wildlife enforcement  
officers when located in areas of multiple water use. For  
purposes of this Rule, a trotline or set-hook is considered  
"untended" when no bait is present on the device. ~~Recognizing~~  
~~the safety hazards to swimmers, boaters and water skiers which~~  
~~are created by floating metal cans and glass jugs, it~~ It is  
unlawful to use metal cans or glass jugs as floats. ~~This shall not~~  
~~be construed to prohibit the use of plastic jugs, cork, styrofoam,~~  
~~or similar materials as floats.~~

*Authority G.S. 113-134; 113-272; 113-292.*

**SECTION .0300 - GAME FISH**

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

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

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**PROPOSED RULES**

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GAME FISHES	DAILY CREEL LIMITS	MINIMUM SIZE LIMITS	OPEN SEASON
Mountain Trout:			
Wild Trout Waters	4	7 in.	ALL YEAR (exc. (3))
Hatchery Supported Trout Waters and undesignated waters	7 (exc. (3))	None (exc. (3))	All year, except March 1 to <del>6:00</del> <u>7:00</u> a.m. on first Saturday in April (exc. (3))
Muskellunge	2 (exc. (21))	30 in. (exc. (21))	ALL YEAR
Pickereel: chain	None	None	ALL YEAR
(Jack) and redbfin			
Walleye	8 (exc. (9))	None (exc. (9))	ALL YEAR
Sauger	8	15 in.	ALL YEAR
Black Bass:			
Largemouth	5	14 in. (excs. (8&10))	ALL YEAR (exc. (17))
Smallmouth and Spotted	5 (exc. (22))	12 in. (excs (8,10&22))	ALL YEAR
White Bass	25	None	ALL YEAR
Sea Trout (Spotted or Speckled)	10	12 in.	ALL YEAR
Flounder	8	14 in.	ALL YEAR
Red drum (channel bass, red fish, puppy drum)	1	18 in. (exc. (19))	ALL YEAR
Striped Bass and their hybrids	8 aggregate (excs. 1,2,5,6,11,&13)	16 in. (excs.1,2,5,6,11&13)	ALL YEAR (excs. 6,13&15)
(Morone Hybrids)			
Shad: (American and hickory)	10 aggregate ( <u>exc. (23))</u> )	None	ALL YEAR (exc. (18))
Kokanee Salmon	7	None	ALL YEAR
Crappie and sunfish	None (excs. 4,12&16)	None (exc. (12))	ALL YEAR (exc. (4))
NONGAME FISHES	None (excs. <del>(14&amp;20))</del> <u>14,20&amp;24</u> )	None	ALL YEAR ( <del>exc. (20)</del> <u>(excs. 20&amp;24)</u> (exc. (7))

(b) Exceptions

- |     |  |   |
|-----|--|---|
| (1) | In the Dan River upstream from its confluence with Bannister River to the Brantly Steam Plant Dam and in John H. Kerr Reservoir the creel limit on striped bass and Morone hybrids is two in the aggregate and the minimum size limit is 26 inches from October 1 through May 31. From June 1 through September 30 the daily creel limit on striped bass and Morone hybrids is four in aggregate with no minimum size limit. |   |
| (2) | In the Cape Fear River upstream of Buckhorn Dam and the Deep and Haw rivers to the first impoundment and in Gaston, Roanoke Rapids and B. Everett Jordan reservoirs the creel limit on striped bass and Morone hybrids is four in the aggregate and the minimum size limit is 20   | <div style="text-align: right; margin-right: 10px;">inches. In Lake Norman the creel limit on striped bass and Morone hybrids is four in aggregate with a minimum size limit is 16 inches from October 1 through May 31 and no minimum size limit from June 1 through September 30.</div> <div style="text-align: right; margin-right: 10px;">(3) In designated public mountain trout waters the season for taking all species of fish is the same as the trout fishing season. There is no closed season on taking trout from Nantahala River and all tributaries (excluding impoundments) upstream from Nantahala Lake, Linville River within Linville Gorge Wilderness Area (including tributaries), Catawba River from Muddy Creek to the City of Morganton water intake dam, and the impounded waters of</div> |

- power reservoirs and municipally-owned water supply reservoirs open to the public for fishing. In Lake Lure the daily creel limit for trout is five fish and minimum size limit for trout is 15 inches.
- (4) On Mattamuskeet Lake, special federal regulations apply.
  - (5) In the inland fishing waters of ~~Cape Fear, Neuse, Pee Dee, Pungo and Tar Pamlico rivers~~ and their tributaries extending upstream to the first impoundment of the main course on the river or its tributaries, and ~~Lake Mattamuskeet~~, in all other inland fishing waters east of Interstate 95, subject to the exceptions listed in this paragraph, the daily creel limit for striped bass and their hybrids is ~~three~~ two fish in aggregate and the minimum length limit is 18 inches. In the Tar Pamlico River and its tributaries upstream of the Grimesland bridge and in the Neuse River and its tributaries upstream of the NC 55 bridge in Lenoir County, inches and no striped bass or striped bass hybrids between the lengths of 22 inches and 27 inches shall may be retained during the period April 1 through May 31. possessed. In these waters, the season for taking and possessing striped bass is closed from May 1 through September 30. In the inland fishing waters of the Cape Fear River and its tributaries, the season for taking and possessing striped bass is closed year-round. In the Pee Dee River and its tributaries from the South Carolina line upstream to Blewett Falls Dam, the season for taking and possessing striped bass and their hybrids is open year-round, the daily creel limit is three fish in aggregate and the minimum length limit is 18 inches.
  - (6) In the inland and joint fishing waters [as identified in 15A NCAC 10C .0107(1)(e)] of the Roanoke River Striped Bass Management Area, which includes the Roanoke, Cashie, Middle and Eastmost rivers and their tributaries, the open season for taking and possessing striped bass and their 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 their hybrids is two fish in aggregate, the minimum size limit is 18 inches. No fish between 22 inches and 27 inches in length shall be retained in the daily creel limit. Only one fish larger than 27 inches may be retained in the daily creel limit.
  - (7) See 15A NCAC 10C .0407 for open seasons for taking nongame fishes by special devices.
  - (8) The maximum combined number of black bass of all species that may be retained per day is five fish, no more than two of which may be smaller than the applicable minimum size limit. The minimum size limit for all species of black bass is 14 inches, with no exception in Lake Luke Marion in Moore County, Reedy Creek Park lakes in Mecklenburg County, Lake Rim in Cumberland County, Lake Raleigh in Wake County, Randleman Reservoir in Randolph and Guilford counties, Roanoke River downstream of Roanoke Rapids Dam, Tar River downstream of Tar River Reservoir Dam, Neuse River downstream of Falls Lake Dam, Haw River downstream of Jordan Lake Dam, Deep River downstream of Lockville Dam, Cape Fear River, Waccamaw River downstream of Lake Waccamaw Dam, the entire Lumber River including Drowning Creek, in all their tributaries, and in all other public fishing waters east of Interstate 95, ~~except 95~~ (except Tar River Reservoir in Nash County, County), South Yadkin River downstream of Cooleemee Dam, the Yadkin-Pee Dee River from Idols Dam to the South Carolina State line including High Rock Lake, Tuckertown Lake, Badin Lake, Falls Lake, Lake Tillery and Blewett Falls Lake. In and west of Madison, Buncombe, Henderson and Polk Counties and in designated public mountain trout waters the minimum size limit is 12 inches. In B. Everett Jordan Reservoir, in Falls of the Neuse Reservoir to Lake Michie Dam on the Flat River and to the mouth of Cub Creek on Eno River, in Cane Creek Lake in Union County, Lake Lure, and Buckhorn Reservoir in Wilson and Nash counties the minimum size limit for largemouth bass is 16 inches, with no exception. In Lake Lure the minimum size limit for smallmouth bass is 14 inches, with no exception. In Lake Phelps and Shearon Harris Reservoir no black bass between 16 and 20 inches shall be possessed.
  - (9) A minimum size limit of 15 inches applies to walleye taken from Lake James and its tributaries, and the daily creel limit for walleye is four fish in Linville River upstream from the NC 126 bridge above Lake James.
  - (10) The minimum size limit for all black bass, with no exception, is 18 inches in ~~the following trophy bass lakes: Lake Thom-A-Lex in Davidson County.~~  
~~(A) Cane Creek Lake in Union County;~~  
~~(B) Lake Thom A Lex in Davidson County.~~
  - (11) In all impounded inland waters and their tributaries, except those waters described in Exceptions (1) and (4), the daily creel limit of striped bass and their hybrids may include not

- more than two fish of smaller size than the minimum size limit.
- (12) A daily creel limit of 20 fish and a minimum size limit of 10 inches apply to crappie in B. Everett Jordan Reservoir. A daily creel limit of 20 fish and a minimum size limit of eight inches apply to crappie in the following waters: all public waters west of Interstate 77, South Yadkin River downstream of Cooleemee Dam, the Yadkin-Pee Dee River from Idols Dam to the South Carolina State line including High Rock Lake, Tuckertown Lake, Badin Lake, Falls Lake, Lake Tillery, and Blewett Falls Lake, Lake Norman, Lake Hyc0, Lake Ramseur, Cane Creek Lake, Roanoke River downstream of Roanoke Rapids Dam, Tar River downstream of Tar River Reservoir Dam, Neuse River downstream of Falls Lake Dam, Haw River downstream of Jordan Lake Dam, Deep River downstream of Lockville Dam, Cape Fear River, Waccamaw River downstream of Lake Waccamaw Dam, the entire Lumber River including Drowning Creek, in all their tributaries, and in all other public fishing waters east of Interstate 95, except Tar River Reservoir in Nash County and Sutton Lake in New Hanover County. In Buckhorn Reservoir in Wilson and Nash counties a daily creel limit of 20 fish applies to crappie.
- (13) In designated inland fishing waters of Roanoke Sound, Croatan Sound, Albemarle Sound, Chowan River, Currituck Sound, Alligator River, Scuppernong River, and their tributaries (excluding the Roanoke River and Cashie River and their tributaries), striped bass fishing season, size limits and creel limits shall be the same as those established by rules or proclamations of the Marine Fisheries Commission in adjacent joint or coastal fishing waters.
- (14) The daily creel limits for channel, white, and blue catfish in designated urban lakes are stated in 15A NCAC 10C .0401(e).
- (15) The Executive Director may, by proclamation, suspend or extend the hook-and-line season for striped bass in the inland and joint waters of coastal rivers and their tributaries. It is unlawful to violate the provisions of any proclamation issued under this authority.
- (16) In Roanoke River downstream of Roanoke Rapids Dam, Tar River downstream of Tar River Reservoir Dam, Neuse River downstream of Falls Lake Dam, Haw River downstream of Jordan Lake Dam, Deep River downstream of Lockville Dam, Cape Fear River, Waccamaw River downstream of Lake Waccamaw Dam, the entire Lumber River including Drowning Creek, in all their tributaries, and in all other public fishing waters east of Interstate 95, except Tar River Reservoir in Nash County, the daily creel limit for sunfish is 30 in aggregate, no more than 12 of which shall be redbreast sunfish.
- (17) In Sutton Lake, no largemouth bass shall be retained from December 1 through March 31.
- (18) The season for taking American and hickory shad with bow nets is March 1 through April 30.
- (19) No red drum greater than 27 inches in length may be retained.
- (20) No person shall take or possess herring (alewife and blueback) that are greater than six inches in length from the inland fishing waters of coastal rivers and their tributaries including Roanoke River downstream of Roanoke Rapids Dam, Tar River downstream of Rocky Mount Mill Dam, Neuse River downstream of Milburnie Dam, Cape Fear River downstream of Buckhorn Dam, Pee Dee River downstream of Blewett Falls Dam, the entire Lumber River including Drowning Creek, in all their tributaries, and in all other inland fishing waters east of Interstate 95.
- (21) On the French Broad River between the Wilson Road bridge (SR 1540) at Pisgah Forest and the US 64 bridge near Etowah, a daily creel limit of one fish and a minimum size limit of 46 inches apply to muskellunge.
- (22) In the Alleghany County portion of New River downstream of Fields Dam (Grayson County, Virginia) no smallmouth bass between 14 and 20 inches in length shall be possessed and only one smallmouth bass greater than 20 inches may be possessed in the daily creel limit. No minimum size limit shall apply to smallmouth bass less than 14 inches in length in this section of New River.
- (23) In the inland waters of Roanoke River and its tributaries, the daily creel limit for American and hickory shad is 10 in aggregate, only one of which may be an American shad.
- (24) In Lake Norman and Badin Lake the daily creel limit for blue catfish greater than 32 inches in length is one fish.

*Authority G.S. 113-134; 113-292; 113-304; 113-305.*

#### **SECTION .0400 - NONGAME FISH**

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

(a) Except as permitted by the rules in this Section, it shall be unlawful to take nongame fishes from the inland fishing waters of North Carolina in any manner other than with hook and line or grabbing. Nongame fishes may be taken by hook and line or grabbing at any time without restriction as to size limits or creel limits, with the following exceptions:

- (1) Blue crabs shall have a minimum carapace width of five inches (point to point) and it is unlawful to possess more than 50 crabs per person per day or to exceed 100 crabs per vessel per day.
- (2) No person shall take or possess herring (alewife and blueback) that are greater than six inches in length from the inland fishing waters of coastal rivers and their tributaries including Roanoke River downstream of Roanoke Rapids Dam, Tar River downstream of Rocky Mount Mill Dam, Neuse River downstream of Milburnie Dam, Cape Fear River downstream of Buckhorn Dam, Pee Dee River downstream of Blewett Falls Dam, the entire Lumber River including Drowning Creek, and in all other inland fishing waters east of Interstate 95.
- (3) Grass carp shall not be taken or possessed on Lake James, Lookout Shoals Lake, Lake Norman, Mountain Island, Gaston and Roanoke Rapids reservoirs, except that two fish per day may be taken by bow and arrow.
- (4) No trotlines or set-hooks shall be used in the impounded waters located on the Sandhills Game Land or in designated public mountain trout waters.
- (5) In Lake Waccamaw, trotlines or set-hooks may be used only from October 1 through April 30.

(b) The season for taking nongame fishes by other hook and line methods in designated public mountain trout waters shall be the same as the trout fishing season.

(c) Nongame fishes, except alewife and blueback herring (greater than six inches in ~~length~~ length), blue crab, and bowfin, taken by hook and line, grabbling or by licensed special devices may be sold. Alewife and blueback herring less than 6 inches in length may not be sold except ~~in those waters specified in Paragraph (d) of Rule .0402 of this Section, where their possession is prohibited those fish collected from Kerr Reservoir (Granville, Vance, and Warren counties.)~~ Eels less than six inches in length may not be taken from inland waters for any purpose.

(d) Freshwater mussels, including the Asiatic clam (*Corbicula fluminea*), may only be taken from impounded waters, except mussels shall not be taken in Lake Waccamaw and in University Lake in Orange County. It is unlawful to possess more than 200 freshwater mussels.

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

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

Cedarock Pond, Alamance County  
Lake Julian, Buncombe County  
Lake Tomahawk, Buncombe County  
Frank Liske Park Pond, Cabarrus County  
High Rock Pond, Caswell County  
Rabbit Shuffle Pond, Caswell County

Lake Rim, Cumberland County  
Etheridge Pond on the Barnhill Public Fishing Area, Edgecombe County  
Indian Lake, Edgecombe County  
Newbold Pond on the Barnhill Public Fishing Area, Edgecombe County  
C.G. Hill Memorial Park Pond, Forsyth County  
Kernersville Lake, Forsyth County  
Winston Pond, Forsyth County  
Lake Devin, Granville County  
Bur-Mil Park Ponds, Guilford County  
Hagan-Stone Park Ponds, Guilford County  
Oka T. Hester Pond, Guilford County  
San-Lee Park Ponds, Lee County  
Kinston Neuseway Park Pond, Lenoir County  
Freedom Park Pond, Mecklenburg County  
Hornet's Nest Pond, Mecklenburg County  
McAlpine Lake, Mecklenburg County  
Park Road Pond, Mecklenburg County  
Reedy Creek Park Ponds, Mecklenburg County  
Squirrel Park Pond, Mecklenburg County  
Lake Luke Marion, Moore County  
Anderson Community Park, Orange County  
Lake Michael, Orange County  
River Park North Pond, Pitt County  
Laughter Pond, Polk County  
Ellerbe Community Lake, Richmond County  
Hamlet City Lake, Richmond County  
Indian Camp Lake, Richmond County  
Hinson Lake, Richmond County  
Salisbury Community Lake, Rowan County  
Albemarle City Lake, Stanly County  
Big Elkin Creek, Surry County  
Apex Community Lake, Wake County  
Bass Lake, Wake County  
Bond Park Lake, Wake County  
Lake Crabtree, Wake County  
Shelley Lake, Wake County  
Simpkins Pond, Wake County  
Lake Toisnot, Wilson County  
Harris Lake County Park Ponds, Wake County

(g) In Lake Norman and Badin Lake, the daily creel limit for blue catfish greater than 32 inches is one fish.

*Authority G.S. 113-134; 113-272; 113-292.*

#### **15A NCAC 10C .0402 TAKING NONGAME FISHES FOR BAIT OR PERSONAL CONSUMPTION**

(a) It is unlawful to take nongame fish for bait or personal consumption in the inland waters of North Carolina using equipment other than:

- (1) a net of dip net design not greater than six feet across;
- (2) a seine of not greater than 12 feet in length (except in Lake Waccamaw where there is no length limitation) and with a bar mesh measure of not more than one-fourth inch;
- (3) a cast net; ~~or~~

- (4) minnow traps not exceeding 12 inches in diameter and 24 inches in length, with funnel openings not exceeding one inch in diameter, and which are under the immediate control and attendance of the individual operating ~~them~~ them;
- (5) a hand-held line with a single bait attached; or
- (6) a collapsible crab trap with the largest open dimension not greater than 18 inches and which by design is collapsed at all times when in the water, except when it is being retrieved or lowered to the bottom, with a limit of one trap per person.

(b) It is unlawful to sell nongame fishes or aquatic animals taken under this Rule.

(c) Game fishes and their young taken while netting for bait shall be immediately returned unharmed to the water.

(d) No person shall take or possess during one day more than 200 nongame fish in aggregate for bait, subject to the following restrictions:

- (1) No more than 50 eels, none of which may be less than six inches in length, shall be taken or possessed from inland fishing waters; and
- (2) No herring (alewife and blueback) that are greater than six inches in length shall be taken or possessed from the inland fishing waters of coastal rivers and their tributaries including Roanoke River downstream of Roanoke Rapids Dam, Tar River downstream of Rocky Mount Mill Dam, Neuse River downstream of Milburnie Dam, Cape Fear River downstream of Buckhorn Dam, Pee Dee River downstream of Blewett Falls Dam, the entire Lumber River including Drowning Creek, and in all other inland fishing waters east of Interstate 95.
- (3) No more than 50 crabs per person per day or 100 per vessel per day with a minimum carapace width of fish inches (point to point.)

(e) Any fishes taken for bait purposes are included within the daily possession limit for that species, if one is specified.

(f) It is unlawful to take nongame fish for bait or any other fish bait from designated public mountain trout waters and:

- (1) Chatham County  
Deep River  
Rocky River  
Bear Creek
- (2) Lee County  
Deep River
- (3) Moore County  
Deep River
- (4) Randolph County  
Deep River below the Coleridge Dam  
Fork Creek

(g) In the waters of the Little Tennessee River and the Catawba River upstream of Rhodhiss Dam, including all the tributaries and impoundments thereof, and on adjacent shorelines, docks, access ramps and bridge crossings, it is unlawful to transport, possess or release live alewife or live blueback herring.

*Authority G.S. 113-134; 113-135; 113-135.1; 113-272; 113-272.3; 113-292.*

#### **15A NCAC 10C .0404 SPECIAL DEVICE FISHING**

(a) Bow and Arrow. The use of bow [as defined in 15A NCAC 10B .0116(a)] and arrow as a licensed special device is authorized for taking nongame fishes at any time from all inland fishing waters other than impounded waters located on the Sandhills Game Land and designated public mountain trout waters. Unless specifically prohibited, bow and arrow may be used in joint fishing waters. It is unlawful to take fish with crossbow and arrow in any inland fishing waters.

(b) Nets. Where authorized, manually operated nets, including seines and bow, cast, dip, gill, drift and fyke nets may be used under the special device fishing license. No fixed gill net or other stationary net which may be authorized as a special fishing device may more than 100 yards in length, nor shall any such net be placed within 50 yards of any other fixed net. Fixed nets must be set so that they run parallel to the nearest shoreline. No anchored or fixed gill net or drift net shall be used unless such net is marked for the protection of boat operators. A net shall be deemed so marked when there is attached to it at each end two separate yellow buoys which shall be of solid foam or other solid buoyant material no less than five inches in its smallest dimensions. The owner shall be identified on a buoy on each end either by using engraved buoys or by attaching engraved metal or plastic tags to the buoys. Such identification shall include one of the following:

- (1) owner's N.C. motor boat registration number;
- (2) owner's U.S. vessel documentation name; or
- (3) owner's last name and initials.

It is unlawful to attach gill nets to any wire, rope, or similar device extended across any navigable watercourse.

(c) Traps. Baskets and ~~traps, including automobile tires, traps,~~ excluding collapsible crab traps, may be used under the special device fishing license. Such devices when set and left unattended shall be affixed with a card or tag furnished by the license holder and upon which his name and address shall be legibly and indelibly inscribed. No fish trap may exceed 60 inches in length or 30 inches in depth or width. No lead nets, wing nets, or other device designed to guide or herd fish may be attached to the trap or used or set within 25 feet of the trap.

(d) Spears. Manually operated gigs or under-water spear or harpoon guns may be used under the special fishing device license in the inland waters having a season for their use specified in Rule .0407 of this Section.

(e) Crab pots. It is unlawful to use crab pots in inland fishing waters, except by persons owning property adjacent to the inland fishing waters of coastal rivers and their tributaries who are permitted to set two crab pots to be attached to their property and not subject to special device license requirements.

(f) Eel pots. It is unlawful to use pots with mesh sizes smaller than one inch by one-half inch unless such pots contain an escape panel that is at least four inches square with a mesh size of one inch by one-half inch located in the outside panel of the upper chamber of rectangular pots and in the rear portion of cylindrical pots. Each pot must be marked by attaching a floating buoy which shall be of solid foam or other solid buoyant material and no less than five inches in diameter and no less than

five inches in length. Buoys may be of any color except yellow. The owner shall be identified on the attached buoy by using engraved buoys or by engraved metal or plastic tags attached to the buoy. Such identification shall include one of the following:

- (1) owner's N.C. motorboat registration number;
- (2) owner's U.S. vessel documentation name; or
- (3) owner's last name and initials.

(g) Hand-crank electrofisher. For the purposes of this rule, a hand-crank electrofisher is any manually-operated device which is capable of generating a low voltage electrical current not exceeding 300 volts for the taking of catfish. Hand-crank electrofishers may be used only where authorized by local law and only in those waters specified in 15A NCAC 10C .0407.

*Authority G.S. 113-134; 113-272.2; 113-276; 113-292.*

## **SECTION .0500 – PRIMARY NURSERY AREAS**

### **15A NCAC 10C .0503 DESCRIPTIVE BOUNDARIES**

The following waters have been designated as primary nursery areas:

- (1) North River:
  - (a) Broad Creek - Camden County - Entire stream;
  - (b) Deep Creek - Currituck County - Entire stream;
  - (c) Lutz Creek - Currituck County - Entire stream.
- (2) Alligator River:
  - (a) East Lake - Dare County - Inland waters portion;
  - (b) Little Alligator River - Tyrrell County - Entire stream.
- (3) Currituck Sound:
  - (a) Martin Point Creek - Dare County - Entire stream (Jean Guite Creek);
  - (b) Tull Creek and Bay - Currituck County - Tull Bay to mouth of Northwest River; Tull Creek from mouth upstream to SR 1222 bridge.
- (4) Pamlico River:
  - (a) Duck Creek - Beaufort County - Entire stream;
  - (b) Bath Creek - Beaufort County - Entire stream;
  - (c) Mixons Creek - Beaufort County - Entire stream;
  - (d) Porter Creek - Beaufort County - Entire stream;
  - (e) Tooleys Creek - Beaufort County - Entire stream;
  - (f) Jacobs Creek - Beaufort County - Entire stream;
  - (g) Jacks Creek - Beaufort County - Entire stream;
  - (h) Bond Creek - Beaufort County - Entire stream;
  - (i) Muddy Creek - Beaufort County - Entire stream;

- (j) Strawhorn Creek - Beaufort County - Entire stream;
- (k) South Prong Wright Creek - Beaufort County - Entire stream;
- (l) Jordan Creek - Beaufort County - Entire stream.
- (5) Neuse River:
  - (a) Slocum Creek - Craven County - Entire stream;
  - (b) Hancock Creek - Craven County - Entire stream.
- (6) New River:
  - (a) French Creek - Onslow County - Entire stream;
  - (b) New River - Onslow County - US Highway 17 bridge to ~~point 0.75 miles upstream NC 24/US 258 bridge.~~
- (7) Roanoke River: Halifax and Northampton counties - US 258 bridge to Roanoke Rapids dam.
- (8) Tar-Pamlico River: Nash, Edgecombe, Pitt and Beaufort counties - N&S railroad at Washington upstream to Rocky Mount Mills Dam.
- (9) Neuse River: Wake, Johnston, Wayne, Lenoir, Pitt and Craven counties - Pitchkettle Creek upstream to Milburnie Dam.
- (10) Cape Fear River: Chatham, Lee, Harnett, Cumberland and Bladen counties - Lock and Dam No. 1 upstream to Buckhorn Dam.
- (11) Albemarle Sound: Peter Mashoes Creek – Dare County – Entire Stream.
- (12) Croatan Sound: Spencer Creek – Dare County – Entire Stream.
- ~~(13) New River: Onslow County – US 17 bridge upstream to NC 24/US 258 bridge.~~
- ~~(14)(13)~~ White Oak River: Onslow and Jones counties – Grants Creek upstream to Gibson Bridge Road (SR 1118).
- ~~(15)(14)~~ Northeast Cape Fear River: Pender County – NC 210 bridge upstream to NC 53 bridge.

*Authority G.S. 113-132; 113-134.*

## **SECTION .0600 - ANADROMOUS FISH SPAWNING AREAS**

### **15A NCAC 10C .0601 SCOPE AND PURPOSE**

To establish and protect those inland waters which function as spawning areas for anadromous fishes. These Rules will set forth anadromous fish spawning areas in inland fishing waters. Anadromous fish spawning areas are necessary for the spawning and early development of North Carolina's important anadromous fishes. Anadromous fish spawning areas provide the physical, biological, and chemical attributes necessary for anadromous fishes to spawn successfully.

*Authority G.S. 113-132; 113-134.*

**15A NCAC 10C .0602 ANADROMOUS FISH  
SPAWNING AREAS DEFINED**

Anadromous fish spawning areas are those areas where evidence of spawning of anadromous fishes has been documented by direct observation of spawning, capture of running ripe females, or capture of eggs or early larvae.

*Authority G.S. 113-132; 113-134.*

**15A NCAC 10C .0603 DESCRIPTIVE BOUNDARIES**

The following waters have been designated as anadromous spawning areas:

(1) Currituck Sound Area:

- (a) Northwest River including designated tributaries - main stem waters west of a line beginning on the north shore at a point 36° 30.8374' N – 76° 04.8770' W; running southerly to the south shore to a point 36° 30.7061' N – 76° 04.8916' W; and south of a line beginning on the west shore at a point 36° 33.0259' N – 76° 09.1609' W; running easterly to the east shore to a point 36° 33.0292' N – 76° 08.9488' W; including the following tributary from the confluence with Northwest River in the direction indicated to the specified boundary: Moyock Run (Shingle Landing Creek) - upstream (southwest) to a line beginning on the west shore at a point 36° 31.5252' N – 76° 10.7385' W; running easterly along US 168 (Caratoke Highway) to the east shore to a point 36° 31.5140' N – 76° 10.7239' W.

- (b) Tull Creek - southwest of a line beginning on the north shore at a point 36° 30.0991' N – 76° 04.8587' W; running southeasterly to the south shore to a point 36° 29.9599' N – 76° 04.7126' W; including the following tributaries from their confluence with Tull Creek to the specified boundary:

- (i) Roland Creek - upstream (northwest) to a line beginning on the north shore at a point 36° 29.8274' N – 76° 08.1294' W; running southerly to the south shore to a point 36° 29.8120' N – 76° 08.1308' W; and east of a line beginning on the northwest shore of Guinea Mill Run Canal at a point 36° 28.9227' N – 76° 07.9126' W; running southerly along US 168 bridge (Caratoke Highway)

to the southeast shore at a point 36° 28.9045' N – 76° 07.8956' W.

- (ii) New Bridge Creek - upstream (south) to a line beginning on the northwest shore at a point 36° 28.0046' N – 76° 06.3312' W; running southeasterly along US 168 bridge (Caratoke Highway) to the southeast shore to a point 36° 27.9970' N – 76° 06.3243' W.

- (iii) Cowells Creek - upstream (south) to a line beginning on the west shore at a point 36° 27.1571' N – 76° 04.5391' W; running easterly along US 168 bridge (Caratoke Highway) to the east shore to a point 36° 27.1542' N – 76° 04.5128' W.

- (iv) Buckskin Creek - upstream (southeast) to a line beginning on the west shore at a point 36° 27.1925' N – 76° 04.1671' W; running easterly along US 168 bridge (Caratoke Highway) to the east shore to a point 36° 27.1989' N – 76° 04.1400' W.

- (c) West Landing - north of a line beginning on the west shore at a point 36° 30.9867' N – 76° 02.5868' W; running easterly to the east shore to a point 36° 31.0045' N – 76° 02.3780' W; and west of a line beginning on the north shore at a point 36° 31.5828' N – 76° 02.2977' W; running southerly to the south shore to a point 36° 31.5618' N – 76° 02.2870' W.

(2) Albemarle Sound Area:

- (a) Big Flatty Creek - west of a line beginning on the north shore at a point 36° 09.3267' N – 76° 08.2562' W; running southerly to the south shore to a point 36° 08.9730' N – 76° 08.3175' W; including the following tributaries from the confluence with Big Flatty Creek in the direction indicated to the specified boundary:

- (i) Chapel Creek - upstream (northwest) to a line beginning on the north shore at a point 36° 09.6689' N – 76° 09.9595' W; running southerly along SSR 1103



- (ii) Mill Dam Creek - upstream (southwest) to a line beginning on the north shore at a point 36° 09.0094' N – 76° 10.1667' W; running southerly along SSR 1103 (Esclip Road) to the south shore to a point 36° 08.9931' N – 76° 10.1611' W.
- (b) Salmon Creek - southwest of a line beginning on the north shore at a point 36° 00.4648' N – 76° 42.3513' W; running southeasterly to the south shore to a point 36° 00.3373' N – 76° 42.1499' W; and south of a line beginning on the west shore at a point 36° 02.4783' N – 76° 45.8164' W; running easterly to the east shore to a point 36° 02.4807' N – 76° 45.7906' W.
- (c) Mackeys (Kendrick) Creek - southeast of a line beginning on the north shore at a point 35° 56.3806' N – 76° 36.4356' W; running southwesterly to the south shore to a point 35° 56.3122' N – 76° 36.4613' W; and northwest of a line beginning on the southwest shore at a point 35° 52.5564' N – 76° 37.0968' W; running northeasterly along SSR 1122 bridge (Buncombe Avenue) to the northeast shore to a point 35° 52.5470' N – 76° 37.1113' W; including the following tributary from its confluence with Mackeys Creek in the direction indicated to the specified boundary: Main Canal - upstream (southeast) to a line beginning on the southwest shore at a point 35° 52.8229' N – 76° 36.6916' W; running northeasterly along SSR 1122 (Buncombe Avenue) to the northeast shore to a point 35° 52.8390' N – 76° 36.6708' W.
- (d) Deep Creek (Washington County) - west of a line beginning on the north shore at a point 35° 56.1291' N – 76° 23.1179' W; running southerly to the south shore to a point 35° 56.0744' N – 76° 23.1230' W; and east of a line beginning on the north shore at a point 35° 55.4610' N – 76° 25.3996' W; running southerly along SSR 1302 bridge (Pea Ridge Road) to the south shore to a point 35° 55.4323' N – 76° 25.3974' W; and east of line beginning on the north shore at a point 35° 55.7173' N – 76° 25.3848' W; running southerly along SSR 1302 bridge (Pea Ridge Road) to the south shore to a point 35° 55.6863' N – 76° 25.3957' W.
- (e) Banton (Bunton or Maybell) Creek - south of a line beginning on the west shore at a point 35° 56.0552' N – 76° 22.0664' W; running northeasterly to the east shore to a point 35° 56.1151' N – 76° 21.8760' W; and northeast of a line beginning on the west shore at a point 35° 55.6117' N – 76° 22.2463' W; running easterly to the east shore to a point 35° 55.6128' N – 76° 22.2126' W.
- (f) Tom Mann Creek - south of a line beginning on the west shore at a point 35° 58.5296' N – 75° 52.8982' W; running easterly to the east shore to a point 35° 58.5175' N – 75° 53.6851' W.
- (g) Peter Mashoes Creek - west of a line beginning on the north shore at a point 35° 57.2344' N – 75° 48.3087' W; running southerly to the south shore to a point 35° 56.7805' N – 75° 48.3563' W.
- (3) North River, including Indiantown Creek and other designated tributaries - main stem waters west of a line beginning on the north shore at a point 36° 18.7703' N – 75° 58.7384' W; running southerly to the south shore to a point 36° 18.4130' N – 75° 58.7228' W; and south of a line beginning on the west shore at a point 36° 21.7982' N – 76° 07.0726' W; running easterly along US 158 bridge to the east shore to a point 36° 21.8030' N – 76° 07.0612' W; including the following tributary from the confluence with North River in the direction indicated to the specified boundary: Crooked Creek - upstream (west) to a line beginning on the north shore at a point 36° 18.7171' N – 76° 01.4361' W; running southerly to the south shore to a point 36° 18.7002' N – 76° 01.4296' W.
- (4) North River Area: Bump Landing Creek - east of a line beginning on the north shore at a point 36° 19.3757' N – 75° 57.9057' W; running southerly to the south shore to a point 36° 19.2496' N – 75° 57.9107' W; and west of a line beginning on the north shore at a point 36° 19.4049' N – 75° 57.4963' W; running southeasterly to the south shore to a point 36° 19.3830' N – 75° 57.5098' W.
- (a) Narrow Ridges Creek - east of a line beginning on the north shore at a point 36° 18.3249' N – 75° 57.8910' W.

- W; running southerly to the south shore to a point 36° 18.1388' N – 75° 57.9029' W; and west of a line beginning on the north shore at a point 36° 18.1566' N – 75° 57.4879' W; running southeasterly to the south shore to a point 36° 18.1221' N – 75° 57.5095' W.
- (b) Great Creek - west of a line beginning on the north shore at a point 36° 18.1045' N – 75° 58.4289' W; running southerly to the south shore to a point 36° 17.9882' N – 75° 58.4458' W; and northeast of a line beginning on the north shore at a point 36° 17.1310' N – 76° 00.3414' W; running southeasterly to the south shore to a point 36° 17.1163' N – 76° 00.3310' W. On the north shore of Great Creek within the fourth tributary: south of a line beginning on the west shore at a point 36° 18.1729' N – 75° 58.9137' W; running southeasterly to the south shore to a point 36° 18.1640' N – 75° 58.9022' W.
- (c) Deep Creek - east of a line beginning on the north shore at a point 36° 17.1576' N – 75° 56.7594' W; running southerly to the south shore to a point 36° 16.9846' N – 75° 56.6802' W; and south of a line beginning on the west shore at a point 36° 17.9515' N – 75° 56.5174' W; running easterly to the east shore to a point 36° 17.9523' N – 75° 56.5042' W.
- (d) Public Creek - west of a line beginning on the north shore at a point 36° 17.2462' N – 75° 58.2774' W; running southerly to the south shore to a point 36° 17.2121' N – 75° 58.2788' W; and northeast of a line beginning on the north shore at a point 36° 17.1661' N – 75° 58.6059' W; running southeasterly to the south shore to a point 36° 17.1574' N – 75° 58.6003' W.
- (5) Pasquotank River including designated tributaries - main stem waters north of a line beginning on the west shore at a point 36° 18.0769' N – 76° 13.0979' W; running easterly along the south side of the US 158 bridge to the east shore to a point 36° 18.0594' N – 76° 12.9620' W and south of a line at South Mills beginning on the west shore at a point 36° 26.7432' N – 76° 19.6666' W; running easterly along US 17 business (Main Street) to the east shore to a point 36° 26.7642' N – 76° 19.5932' W; and southeast of a line beginning on the northeast shore at a point 36° 26.1777' N – 76° 22.1079' W; running southwesterly to the southwest shore to a point 36° 26.1693' N – 76° 22.1257' W; including the following tributaries from their confluence with the Pasquotank River in the direction indicated to the specified boundary:
- (a) Joyce Creek - upstream (northeast) to a line beginning on the north shore at a point 36° 26.8329' N – 76° 17.6174' W; running southwesterly along SSR 1224 bridge (Old Swamp Road) to the south shore to a point 36° 26.8103' N – 76° 17.6193' W.
- (b) Sawyers Creek - upstream (northeast) to a line beginning on the northeast shore at a point 36° 21.7237' N – 76° 10.2841' W; running southwesterly along SSR 1203 bridge (Scotland Road) to the southwestern shore to a point 36° 21.7115' N – 76° 10.3041' W.
- (c) Knobbs Creek - upstream (northwest) to a line beginning on the northwest shore at a point 36° 18.5172' N – 76° 14.5920' W; running southeasterly along SSR 1309 bridge (Main Street Extended) to the southeast shore to a point 36° 18.4973' N – 76° 14.5729' W.
- (6) Pasquotank River Area:
- (a) Charles Creek - south of a line beginning on the west shore at a point 36° 17.8090' N – 76° 13.0732' W; running easterly to the east shore to a point 36° 17.8024' N – 76° 13.0407' W; and northeast of a line beginning on the northwest shore at a point 36° 17.4713' N – 76° 13.2227' W; running southeasterly along NC 34 (Road Street) to the southeast shore to a point 36° 17.4565' N – 76° 13.2140' W.
- (b) Areneuse Creek and Mill Dam Creek - north of a line beginning on the west shore at a point 36° 17.3133' N – 76° 08.1655' W; running southeasterly along NC 343 bridge to the east shore to a point 36° 17.1328' N – 76° 07.6269' W; and southwest of a line beginning on the west shore of Mill Dam Creek at a point 36° 18.5994' N – 76° 07.8672' W; running southeasterly to the east shore to a point 36° 18.5991' N – 76° 07.8379' W; and southwest of a line beginning on the northwest shore of Areneuse Creek at a point 36° 18.0342' N – 76°

- 06.9433' W, running southeasterly along NC 343 bridge to the southeast shore to a point 36° 18.0196' N – 76° 06.9245' W.
- (c) Portohonk Creek - northeast of a line beginning on the west shore at a point 36° 15.0519' N – 76° 05.2793' W; running southeasterly to the east shore to a point 36° 15.0391' N – 76° 05.2532' W; and south of a line beginning on the west shore at a point 36° 16.2809' N – 76° 04.8223' W; running easterly along NC 343 bridge to the east shore to a point 36° 16.2794' N – 76° 04.8051' W.
- (d) New Begun Creek - west of a line beginning on the north shore at a point 36° 13.3298' N – 76° 08.2878' W; running southerly to the south shore to a point 36° 13.0286' N – 76° 08.1820' W; and southeast of a line beginning on the northeast shore at a point 36° 12.5577' N – 76° 10.3998' W; running southwesterly along NC 34 bridge (Weeksville Road) to the southwest shore to a point 36° 12.5467' N – 76° 10.4186' W; and northeast of a line beginning on the northeast shore at a point 36° 12.3280' N – 76° 10.4934' W; running northwesterly to the northwest shore to a point 36° 12.3067' N – 76° 10.5438' W.
- (7) Little River including designated tributaries - main stem wasters northwest of a line beginning on the west shore at a point 36° 12.2950' N – 76° 17.1405' W; running southeasterly to the east shore to a point 36° 12.5237' N – 76° 16.9418' W; and south of a line beginning on the west shore at a point 36° 16.9826' N – 76° 23.1763' W; running easterly along SSR 1223 (Five Bridges Road, Perquimans County) and SSR 1303 (Cherry Glade Road, Pasquotank County) bridge to the east shore to a point 36° 16.9840' N – 76° 23.1570' W; including the following tributary from the confluence with Little River in the direction indicated to the specified boundary: Halls Creek - upstream (northeast) to a line beginning on the northwest shore at a point 36° 13.2067' N – 76° 16.5769' W; running southeasterly along SSR 1140 (Halls Creek Road) to the southeast shore to a point 36° 13.1944' N – 76° 16.5523' W.
- (8) Little River Area:
- (a) Deep Creek - southwest of a line beginning on the north shore at a point 36° 11.0945' N – 76° 16.6717' W; running southeasterly to the south shore to a point 36° 10.7510' N – 76° 16.2258' W; and south of a line beginning on the west shore at a point 36° 10.2553' N – 76° 18.7639' W; running easterly to the east shore to a point 36° 10.2633' N – 76° 18.7267' W.
- (b) Symonds Creek - northeast of a line beginning on the north shore at a point 36° 10.2898' N – 76° 14.1801' W; running southeasterly to the south shore to a point 36° 10.2042' N – 76° 14.0368' W; and south of a line beginning on the west shore at a point 36° 11.4843' N – 76° 13.7218' W; running easterly along SSR 1100 bridge (Nixonton Road) to the east shore to a point 36° 11.4839' N – 76° 13.7028' W.
- (9) Perquimans River including designated tributaries - main stem waters southwest of a line beginning on the west shore at a point 36° 11.6569' N – 76° 28.0055' W; running southeasterly along the US 17 business bridge (Church Street) to the east shore to a point 36° 11.6123' N – 76° 27.9382' W; and west of a line beginning on the north shore at a point 36° 18.8942' N – 76° 31.1905' W; running southeasterly to the south shore to a point 36° 18.8723' N – 76° 31.1734' W; and south of a line beginning on the west shore at a point 36° 18.9514' N – 76° 32.6510' W; running easterly along SSR 1202 bridge (Perry Bridge Road) to the east shore to a point 36° 18.9361' N – 76° 32.6584' W; including the following tributary from the confluence with the Perquimans River in the direction indicated to the specified boundary: Goodwin Creek - upstream (west) to a line beginning on the northwest shore at a point 36° 11.2807' N – 76° 33.6243' W; running southerly along SSR 1110 bridge (Center Hill Highway) to the southeast shore to a point 36° 11.2585' N – 76° 33.5755' W; and north to a line beginning on the west shore at a point 36° 11.0494' N – 76° 32.3409' W; running easterly along SSR 1110 bridge (Center Hill Highway) to the east shore to a point 36° 11.0383' N – 76° 32.2780' W.
- (10) Perquimans River Area:
- (a) Mill Creek - north of a line beginning on the west shore at a point 36° 11.9757' N – 76° 27.5752' W; running easterly to the east shore to a point 36° 11.9766' N – 76° 27.2511' W; and southwest of a line beginning on the northwest shore at a point 36° 13.2910' N – 76° 26.6778' W; running southeasterly along SSR 1214 bridge (Lake Road) to the

- southeast shore to a point  $36^{\circ} 13.2762' \text{ N} - 76^{\circ} 26.6580' \text{ W}$ .
- (b) Walter's Creek - southwest of a line beginning on the north shore at a point  $36^{\circ} 11.1305' \text{ N} - 76^{\circ} 27.9185' \text{ W}$ ; running southeasterly to the south shore to a point  $36^{\circ} 11.0224' \text{ N} - 76^{\circ} 27.6626' \text{ W}$ ; and northeast of a line beginning on the northeast shore at a point  $36^{\circ} 10.0498' \text{ N} - 76^{\circ} 28.4208' \text{ W}$ ; running southwesterly along US 17 to the southwest shore to a point  $36^{\circ} 10.0408' \text{ N} - 76^{\circ} 28.4354' \text{ W}$ .
- (c) Suttons Creek - north of a line beginning on the west shore at a point  $36^{\circ} 10.0394' \text{ N} - 76^{\circ} 23.7945' \text{ W}$ ; running southeasterly to the east shore to a point  $36^{\circ} 09.9325' \text{ N} - 76^{\circ} 23.5263' \text{ W}$ ; and south of a line beginning on the west shore at a point  $36^{\circ} 11.5101' \text{ N} - 76^{\circ} 23.6253' \text{ W}$ ; running easterly along SSR 1300 bridge (New Hope Road) to the east shore to a point  $36^{\circ} 11.5081' \text{ N} - 76^{\circ} 23.6060' \text{ W}$ .
- (d) Jackson (Cove) Creek - northeast of a line beginning on the north shore at a point  $36^{\circ} 08.4642' \text{ N} - 76^{\circ} 20.3324' \text{ W}$ ; running southeasterly to the east shore to a point  $36^{\circ} 08.4159' \text{ N} - 76^{\circ} 20.2890' \text{ W}$ ; and southwest of a line beginning on the northwest shore at a point  $36^{\circ} 08.6083' \text{ N} - 76^{\circ} 20.1512' \text{ W}$ ; running southeasterly to the southeast shore to a point  $36^{\circ} 08.6007' \text{ N} - 76^{\circ} 20.1312' \text{ W}$ .
- (e) Muddy Creek - northwest of a line beginning on the north shore at a point  $36^{\circ} 07.0381' \text{ N} - 76^{\circ} 17.1350' \text{ W}$ ; running southeasterly to the east shore to a point  $36^{\circ} 07.0218' \text{ N} - 76^{\circ} 17.1226' \text{ W}$ ; and south of a line beginning on the west shore at a point  $36^{\circ} 07.5922' \text{ N} - 76^{\circ} 16.8153' \text{ W}$ ; running easterly to the east shore to a point  $36^{\circ} 07.5933' \text{ N} - 76^{\circ} 16.7757' \text{ W}$ .
- (11) Yeopim River including designated tributaries - main stem waters west of a line beginning on the north shore at a point  $36^{\circ} 05.4526' \text{ N} - 76^{\circ} 27.7651' \text{ W}$ ; running southerly to the south shore to Norcum Point  $36^{\circ} 05.1029' \text{ N} - 76^{\circ} 27.7120' \text{ W}$ ; and southeast of a line beginning on the north shore at a point  $36^{\circ} 05.1202' \text{ N} - 76^{\circ} 29.5050' \text{ W}$ ; running southwesterly to a point  $36^{\circ} 05.0644' \text{ N} - 76^{\circ} 29.5586' \text{ W}$ ; and running easterly to the east shore to a point  $36^{\circ} 05.0571' \text{ N} - 76^{\circ} 29.4657' \text{ W}$ ; including the following tributaries from the confluence with Yeopim River in the direction indicated to the specified boundary:
- (a) Yeopim Creek - upstream (north) to a line beginning on the west shore at a point  $36^{\circ} 07.4416' \text{ N} - 76^{\circ} 26.4833' \text{ W}$ ; running easterly along SSR 1347 (Holiday Island Road) to the east shore to a point  $36^{\circ} 07.4409' \text{ N} - 76^{\circ} 26.4667' \text{ W}$ .
- (b) Bethel Creek - upstream (north) to a line beginning on the southwest shore at a point  $36^{\circ} 07.1208' \text{ N} - 76^{\circ} 29.3581' \text{ W}$ ; running northeasterly to the northeast shore to a point  $36^{\circ} 07.1724' \text{ N} - 76^{\circ} 29.2818' \text{ W}$ .
- (c) Burnt Mill Creek - upstream (northwest) to a line beginning on the northeast shore at a point  $36^{\circ} 05.7727' \text{ N} - 76^{\circ} 32.6234' \text{ W}$ ; running southwesterly along US 17 to the southwest shore to a point  $36^{\circ} 05.7663' \text{ N} - 76^{\circ} 32.6374' \text{ W}$ .
- (d) Middleton Creek - upstream (southeast) to a line beginning on the northwest shore at a point  $36^{\circ} 04.2913' \text{ N} - 76^{\circ} 30.2613' \text{ W}$ ; running southeasterly along SSR 1100 bridge (Drummond Point Road) to the southeast shore to a point  $36^{\circ} 04.2813' \text{ N} - 76^{\circ} 30.2460' \text{ W}$ ; and northeast of a line beginning on the northwest shore at a point  $36^{\circ} 04.0714' \text{ N} - 76^{\circ} 29.5779' \text{ W}$ ; running southeasterly along SSR 1100 (Drummond Point Road) to the southeast shore to a point  $36^{\circ} 04.0639' \text{ N} - 76^{\circ} 29.5583' \text{ W}$ .
- (12) Edenton Bay Area:
- (a) Pembroke Creek (Pollock Swamp) - northwest of a line beginning on the west shore at a point  $36^{\circ} 03.2819' \text{ N} - 76^{\circ} 37.0138' \text{ W}$ ; running northeasterly to the east shore to a point  $36^{\circ} 03.4185' \text{ N} - 76^{\circ} 36.6783' \text{ W}$ ; and west of a line beginning on the north shore at a point  $36^{\circ} 08.1216' \text{ N} - 76^{\circ} 37.7846' \text{ W}$ ; running southerly along SSR 1316 bridge (Greenhall Road) to the south shore to a point  $36^{\circ} 08.1035' \text{ N} - 76^{\circ} 37.7818' \text{ W}$ .
- (b) Queen Anne Creek - east of a line beginning on the north shore at a point  $36^{\circ} 03.3757' \text{ N} - 76^{\circ} 36.3629' \text{ W}$ ; running southerly to the south shore to a point  $36^{\circ} 03.3551' \text{ N} - 76^{\circ} 36.3574' \text{ W}$ ; and southwest of a line beginning on the northwest shore at a point  $36^{\circ} 03.5719' \text{ N} - 76^{\circ} 35.0968' \text{ W}$ .

- W; running southeasterly along NC 32 bridge (Yeopim Road) to the southeast shore to a point  $36^{\circ} 03.5659' \text{ N} - 76^{\circ} 35.0796' \text{ W}$ .
- (13) Chowan River Area:
- (a) Buckhorn Creek (Hertford County) - north of a line beginning on the west shore at a point  $36^{\circ} 31.9519' \text{ N} - 76^{\circ} 55.2580' \text{ W}$ ; running easterly to the east shore to a point  $36^{\circ} 31.9628' \text{ N} - 76^{\circ} 55.2429' \text{ W}$ ; and east of a line beginning on the north shore at a point  $36^{\circ} 31.9443' \text{ N} - 76^{\circ} 55.8902' \text{ W}$ ; running southerly to the south shore to a point  $36^{\circ} 31.9099' \text{ N} - 76^{\circ} 55.8904' \text{ W}$ .
- (b) Somerton Creek - north of a line beginning on the west shore at a point  $36^{\circ} 31.7177' \text{ N} - 76^{\circ} 54.8327' \text{ W}$ ; running easterly to the east shore to a point  $36^{\circ} 31.7143' \text{ N} - 76^{\circ} 54.7810' \text{ W}$ ; and south of the NC/VA state line.
- (c) Meherrin River Area:
- (i) Vaughan's Creek (Kirby's Creek) - west of a line beginning on the north shore at a point  $36^{\circ} 28.3541' \text{ N} - 77^{\circ} 05.6259' \text{ W}$ ; running southerly to the south shore to a point  $36^{\circ} 28.3307' \text{ N} - 77^{\circ} 05.6369' \text{ W}$ ; and east of a line beginning on the north shore at a point  $36^{\circ} 28.7019' \text{ N} - 77^{\circ} 08.7566' \text{ W}$ ; running southerly along SSR 1362 bridge (Watson Mill Road) to the south shore to a point  $36^{\circ} 28.6834' \text{ N} - 77^{\circ} 08.7593' \text{ W}$ ; and northeast of a line beginning on the northwest shore at a point  $36^{\circ} 28.0921' \text{ N} - 77^{\circ} 08.5719' \text{ W}$ ; running southeasterly along SSR 1362 bridge (Watson Mill Road) to the southeast shore to a point  $36^{\circ} 28.0787' \text{ N} - 77^{\circ} 08.5557' \text{ W}$ . Turkey Creek - from the confluence with Vaughan's Creek upstream; and northeast of a line beginning on the northwest shore at a point  $36^{\circ} 27.8047' \text{ N} - 77^{\circ} 07.7316' \text{ W}$ ; running southeasterly along SSR 1363 (Turkey Branch Road, Northampton County) and
- SSR 1300 bridge (Wise Store Road, Hertford County) to the southeast shore to a point  $36^{\circ} 27.7957' \text{ N} - 77^{\circ} 07.7170' \text{ W}$ .
- (ii) Potecasi Creek - southwest of a line beginning on the west shore at a point  $36^{\circ} 26.1234' \text{ N} - 76^{\circ} 57.5262' \text{ W}$ ; running southeasterly to the east shore to a point  $36^{\circ} 26.1005' \text{ N} - 76^{\circ} 57.4960' \text{ W}$ ; and east of a line beginning on the north shore at a point  $36^{\circ} 22.1250' \text{ N} - 77^{\circ} 05.3109' \text{ W}$ ; running southerly along SSR 1160 bridge (Spring Avenue) to the south shore to a point  $36^{\circ} 22.1035' \text{ N} - 77^{\circ} 05.3220' \text{ W}$ .
- (A) Old Tree Swamp - from the confluence with Potecasi Creek upstream to a line beginning on the west shore at a point  $36^{\circ} 22.5909' \text{ N} - 77^{\circ} 04.0382' \text{ W}$ ; running easterly along SSR 1167 bridge (Beaver Dam Road) to the east shore to a point  $36^{\circ} 22.5895' \text{ N} - 77^{\circ} 04.0192' \text{ W}$ .
- (B) Cutawhiskie Creek - from the confluence with Potecasi Creek upstream to a line beginning on the northwest shore at a point  $36^{\circ} 21.2751' \text{ N} - 77^{\circ} 04.3761' \text{ W}$ ; running southeasterly along SSR 1137 bridge (Liverman Mill Road) to the southeast shore to a point  $36^{\circ} 21.2583' \text{ N} - 77^{\circ} 04.3461' \text{ W}$ .
- (d) Mud Creek - north of a line beginning on the west shore at a point  $36^{\circ} 23.5134' \text{ N} - 76^{\circ} 53.9131' \text{ W}$ ; running easterly to the east shore to a point  $36^{\circ} 23.5132' \text{ N} - 76^{\circ} 53.8815' \text{ W}$ ; and east of a line beginning on the

- north shore at a point 36° 23.3321' N – 76° 52.0233' W; running southerly to the south shore to a point 36° 23.5943' N – 76° 53.8784' W.
- (e) Catherine Creek (Hertford County) - south of a line beginning on the west shore at a point 36° 22.9579' N – 76° 53.1994' W; running southeasterly to the east shore to a point 36° 22.9456' N – 76° 53.1742' W; and north of a line beginning on the west shore at a point 36° 22.7142' N – 76° 53.1872' W; running easterly to the east shore to a point 36° 22.7209' N – 76° 53.1631' W.
- (f) Buckhorn Creek (Run Off Swamp) (Gates County) - north of a line beginning on the west shore at a point 36° 22.9682' N – 76° 51.9172' W; running easterly to the east shore to a point 36° 22.9614' N – 76° 51.8870' W; and east of a line beginning on the north shore at a point 36° 23.3321' N – 76° 52.0233' W; running southerly to the south shore to a point 36° 23.3101' N – 76° 52.0244' W.
- (g) Spikes Creek - northwest of a line beginning on the west shore at a point 36° 22.6515' N – 76° 50.8882' W; running northeasterly to the east shore to a point 36° 22.6684' N – 76° 50.8493' W; and east of a line beginning on the north shore at a point 36° 22.9574' N – 76° 51.4953' W; running southerly to the south shore to a point 36° 22.9419' N – 76° 51.4959' W.
- (h) Barnes Creek - north of a line beginning on the west shore at a point 36° 21.8820' N – 76° 48.6419' W; running easterly to the east shore to a point 36° 21.8978' N – 76° 48.5902' W; and east of a line beginning on the north shore at a point 36° 22.8208' N – 76° 50.0931' W; running southerly to the south shore to a point 36° 22.7839' N – 76° 50.0941' W.
- (i) Shingle (Island) Creek - north of a line beginning on the north shore of the western most entrance into Chowan River at a point 36° 21.8449' N – 76° 48.0940' W; running southeasterly to the south shore to a point 36° 21.7831' N – 76° 48.0427' W. At the eastern most entrance to the creek: north of a line beginning on the west shore at a point 36° 21.8469' N – 76° 47.2668' W; running northeasterly to the east shore to a point 36° 21.9062' N – 76° 47.1862' W.
- (j) Sarem Creek - east of a line beginning on the north shore at a point 36° 21.7259' N – 76° 46.4085' W; running southerly to the south shore to a point 36° 21.6748' N – 76° 46.4392' W; and southeast of a line beginning on the southwest shore at a point 36° 25.0514' N – 76° 49.4791' W; running northeasterly along SSR 1118 bridge (Taylors Road) to the northeast shore to a point 36° 25.0710' N – 76° 49.4657' W; including the following tributary from the confluence with Sarem Creek in the direction indicated to the specified boundary: Cole Creek - upstream (northeast) to a line beginning on the west shore at a point 36° 24.5075' N – 76° 47.0641' W; running easterly along NC 37 bridge to the east shore to a point 36° 24.5048' N – 76° 47.0397' W.
- (k) Hodges Creek - west of a line beginning on the north shore at a point 36° 21.2459' N – 76° 46.3421' W; running southerly to the south shore to a point 36° 21.1823' N – 76° 46.3243' W; and east of a line beginning on the north shore at a point 36° 21.1597' N – 76° 46.6073' W; running southerly to the south shore to a point 36° 21.1309' N – 76° 46.6084' W.
- (l) Wiccacon River including designated tributaries - west of a line beginning on the north shore at a point 36° 20.5439' N – 76° 45.4550' W; running southeasterly to the south shore to a point 36° 20.4684' N – 76° 45.3392' W; and east of a line beginning on the northeast shore at a point 36° 19.0196' N – 76° 53.5596' W; running southwesterly to the southwest shore to a point 36° 18.9936' N – 76° 53.5751' W; including the following tributaries from their confluence with Wiccacon River in the direction indicated to the specified boundary:
- (i) Ahoskie Creek - upstream (south) to a line beginning on the west shore at a point 36° 16.4860' N – 76° 54.1172' W; running easterly along NC 561 to the east shore to a point 36° 16.4796' N – 76° 54.0933' W.

- (ii) Chinkapin Creek - upstream (southwest) to a line beginning on the northwest shore at a point 36° 15.1763' N – 76° 50.9758' W; running southeasterly along SSR 1432 bridge (Big Mill Road) to the southeast shore to a point 36° 15.1671' N – 76° 50.9567' W.
- (m) Beef Creek - north of a line beginning on the west shore at a point 36° 20.3235' N – 76° 44.6401' W; running easterly to the east shore to a point 36° 20.3070' N – 76° 44.5797' W; and east of a line beginning on the north shore at a point 36° 20.9720' N – 76° 44.7930' W; running southerly to the south shore to a point 36° 21.0058' N – 76° 44.7931' W.
- (n) Goose Creek - west of a line beginning on the north shore at a point 36° 19.5838' N – 76° 44.5971' W; running southerly to the south shore to a point 36° 19.5375' N – 76° 44.5925' W; and northeast of a line beginning on the west shore at a point 36° 19.9806' N – 76° 45.2656' W; running easterly to the east shore to a point 36° 19.9799' N – 76° 45.2356' W.
- (o) Swain Mill (Taylor Pond) Creek - west of a line beginning on the north shore at a point 36° 18.5808' N – 76° 43.4729' W; running southerly to the south shore to a point 36° 18.5616' N – 76° 43.4706' W; and northeast of a line beginning on the northwest shore at a point 36° 18.5029' N – 76° 43.5882' W; running southeasterly along SSR 1441 bridge (Swain Mill Road) to the southeast shore to a point 36° 18.4906' N – 76° 43.5694' W.
- (p) Bennetts Creek - north of a line beginning on the west shore at a point 36° 18.3499' N – 76° 42.0286' W; running northeasterly to the east shore to a point 36° 18.4057' N – 76° 41.6986' W; and southwest of a line beginning on the northwest shore at a point 36° 25.9349' N – 76° 41.9859' W; running southeasterly along the Merchants Mill Pond Dam to the southeast shore to a point 36° 25.9154' N – 76° 41.9530' W.
- (q) Catherine Creek including designated tributaries -main stem waters northeast of a line beginning on the west shore at a point 36° 18.1011' N – 76° 41.1286' W; running southeasterly to the east shore to a point 36° 17.9413' N – 76° 40.8627' W; including the following tributaries from the confluence with Catherine Creek in the direction indicated to the specified boundary:
- (i) Trotman Creek - upstream (northwest) to a line beginning on the north shore at a point 36° 20.8213' N – 76° 38.1714' W; running southerly along NC 32 bridge to the south shore to a point 36° 20.7989' N – 76° 38.1646' W.
- (ii) Warwick Creek - upstream (northeast) to a line beginning on the north shore at a point 36° 19.8212' N – 76° 38.0409' W; running southerly along NC 32 bridge to the south shore to a point 36° 19.7833' N – 76° 38.0235' W.
- (r) Stumpy Creek - east of a line beginning on the north shore at a point 36° 16.6440' N – 76° 40.4251' W; running southerly to the south shore to a point 36° 16.6255' N – 76° 40.4196' W; and west of a line beginning on the north shore at a point 36° 16.7331' N – 76° 39.9154' W; running southerly along SSR 1232 bridge (Cannon Ferry Road) to the south shore to a point 36° 16.7220' N – 76° 39.9220' W.
- (s) Dillard (Indian) Creek - east of a line beginning on the north shore at a point 36° 14.2234' N – 76° 41.5901' W; running southerly to the south shore to a point 36° 14.2023' N – 76° 41.5855' W; and west of a line beginning on the north shore at a point 36° 13.7727' N – 76° 40.3878' W; running southerly along SSR 1226 (Dillards Mill Road) to the south shore to a point 36° 13.7592' N – 76° 40.3875' W.
- (t) Keel (Currituck) Creek - north of a line beginning on the west shore at a point 36° 14.1245' N – 76° 44.1961' W; running easterly to the east shore to a point 36° 14.0899' N – 76° 43.8533' W; and south of a line beginning on the west shore at a point 36° 15.2755' N – 76° 43.5077' W; running easterly to the east shore to a

- point 36° 15.2746' N – 76° 43.4750' W.
- (u) Rocky Hock Creek - east of a line beginning on the west shore at a point 36° 06.5662' N – 76° 41.3108' W; running southeasterly to the east shore to a point 36° 06.6406' N – 76° 41.4512' W; and southwest of a line beginning on the northwest shore at a point 36° 08.3485' N – 76° 39.9790' W; running southeasterly along the face of Bennett Mill Pond Dam to the southeast shore to a point 36° 08.3353' N – 76° 39.9603' W.
- (14) Cashie River including designated tributaries - main stem waters west of a line beginning on the north shore at a point 35° 54.7865' N – 76° 49.0521' W; running southerly to the south shore to a point 35° 54.6691' N – 76° 49.0553' W; and east of a line beginning on the north shore at a point 36° 05.7521' N – 77° 04.0494' W; running southerly along SSR 1260 bridge (Republican Road) to the south shore to a point 36° 05.7171' N – 77° 04.0344' W; including the following tributaries from their confluence with Cashie River in the direction indicated to the specified boundary:
- (a) Connarista Swamp - upstream (north) to a line beginning on the west shore at a point 36° 06.4489' N – 77° 02.4658' W; running easterly along SSR 1221 bridge (Charles Taylor Road) to the east shore to a point 36° 06.4501' N – 77° 02.4236' W.
- (b) Whiteoak Swamp - upstream (northeast) to a line beginning on the northwest shore at a point 36° 04.6654' N – 76° 58.5841' W; running southeasterly along US 13 to the southeast shore to a point 36° 04.6480' N – 76° 58.5676' W.
- (c) Chiska Creek - upstream (west) to a line beginning on the north shore at a point 36° 02.5659' N – 77° 02.3636' W; running southerly along SSR 1112 bridge (Roquist Pocosin Road) to the south shore to a point 36° 02.5463' N – 77° 02.3730' W.
- (d) Hoggard Mill Creek - upstream (north) to a line beginning on the northwest shore at a point 36° 01.5828' N – 76° 56.9799' W; running southeasterly along the Hoggard Mill Pond Dam to the southeast shore to a point 36° 01.5479' N – 76° 56.9556' W.
- (e) Roquist Creek - upstream (west) to a line beginning on the northeast shore at a point 36° 00.6453' N – 77° 02.8441' W; running southwesterly along SSR 1112 bridge (Roquist Pocosin Road) to the southwest shore to a point 36° 00.6119' N – 77° 02.8719' W.
- (f) Wading Place Creek - upstream (east) to a line beginning on the west shore at a point 35° 58.1755' N – 76° 53.0010' W; running easterly along NC 308 bridge (Cooper Hill Road) to the east shore to a point 35° 58.1631' N – 76° 52.9542' W.
- (15) Cashie River Area:
- (a) Broad Creek - south of a line beginning on the west shore at a point 35° 55.0568' N – 76° 45.2632' W; running easterly to the east shore to a point 35° 55.0543' N – 76° 45.1309' W.
- (b) Grennel Creek - east of a line beginning on the north shore at a point 35° 55.3147' N – 76° 44.5010' W; running southerly to the south shore to a point 35° 55.2262' N – 76° 44.5495' W.
- (c) Cashoke Creek - west of a line beginning on the north shore at a point 35° 56.2934' N – 76° 44.1769' W; running southwesterly to the south shore to a point 35° 56.2623' N – 76° 44.1993' W; and east of a line beginning on the north shore at a point 35° 56.3383' N – 76° 44.5958' W; running southerly along NC 45 bridge to the south shore to a point 35° 56.2839' N – 76° 44.5836' W.
- (16) Roanoke River including designated tributaries - main stem waters northwest of a line beginning on the west shore at a point 36° 12.5264' N – 77° 23.0223' W; running northeasterly along the south side of the US 258 bridge to the east shore to a point 36° 12.5674' N – 77° 22.9724' W; to the base of the Roanoke Rapids Dam; including the following tributary from the confluence with Roanoke River in the direction indicated to the specified boundary: Bridgers Creek - upstream (northeast) to a line beginning on the west shore at a point 36° 15.0786' N – 77° 22.3766' W; running easterly to the east shore to a point 36° 15.0846' N – 77° 22.3083' W.
- (17) Roanoke River Area:
- (a) Kehukee Swamp - west of a line beginning on the north shore at a point 36° 05.1942' N – 77° 18.9596' W; running southwesterly to the south shore to a point 36° 05.1670' N – 77° 18.9761' W; and south of a line beginning on the northeast shore at a



- point 36° 05.7019' N – 77° 19.3686' W; running southwesterly to the southwest shore to a point 36° 05.6909' N – 77° 19.3902' W.
- (b) Wire Gut - north of a line beginning on the west shore at a point 36° 00.9580' N – 77° 13.0755' W; running easterly to the east shore to a point 36° 00.9542' N – 77° 13.0320' W; and east of a line beginning on the north shore at a point 36° 01.4294' N – 77° 13.6239' W; running southerly to the south shore to a point 36° 01.3873' N – 77° 13.6270' W.
- (c) Apple Tree Creek - east of a line beginning on the north shore at a point 36° 00.4174' N – 77° 12.3252' W; running southeasterly to the south shore to a point 36° 00.3987' N – 77° 12.3088' W; and south of a line beginning on the west shore at a point 36° 02.3508' N – 77° 13.6900' W; running easterly to the east shore to a point 36° 02.3497' N – 77° 13.6055' W; and east of a line beginning on the north shore at a point 36° 01.9425' N – 77° 12.4225' W; running southerly to the south shore to a point 36° 01.9066' N – 77° 12.4222' W.
- (d) Indian Creek - east of a line beginning on the north shore at a point 35° 59.0794' N – 77° 11.4926' W; running southerly to the south shore to a point 35° 59.0597' N – 77° 11.4967' W; and southwest of a line beginning on the northwest shore at a point 36° 03.5103' N – 77° 10.6537' W; running southeasterly along SSR 1108 bridge (Indian Woods Road) to the southeast shore to a point 36° 03.4917' N – 77° 10.6402' W; and west of a line beginning on the north shore at a point 36° 02.3940' N – 77° 09.3722' W; running southerly along SSR 1108 bridge (Indian Woods Road) to the south shore to a point 36° 02.3787' N – 77° 09.3711' W.
- (e) Prices Gut - west of a line beginning on the north shore at a point 35° 57.3701' N – 77° 11.9815' W; running southerly to the south shore to a point 35° 57.3552' N – 77° 11.9796' W; and east of a line beginning on the north shore at a point 35° 57.4077' N – 77° 12.0401' W; running southerly to the south shore to a point 35° 57.3763' N – 77° 12.0135' W.
- (f) Rainbow Gut - south of a line beginning on the west shore at a point 35° 55.9334' N – 77° 11.3246' W; running easterly to the east shore to a point 35° 55.9275' N – 77° 11.3136' W.
- (g) Coniott Creek including designated tributaries - main stem waters west of a line beginning on the north shore at a point 35° 56.6562' N – 77° 04.2860' W; running southwesterly to the south shore to a point 35° 56.6397' N – 77° 04.3066' W; and southeast of a line beginning on the northeast shore at a point 35° 59.4139' N – 77° 08.2158' W; running southwesterly along SSR 1122 bridge (Broad Neck Road) to the southwest shore to a point 35° 59.3976' N – 77° 08.2491' W; including the following tributary from the confluence with Coniott Creek in the direction indicated to the specified boundary:
- (i) Frog Level Swamp - upstream to a line beginning on the north shore at a point 35° 58.0087' N – 77° 06.3447' W; running southerly to the south shore to a point 35° 57.9223' N – 77° 06.3483' W.
- (h) Conoho Creek - north of a line beginning on the west shore at a point 35° 52.5439' N – 77° 02.6673' W; running easterly to the east shore to a point 35° 52.5407' N – 77° 02.6280' W; and southeast of a line beginning on the northeast shore at a point 35° 58.3271' N – 77° 17.6825' W; running southwesterly along NC 11 bridge to the southwest shore to a point 35° 58.3096' N – 77° 17.7006' W.
- (i) Sweetwater Creek including designated tributaries - main stem east of a line beginning on the west shore at a point 35° 51.6464' N – 77° 00.5090' W; running southeasterly to the east shore to a point 35° 51.6252' N – 77° 00.4879' W; and northwest of a line beginning on the northeast shore at a point 35° 48.6186' N – 77° 02.0173' W; running southwesterly along SSR 1501 bridge (Big Mill Road) to the southwest shore to a point 35° 48.5968' N – 77° 02.0311' W; including the following tributary from the confluence with Sweetwater

- Creek in the direction indicated to the specified boundary:
- (i) Peter Swamp - upstream (southeast) to a line beginning on the west shore at a point 35° 49.0798' N – 77° 00.2510' W; running easterly to the east shore to a point 35° 49.0705' N – 77° 00.2118' W.
  - (j) Unnamed Tributary (upstream of Old Mill Creek) - northwest of a line beginning on the northeast shore at a point 35° 53.9775' N – 76° 56.6431' W; running southwesterly to the southwest shore to a point 35° 53.9913' N – 76° 56.6238' W; and southeast of a line beginning on the northeast shore at a point 35° 54.1143' N – 76° 56.8761' W; running southwesterly along SSR 1542 bridge (Bertie County) to the southwest shore to a point 35° 54.0927' N – 76° 56.8956' W.
  - (k) Old Mill Creek - north of a line beginning on the west shore at a point 35° 53.9483' N – 76° 55.3921' W; running southeasterly to the east shore to a point 35° 53.9378' N – 76° 55.3710' W; and south of a line beginning on the west shore at a point 35° 54.3010' N – 76° 55.0492' W; running easterly along SSR 1518 bridge (Bertie County) to the east shore to a point 35° 54.3085' N – 76° 55.0164' W.
  - (l) Gardner Creek - south of a line beginning on the west shore at a point 35° 50.1599' N – 76° 56.0211' W; running easterly to the east shore to a point 35° 50.1633' N – 76° 55.9899' W; and north of a line beginning on the west shore at a point 35° 48.4791' N – 76° 55.9768' W; running easterly to the east shore to a point 35° 48.4834' N – 76° 55.9378' W.
  - (m) Cut Cypress Creek - northeast of a line beginning on the north shore at a point 35° 51.9465' N – 76° 53.5762' W; running southeasterly to the south shore to a point 35° 51.9229' N – 76° 53.5556' W.
  - (n) Roses Creek - southeast of a line beginning on the north shore at a point 35° 50.1683' N – 76° 50.9664' W; running southwesterly to the south shore to a point 35° 50.1363' N – 76° 56.9907' W; and north of a line beginning on the west shore at a point 35° 49.5501' N – 76° 50.7358' W; running easterly to the east shore to a point 35° 49.5649' N – 76° 50.6674' W.
  - (o) Broad Creek - west of a line beginning on the north shore at a point 35° 52.5191' N – 76° 50.4235' W; running southerly to the south shore to a point 35° 52.4262' N – 76° 50.3791' W.
  - (p) Welch Creek - south of a line beginning on the west shore at a point 35° 51.8458' N – 76° 45.8381' W; running easterly along the shoreline and across the mouths of the three creek entrances to the east shore to a point 35° 51.8840' N – 76° 45.6207' W; and north of a line beginning on the west shore at a point 35° 49.7473' N – 76° 47.1058' W; running easterly to the east shore to a point 35° 49.7506' N – 76° 47.0778' W.
  - (q) Conaby Creek - south of a line beginning on the west shore at a point 35° 55.3779' N – 76° 42.4401' W; and running easterly to the east shore to a point 35° 55.3752' N – 76° 42.3408' W; north of a line beginning on the southwest shore at a point 35° 51.6443' N – 76° 44.5188' W; running northeasterly to the northeast shore to a point 35° 51.6538' N – 76° 44.4926' W.
- (18) Scuppernong River including designated tributaries - main stem waters south of a line beginning on the west shore at a point 35° 54.0158' N – 76° 15.4605' W; running easterly to the east shore to a point 35° 54.0406' N – 76° 15.3007' W; and east of a line beginning on the north shore at a point 35° 51.6231' N – 76° 26.1210' W; running southerly to the south shore to a point 35° 51.5952' N – 76° 26.1178' W; including the following tributaries from their confluence with Scuppernong River in the direction indicated to the specified boundary:
- (a) First Creek (Rider's Creek) - upstream (south) to a line beginning on the north shore at a point 35° 53.5116' N – 76° 14.0222' W; running southerly along NC 94 bridge to the south shore to a point 35° 53.4948' N – 76° 14.0125' W.
  - (b) Second Creek - upstream (south) to a line beginning on the north shore at a point 35° 53.0541' N – 76° 15.1132' W; running southerly along SSR 1105 (Bodwell Road) to the south

- shore to a point 35° 53.0286' N – 76° 15.1211' W.
- (c) Lake Phelps - all waters of Lake Phelps and the following main canals connecting to Scuppernong River:
- (i) Moccasin Canal;
- (ii) Western (Enoch) Canal;
- (iii) Mountain Canal;
- (iv) Thirty-foot Canal;
- (v) Somerset (Old) Canal;
- (vi) Batava (Minerva, Magnolia, Bonarva) Canal; and
- (vii) Bee Tree Canal.
- (19) Alligator River Area:
- (a) Little Alligator River - west of a line beginning on the north shore at a point 35° 56.7640' N – 76° 01.0299' W; running southerly to the south shore to a point 35° 55.9362' N – 76° 01.2492' W; and north of a line beginning on the west shore at a point 35° 56.4784' N – 76° 07.5433' W; running easterly to the east shore to a point 35° 56.4771' N – 76° 07.5076' W.
- (b) East Lake - east of a line beginning on the north shore at a point 35° 56.1676' N – 75° 55.2603' W; running southerly to the south shore to a point 35° 55.4727' N – 75° 55.5043' W; and south of a line beginning on the west shore at a point 35° 58.6402' N – 75° 52.1855' W; running easterly to the east shore to a point 35° 58.5887' N – 75° 51.7080' W.
- (c) Second Creek - west of a line beginning on the north shore at a point 35° 51.7616' N – 76° 03.5105' W; running southerly to the south shore to a point 35° 51.1317' N – 76° 03.8003' W.
- (d) Milltail Creek - east of a line beginning on the north shore at a point 35° 50.5192' N – 75° 58.6134' W; running southerly to the south shore to a point 35° 50.4956' N – 75° 58.6158' W; and northwest of a line beginning on the northeast shore at a point 35° 47.7377' N – 75° 53.1295' W; running southwesterly to the southwest shore to a point 35° 47.7180' N – 75° 53.1295' W.
- (e) Whipping Creek and Lake - east of a line beginning on the north shore at a point 35° 41.3930' N – 76° 00.2481' W; running southerly to the south shore to a point 35° 41.3717' N – 76° 00.2554' W; and west of a line beginning on the north shore at a point 35° 42.1737' N – 75° 57.6728' W; running southerly to the south shore to a point 35° 42.1570' N – 75° 57.6732' W.
- (f) Swan Creek and Lake - east of a line beginning on the north shore at a point 35° 40.2674' N – 76° 00.7360' W; running southerly to the south shore to a point 35° 40.2420' N – 76° 00.7548' W.
- (20) Alligator River including designated tributary - main stem waters west of a line beginning on the north shore at Cherry Ridge Landing at a point 35° 42.2172' N – 76° 08.4686' W; running southerly to the south shore to a point 35° 42.1327' N – 76° 08.5002' W; and east of a line beginning on the north shore at a point 35° 36.0502' N – 76° 13.9734' W; running southerly along NC 94 to the south shore to a point 35° 36.0300' N – 76° 13.9779' W; including the following tributary from the confluence with Alligator River in the direction indicated to the specified boundary: Northwest Fork - upstream (north) to a line beginning on the north shore at a point 35° 43.6826' N – 76° 11.9538' W; running southerly to the south shore to a point 35° 43.6495' N – 76° 11.9692' W.
- (21) Croatan Sound Area:
- (a) Spencer Creek - west of a line beginning on the north shore at a point 35° 51.4205' N – 75° 45.0645' W; running southerly to the south shore to a point 35° 51.3876' N – 75° 45.0640' W; and west of a line beginning on the north shore 35° 51.5597' N – 75° 45.0141' W; running southerly to the south shore to a point 35° 51.4624' N – 75° 45.0498' W; and west of a line beginning on the north shore at a point 35° 51.6783' N – 75° 44.9125' W; running southerly to the south shore to a point 35° 51.5693' N – 75° 45.0109' W; and east of a line beginning on the north shore at a point 35° 52.5133' N – 75° 46.3070' W; running southerly to the south shore to a point 35° 52.4635' N – 75° 46.3110' W.
- (b) Callaghan Creek - west of a line beginning on the north shore at a point 35° 51.1312' N – 75° 45.1327' W; running southwesterly to the south shore to a point 35° 51.0953' N – 75° 45.1629' W; and east of a line beginning on the north shore at a point 35° 50.0643' N – 75° 46.6041' W.

- W; running southerly to the south shore to a point  $35^{\circ} 50.0306' N - 75^{\circ} 46.6034' W$ .
- (22) Pamlico River Area:
- (a) Chocowinity Creek - south of a line beginning on the west shore at a point  $35^{\circ} 30.4778' N - 77^{\circ} 04.4049' W$ ; running southerly to the east shore at a point  $35^{\circ} 30.4692' N - 77^{\circ} 04.3862' W$ ; and north of a line beginning on the west shore at a point  $35^{\circ} 28.3423' N - 77^{\circ} 05.0615' W$ ; running easterly to the east shore at a point  $35^{\circ} 28.3413' N - 77^{\circ} 05.0334' W$ .
- (b) Blounts Creek - south of a line beginning on the west shore at a point  $35^{\circ} 23.9524' N - 76^{\circ} 58.0357' W$ ; running easterly to the east shore at a point  $35^{\circ} 23.9565' N - 76^{\circ} 57.9576' W$ ; and north of a line beginning on the west shore at a point  $35^{\circ} 22.3210' N - 76^{\circ} 57.7210' W$ ; running easterly along NC 33 to the east shore at a point  $35^{\circ} 22.3080' N - 76^{\circ} 57.6706' W$ ; on Nancy Run, north of a line beginning on the west shore at a point  $35^{\circ} 22.7132' N - 76^{\circ} 59.0317' W$ ; running easterly along NC 33 to the east shore at a point  $35^{\circ} 22.7064' N - 76^{\circ} 59.0191' W$ ; on Herring Run, north and west of a line beginning on the north shore at a point  $35^{\circ} 22.5435' N - 76^{\circ} 56.9969' W$ ; running southerly along SSR 1100 (Core Point Road) to the south shore at a point  $35^{\circ} 22.5168' N - 76^{\circ} 57.0063' W$ .
- (c) Durham Creek - south of a line beginning on the west shore at a point  $35^{\circ} 21.5669' N - 76^{\circ} 51.9166' W$ ; running easterly along the SSR 1955 bridge (Durham Creek Lane) to the east shore at a point  $35^{\circ} 21.5721' N - 76^{\circ} 51.8621' W$  and north of a line beginning on the west shore at a point  $35^{\circ} 19.1959' N - 76^{\circ} 52.3278' W$ ; running southeasterly along NC 33 to the east shore at a point  $35^{\circ} 19.1802' N - 76^{\circ} 52.2947' W$ .
- (d) Little Goose Creek - north and east of a line beginning on the north shore at a point  $35^{\circ} 28.7258' N - 76^{\circ} 55.8667' W$ ; running southeasterly to the south shore at a point  $35^{\circ} 28.5986' N - 76^{\circ} 55.7922' W$  and west of a line beginning on the north shore at a point  $35^{\circ} 29.0329' N - 76^{\circ} 54.2344' W$ ; running southeasterly along SSR 1334 (Camp Leach Road) to the south shore at a point  $35^{\circ} 29.0283' N - 76^{\circ} 54.2228' W$ ; and the unnamed northwest branch, south of a line beginning on the north shore at a point  $35^{\circ} 29.4589' N - 76^{\circ} 55.0263' W$ ; running southwesterly to the south shore at a point  $35^{\circ} 29.4492' N - 76^{\circ} 55.0322' W$ .
- (e) Broad Creek - north of a line beginning on the west shore at a point  $35^{\circ} 30.0451' N - 76^{\circ} 57.6152' W$ ; running easterly to the east shore at a point  $35^{\circ} 30.0459' N - 76^{\circ} 57.5318' W$  and south of a line beginning on the west shore at a point  $35^{\circ} 32.1646' N - 76^{\circ} 58.5193' W$ ; running easterly along US 264 to the east shore at a point  $35^{\circ} 32.1588' N - 76^{\circ} 58.5048' W$ .
- (f) Runyon Creek - north of a line beginning on the west shore at a point  $35^{\circ} 32.1650' N - 77^{\circ} 02.3663' W$ ; running easterly along the NC 32 bridge (Park Drive) to the east shore at a point  $35^{\circ} 32.1320' N - 77^{\circ} 02.3024' W$  and south of a line beginning on the north shore at a point  $35^{\circ} 33.0407' N - 77^{\circ} 01.1497' W$ ; running southeasterly to the south shore at a point  $35^{\circ} 33.0260' N - 77^{\circ} 01.1449' W$ .
- (23) Tar River including designated tributaries - main stem waters west of a line beginning on the north shore at a point  $35^{\circ} 33.1993' N - 77^{\circ} 05.3977' W$ ; running southerly to the south shore at a point  $35^{\circ} 32.9978' N - 77^{\circ} 05.1529' W$  and east of a line beginning on the north shore at a point  $35^{\circ} 57.6505' N - 77^{\circ} 48.2537' W$ ; running southeasterly along the Rocky Mount Mill Pond Dam to the south shore at a point  $35^{\circ} 57.5997' N - 77^{\circ} 48.1412' W$ ; including the following tributaries from their confluence with Tar River in the direction indicated to the specified boundary:
- (a) Swift Creek - upstream (northwest) to a line beginning on the north shore at a point  $36^{\circ} 00.5829' N - 77^{\circ} 39.9482' W$ ; running southerly to the south shore at a point  $36^{\circ} 00.5413' N - 77^{\circ} 39.9616' W$ .
- (b) Fishing Creek - upstream (northwest) to a line beginning on the north shore at a point  $36^{\circ} 08.0430' N - 77^{\circ} 43.2829' W$ ; running southerly to the south shore at a point  $36^{\circ} 08.0173' N - 77^{\circ} 43.2921' W$ ; on Deep Creek, upstream (northeast) to a line

- beginning on the north shore at a point 35° 57.8688' N – 77° 27.2298' W; running southeasterly to the south shore at a point 35° 57.8403' N – 77° 27.1890' W.
- (c) Town Creek - upstream (west) to a line beginning on the north shore at a point 35° 48.4135' N – 77° 36.7687' W; running southwesterly to the south shore at a point 35° 48.3728' N – 77° 36.7686' W.
- (d) Otter Creek - upstream (west) to a line beginning on the west shore at a point 35° 43.2448' N – 77° 31.9013' W; running easterly to the east shore at a point 35° 43.2385' N – 77° 31.8735' W.
- (e) Tyson Creek - upstream (southwest) to a line beginning on the west shore at a point 35° 40.4470' N – 77° 30.7015' W; running easterly to the east shore at a point 35° 40.4107' N – 77° 30.6075' W.
- (f) Conetoe Creek - upstream (north and east) to a line beginning on the north shore at a point 35° 44.5315' N – 77° 29.1676' W; running southerly to the south shore at a point 35° 44.5071' N – 77° 29.1894' W.
- (g) Hardee Creek - upstream (southwest) to a line beginning on the west shore at a point 35° 35.6842' N – 77° 19.3857' W; running easterly to the east shore at a point 35° 35.6781' N – 77° 19.3680' W.
- (h) Chicod Creek - upstream (west) to a line beginning on the west shore at a point 35° 34.6186' N – 77° 14.0233' W; running southerly to the east shore at a point 35° 34.5985' N – 77° 14.0169' W.
- (i) Old Grindle Creek - upstream (north) to a line beginning on the north shore at a point 35° 35.3098' N – 77° 09.9461' W; running southerly along SSR 1565 (Grimesland Bridge Road) to the south shore at a point 35° 35.2891' N – 77° 09.9511' W.
- (j) Bear Creek - upstream (southwest) to a line beginning on the west shore at a point 35° 32.4699' N – 77° 07.4185' W; running easterly to the east shore at a point 35° 32.4697' N – 77° 07.3758' W.
- (24) Tranters Creek including designated tributaries - main stem waters north and west of a line beginning on the west shore at a point 35° 33.1993' N – 77° 05.3978' W; running easterly to the east shore at a point 35° 33.2408' N – 77° 05.0872' W and south of a line beginning on the west shore at a point 35° 45.7848' N – 77° 15.2294' W; running easterly to the east shore at a point 35° 45.7905' N – 77° 15.1931' W; including the following tributaries from their confluence with Tranters Creek in the direction indicated to the specified boundary:
- (a) Aggie Run - upstream (east) to a line beginning on the north shore at a point 35° 38.3433' N – 77° 05.5003' W; running southeasterly to the south shore at a point 35° 38.2633' N – 77° 05.4097' W.
- (b) Cherry Run - upstream (northeast) to a line beginning on the north shore at a point 35° 35.1560' N – 77° 04.0436' W; running southerly along US 17 to the south shore at a point 35° 35.1404' N – 77° 04.0437' W.
- (25) Lake Mattamuskeet - all waters and all inland manmade tributaries of Lake Mattamuskeet.
- (26) Bay River Area: Trent Creek - south of a line beginning on the west shore at a point 35° 06.2738' N – 76° 43.1071' W; running easterly along the NC 55 bridge (Pamlico County) to the east shore to a point 35° 06.2603' N – 76° 43.0741' W; and north of a line beginning on the southwest shore at a point 35° 04.3545' N – 76° 42.8282' W; running northeasterly to the northeast shore to a point 35° 04.3686' N – 76° 42.8117' W.
- (27) Neuse River including designated tributaries - main stem waters south of a line beginning on the east shore at a point 35° 47.9955' N – 78° 32.2902' W; running westerly along Milburnie Dam (Bridges Lake Dam) to the west shore to a point 35° 48.0280' N – 78° 32.3989' W; and northwest of a line near Pitch Kettle Creek beginning on the north shore at a point 35° 16.9793' N – 77° 15.5529' W; running south to the south shore to a point 35° 16.9237' N – 77° 15.5461' W; including the following tributaries from their confluence with Neuse River in the direction indicated to the specified boundary:
- (a) Middle Creek - upstream (west) to a line beginning on the southwest shore at a point 35° 30.4489' N – 78° 24.1072' W; running northeasterly along the NC 210 bridge (Johnston County) to the northeast shore to a point 35° 30.4767' N – 78° 24.0676' W.
- (b) Mill Creek - upstream (west) to a line beginning on the north shore at a point 35° 20.7619' N – 78° 20.0813' W; running southerly along the SSR 1185 bridge (Joyner Bridge Road) to

- the south shore to a point 35° 20.7262' N – 78° 20.0938' W.
- (c) Little River - upstream (northwest) to a line beginning on the southwest shore at a point 35° 40.0035' N – 78° 15.5262' W; running northeasterly along the NC 42 bridge (Johnston County) to the northeast shore to a point 35° 40.0142' N – 78° 15.5060' W.
- (d) Walnut Creek - upstream (north) to a line beginning on the west shore at a point 35° 15.5439' N – 77° 52.5703' W; running easterly to the east shore to a point 35° 15.5407' N – 77° 52.5574' W.
- (e) Bear Creek - upstream (north) to a line beginning on the northwest shore at a point 35° 15.5439' N – 77° 52.5703' W; running southeasterly to the southeast shore to a point 35° 15.5407' N – 77° 52.5574' W.
- (f) Falling Creek - upstream (northwest) to a line beginning on the west shore at a point 35° 15.6635' N – 77° 41.5862' W; running easterly along the US 70 bridge (Banks School Road) to the east shore to a point 35° 15.6687' N – 77° 6687' W.
- (g) Contentnea Creek - upstream (northwest) to a line beginning on the west shore at a point 35° 34.1707' N – 77° 47.5396' W; running easterly to the east shore to a point 35° 34.1704' N – 77° 47.4966' W.
- (h) Halfmoon Creek - upstream (southwest) to a line beginning on the north shore at a point 35° 19.1578' N – 77° 20.2050' W; running southerly to the south shore to a point 35° 19.1335' N – 77° 20.2036' W.
- (i) Village Creek - upstream (southwest) to a line beginning on the northeast shore at a point 35° 18.4795' N – 77° 18.1037' W; running southwesterly to the southwest shore to a point 35° 18.4603' N – 77° 18.1121' W.
- (j) Kitten Creek - upstream (northwest) to include all waters.
- (k) Core Creek - upstream (west) to a line beginning on the north shore at a point 35° 10.7941' N – 77° 18.9102' W; running southerly to the south shore to a point 35° 10.7715' N – 77° 18.9012' W.
- (l) Pitchkettle Creek - upstream (northwest) to include all waters.
- (28) Neuse River Area:
- (a) Turkey Quarter and Greens creeks - southeast of a line beginning on the west shore of Turkey Quarter Creek at a point 35° 15.6738' N – 77° 14.6823' W; running southeasterly to the southeast shore of Turkey Quarter Creek to a point 35° 15.6534' N – 77° 14.6470' W; and northwest of a line beginning on the north shore of Greens Creek at a point 35° 14.1883' N – 77° 11.8862' W; running southwesterly to the southwest shore of Greens Creek to a point 35° 14.1389' N – 77° 11.7535' W.
- (b) Taylor Creek - northwest of a line beginning on the north shore at a point 35° 14.3719' N – 77° 10.8050' W; running southwesterly to the south shore to a point 35° 14.3300' N – 77° 10.8352' W.
- (c) Pine Tree Creek - west of a line beginning on the north shore at a point 35° 12.6663' N – 77° 07.4285' W; running southwesterly to the south shore to a point 35° 12.7033' N – 77° 07.3594' W and north of a line beginning on the west shore at a point 35° 12.8553' N – 77° 07.8300' W; running easterly to the east shore to a point 35° 12.8372' N – 77° 07.7934' W and north of a line beginning on the west shore at a point 35° 13.2012' N – 77° 08.7753' W; running southeasterly to the east shore to a point 35° 13.1714' N – 77° 08.7071' W.
- (d) Swift and Little Swift creeks - north of a line beginning on the west shore at a point 35° 11.5972' N – 77° 06.0562' W; running easterly to the east shore to a point 35° 11.5816' N – 77° 05.9861' W for both creeks and south of a line beginning on the northeast shore at a point 35° 17.8175' N – 77° 08.9421' W; running southwesterly along the SSR 1440 bridge (Streets Ferry Road) to the southwest shore to a point 35° 17.8027' N – 77° 08.9529' W for Swift Creek; and southwest of two lines, one beginning on the northwest shore of Fisher Swamp at a point 35° 14.6533' N – 77° 03.9072' W; running southeasterly to the southeast shore to a point 35° 14.6322' N – 77° 03.8983' W; and the other beginning

- on the northwest shore of Little Swift Creek at a point 35° 14.1315' N – 77° 03.6823' W; running southeasterly along the SR 1627 bridge (Craven County) to the southeast shore to a point 35° 14.1179' N – 77° 03.6676' W for Little Swift Creek.
- (e) Bachelor Creek - west of a line beginning on the north shore at a point 35° 09.0099' N – 77° 04.5858' W; running southerly to the south shore to a point 35° 08.9085' N – 77° 04.7172' W and east of a line at Rollover Creek beginning on the north shore at a point 35° 07.9194' N – 77° 11.9438' W; running southerly to the south shore to a point 35° 07.8931' N – 77° 11.9445' W.
- (f) Trent River Area:
- (i) Brice Creek - south of a line beginning on the west shore at a point 35° 02.1261' N – 77° 02.1243' W; running easterly to the east shore to a point 35° 02.1268' N – 77° 02.1015' W and north of a line beginning on the west shore at a point 34° 59.7828' N – 77° 00.0710' W; running easterly along the SSR 1101 bridge (County Line Road) to the east shore to a point 34° 59.7789' N – 77° 00.0534' W.
- (ii) Mill Creek - south of a line beginning on the west shore at a point 35° 00.4595' N – 77° 12.8427' W; running easterly to the east shore to a point 35° 00.4593' N – 77° 12.8160' W; and north of a line beginning on the west shore at a point 34° 59.8881' N – 77° 12.8536' W; running easterly to the east shore to a point 34° 59.8878' N – 77° 12.8368' W.
- (iii) Mill Run - southwest of a line beginning on the northwest shore at a point 35° 00.0929' N – 77° 17.3282' W; running southeasterly along the NC 58 bridge (Jones County) to the southeast shore to a point 35° 00.3654' N – 77° 16.8487' W; and northeast of a line beginning on the northwest shore at a point 35° 00.0929' N – 77° 17.3282' W; running southeasterly to the southeast shore to a point 35° 00.0740' N – 77° 17.3024' W.
- (g) Trent River including all the waters of Jumping Creek - main stem waters southwest of a line beginning on the west shore at a point 35° 01.9478' N – 77° 15.6377' W; running easterly along the SSR 1121 bridge (Oak Grove Road) to the east shore to a point 35° 01.9506' N – 77° 15.6095' W; and northeast of a line beginning on the northeast shore at a point 35° 04.0759' N – 77° 35.3891' W; running southwesterly along the SSR 1153 bridge (Vine Swamp Road) to the southwest shore to a point 35° 04.0624' N – 77° 35.4063' W; including all the waters of Jumping Creek.
- (h) Upper Broad Creek - northwest of a line beginning on the north shore at a point 35° 06.8922' N – 76° 56.3911' W; running southerly to the south shore to a point 35° 06.8623' N – 76° 56.3916' W and southeast of a line beginning on the west shore at a point 35° 08.3197' N – 76° 58.7314' W; running easterly along the NC 55 bridge at the Craven and Pamlico county line to the east shore to a point 35° 08.3209' N – 76° 58.6753' W.
- (i) Beard Creek - northwest of a line beginning on the north shore at a point 35° 02.6853' N – 76° 52.3346' W; running southerly to the south shore to a point 35° 02.6663' N – 76° 52.3351' W and southeast of line beginning on the southwest shore at a point 35° 03.7198' N – 76° 52.6024' W; running northeasterly along the SSR 1115 bridge (Pamlico County) to the northeast shore to a point 35° 03.7258' N – 76° 52.5942' W.
- (j) Dawson Creek - northwest of a line beginning on the southwest shore at a point 35° 01.8352' N – 76° 47.4672' W; running northeasterly to the northeast shore to a point 35° 01.8475' N – 76° 47.4283' W; and southeast of a line beginning on the southwest shore of Fork Run at a point 35° 02.1112' N – 76° 48.3083' W.

- W; running northeasterly along the SSR 1005 bridge (Pamlico County) to the northeast shore of Fork Run to a point 35° 02.1206' N – 76° 48.2922' W.
- (k) Slocum Creek:
- (i) Southwest Prong - southwest of a line beginning on the northwest shore at a point 34° 53.1520' N – 76° 55.8540' W; running southeasterly along the SSR 1746 bridge (Greenfield Heights Boulevard) to the southeast shore to a point 34° 53.1369' N – 76° 55.8460' W; and northeast of a line beginning on the west shore at a point 34° 51.5981' N – 76° 57.1687' W; running easterly to the east shore to a point 34° 51.5935' N – 76° 57.1229' W.
- (ii) East Prong - south of a line beginning on the west shore at a point 34° 52.9687' N – 76° 54.5195' W; running easterly along the NC 101 bridge (Fontana Boulevard) to the east shore to a point 34° 52.9680' N – 76° 54.5020' W.
- (l) Hancock Creek - south of a line beginning on the west shore at a point 34° 52.1403' N – 76° 50.8518' W; running easterly along the NC 101 bridge (Craven County) to the east shore to a point 34° 52.1412' N – 76° 50.8382' W.
- (29) White Oak River - main stem waters north and west of a line beginning on the west shore at a point 34° 48.1466' N – 77° 11.4711' W; running easterly to a point on the west shore 34° 48.1620' N – 77° 11.4244' W; and south and east of a line beginning on the west shore at a point 34° 53.5120' N – 77° 51.4013' W; running easterly to a point on the east shore 34° 53.5009' N – 77° 14.0194' W; including the following tributaries from their confluence with White Oak River in the direction indicated to the specified boundary:
- (a) Holston Creek - east to a line beginning on the north shore at a point 34°49.6284' N – 77° 9.37836' W; running southerly to shore at a point 34° 49.6177' N – 77° 9.36702' W.
- (b) Grant's Creek - west to a line beginning on the north shore at a point 34°47.9302' N – 77° 12.8060' W; running southerly along SSR 1434 bridge (Belgrade-Swansboro Road) to a point on the south shore 34° 47.9185' N – 77° 12.7954' W.
- (30) New River - main stem waters north of a line beginning on the west shore at a point 34° 45.1654' N – 77° 26.1222' W; running easterly along the US Highway 17 bridge to a point on the east shore 34° 45.2007' N – 77° 25.9790' W; and south of a line beginning at a point on the west shore 34° 50.5818' N – 77° 30.1735' W running easterly along the SSR 1316 bridge (Rhodestown Road) to a point on the east shore 34° 50.5951' N – 77° 30.1534' W.
- (31) Northeast and Little Northeast Creeks - north and east of a line beginning on the west shore at a point 34° 44.0778' N – 77° 21.2640' W; running southeasterly along the railroad bridge to a point on the east shore 34° 44.0446' N – 77° 21.2126' W; and west of a line beginning on the north shore 34° 44.9055' N – 77° 19.7541' W; running southerly along SSR 1406 bridge (Piney Green Road) to a point on the south shore 34° 44.8881' N – 77° 19.7649' W.
- (32) Northeast Cape Fear River - main stem waters north of a line beginning at a point on the west shore 34° 26.5658' N – 77° 50.0871' W; running northeasterly along the NC 210 bridge to a point on the east shore 34° 26.6065' N – 77° 49.9955' W and south of a line beginning on the west shore 34° 38.7667' N – 77° 52.3417' W running easterly along SSR 1318 bridge (Croombsbridge Road) to a point on the east shore 34° 38.7744' N – 77° 52.3093' W; including the following tributaries from their confluence with the Northeast Cape Fear River in the direction indicated to the specified boundary:
- (a) Burgaw Creek - west to a line beginning on the north shore at a point 34° 32.4670' N – 77° 51.1705' W; running southerly along SSR 1411 bridge (Stag Park Road) to a point on the south shore 34° 32.4567' N – 77° 51.1711' W.
- (b) Pike Creek - west to a line beginning on the north shore at a point 34° 28.7928' N – 77° 52.5148' W; running southerly along SSR 1411 bridge (Ashton Lake Road) to a point on the south shore 34° 28.7882' N – 77° 52.5261' W.
- (c) Merrick Creek - north and east to a line beginning on the north shore at a



- point 34° 26.8264' N – 77° 48.1948' W; running southerly along NC 210 bridge to a point on the south shore 34° 26.8028' N – 77° 48.1797' W.
- (d) Island Creek - south and east to a line beginning on the west shore at a point 34° 22.0359' N – 77° 48.9107' W; running easterly along SSR 1002 bridge (Holly Shelter Road) to a point on the east shore 34° 22.0213' N – 77° 48.8854' W.
- (e) Prince George Creek - south and east to a line beginning on the north shore at a point 34° 20.6773' N – 77° 54.2113' W; running southerly along NC 133 bridge to a point on the south shore 34° 20.6659' N – 77° 54.2170' W.
- (f) Turkey Creek - north and east to a line beginning on the north shore at a point 34° 23.8546' N – 77° 54.7872' W; running southerly along NC 133 bridge to a point on the south shore 34° 23.8429' N – 77° 54.7772' W.
- (g) Long Creek - north and west to a line beginning on the west shore at a point 34° 26.3494' N – 78° 01.5716' W; running easterly along NC 210 bridge to a point on the east shore 34° 26.3500' N – 78° 01.5396' W.
- (33) Black River - north and west of a line beginning on the west shore at a point 34° 22.0783' N – 78° 04.4123' W; running easterly to a point on the east shore 34° 21.9950' N – 78° 04.2864' W and south and east of a line beginning at a point on the north shore 34° 42.5285' N – 78° 15.8178' W; running southerly to a point on the south shore 34° 42.5008' N – 78° 15.7972' W. South River - south and east of a line beginning at a point on the west shore 34° 38.4120' N – 78° 18.7075' W; running easterly along SSR 1007 bridge (Ennis Bridge Road) to a point on the east shore 34° 38.4080' N – 78° 18.6727' W.
- (34) Cape Fear River - main stem waters north and west of a line at Lock and Dam #1 beginning on the west shore at a point 34° 24.2628' N – 78° 17.6390' W; running easterly to a point on the east shore 34° 24.2958' N – 78° 17.5634' W and south and east of a line beginning at a point on the west shore 35° 24.8404' N – 78° 49.4267' W; running easterly to a point on the east shore 35° 24.8833' N – 78° 49.3288' W; including the following tributaries from their confluence with the Cape Fear River in the direction indicated to the specified boundary:
- (a) Brown's Creek - south and west to a line beginning on the north shore at a point 34° 36.8641' N – 78° 35.0917' W; running southerly along NC 87 bridge to a point on the south shore 34° 36.8477' N – 78° 35.0731' W.
- (b) Hammond Creek - south and west to a line beginning on the north shore at a point 34° 34.032' N – 78° 30.3542' W; running southerly along NC 87 bridge to a point on the south shore 34° 34.0142' N – 78° 30.3397' W.
- (c) Steep Run - south and west to a line beginning on the north shore at a point 34° 25.5019' N – 78° 20.9934' W; running southerly along NC 87 bridge to a point on the south shore 34° 25.4742' N – 78° 20.9549' W.
- (d) Wayman's Creek - south and west to a line beginning on the north shore at a point 34° 22.4396' N – 78° 16.3904' W; running southerly along NC 87 bridge to a point on the south shore 34° 22.4287' N – 78° 16.3723' W.
- (e) Livingston Creek - south to a line beginning on the north shore at a point 34° 19.5405' N – 78° 12.9889' W; running southerly along NC 87 bridge to a point on the south shore 34° 19.5128' N – 78° 12.9727' W.
- (f) Hood Creek - south and west to a line beginning on the north shore at a point 34° 18.6658' N – 78° 07.1988' W; running southerly along NC 87 bridge to a point on the south shore 34° 18.6612' N – 78° 07.1741' W.
- (g) Indian Creek - west to a line beginning on the north shore at a point 34° 17.7383' N – 78° 02.6706' W; running southerly along SSR 1453 bridge (Brunswick County) to a point on the south shore 34° 17.7210' N – 78° 02.6697' W.
- (h) Sturgeon Creek - west to a line beginning on the north shore at a point 34° 14.6391' N – 78° 01.8154' W; running southerly to a point on the south shore 34° 14.5918' N – 78° 01.7941' W.
- (i) Mill Creek - north and west of Sturgeon Creek to a line beginning on the north shore at a point 34° 15.2342' N – 78° 01.6370' W; running southerly to a point on the south shore 34° 15.2024' N – 78° 01.6525' W.
- (j) Alligator Creek - north of the Brunswick River to the origin of the Creek excluding the dredged portions of the Creek.
- (k) Jackeys Creek - west of the Brunswick River to a line beginning

- on the north shore at a point 34° 11.9672' N – 77° 58.8303' W; running southerly along the NC 133 bridge to a point on the south shore 34° 11.9544' N – 77° 58.8307' W.
- (l) Mallory Creek - west of the Brunswick River to a line beginning on the north shore at a point 34° 10.0530' N – 77° 58.5927' W; running southerly along the NC Highway 133 bridge to a point on the south shore 34° 10.0351' N – 77° 58.5942' W.
- (m) Town Creek - west to a line beginning on the north shore at a point 34° 09.4084' N – 78° 05.5059' W; running southerly along US 17 bridge to a point on the south shore 34° 09.3731' N – 78° 05.5147' W.
- (n) Lilliput Creek - west to a line beginning on the north shore at a point 34° 04.5292' N – 77° 57.3187' W; running southerly along NC 133 bridge to a point on the south shore 34° 04.5137' N – 77° 57.3108' W.

Authority G.S. 113-132; 113-134.

## **SUBCHAPTER 10D - GAME LANDS REGULATIONS**

### **SECTION .0100 - GAME LANDS REGULATIONS**

#### **15A NCAC 10D .0102 GENERAL REGULATIONS REGARDING USE**

(a) Trespass. Entry on game lands for purposes other than hunting, trapping or fishing shall be as authorized by the landowner and there shall be no removal of any plants or parts thereof, or other materials, without the written authorization of 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 bow and arrow hunting and falconry only. On these areas, deer of either sex may be taken on all open days of any applicable deer season.
- (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 any 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 all use by the general public, and entry upon such

an area for any purpose is prohibited without first having obtained specific written approval of such entry or use from an authorized agent of the Wildlife Resources Commission. Entry shall be authorized only when such entry will not compromise the primary purpose for establishing the Restricted Zone and the person or persons requesting entry can demonstrate a valid need or such 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.

- (5) Temporary Restricted Zone. Portions of game lands posted as "Temporary Restricted Zones" are closed to all use by the general public, and entry upon such an area for any purpose is prohibited without first having obtained specific written approval of such entry or use from an authorized agent of 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 due to topographical features or activities occurring on the area.

- ~~(5)~~(6) Establishment of Archery, Restricted Firearms, and Restricted Zones. The Commission shall conduct a public input meeting in the area where the game land is located before establishing any archery, restricted firearms or restricted zone. After the input meeting the public comments shall be presented to an official Commission meeting for final determination.

- ~~(6)~~(7) Scouting-only Zone. On portions of the game lands posted as "Scouting-only Zones" the discharge of firearms or bow and arrow is prohibited.

- (b) Littering. No person shall deposit any litter, trash, garbage, or other refuse at any place on any game land except in receptacles provided for disposal of such refuse at designated camping and target-shooting areas. No garbage dumps or sanitary landfills shall be established on any game land by any person, firm, corporation, county or municipality, except as permitted by the landowner.

- (c) Possession of Hunting Devices. It is unlawful to possess a firearm or bow and arrow on a game land at any time except during the open hunting seasons or hunting days for game birds or game animals, other than fox, unless the device is cased or not immediately available for use, provided that such devices may be possessed and used by persons participating in field trials on field trial areas and on target shooting areas designated by the landowner, and possessed in designated camping areas for defense of persons and property; and provided further that .22 caliber pistols with barrels not greater than seven and one-half inches in length and shooting only short, long, or long rifle ammunition may be carried as side arms on game lands at any

time other than by hunters during the special bow and arrow and muzzle-loading firearms deer hunting seasons and by individuals training dogs during closed season without field trial authorization. This Rule shall not prevent possession or use of a bow and arrow as a licensed special fishing device in those waters where such use is authorized. During the closed firearms seasons on big game (deer, bear, boar, wild turkey), no person shall possess a shotgun shell containing larger than No. 4 shot or any rifle or pistol larger than a .22 caliber rimfire while on a game land, except that shotgun shells containing any size steel or non-toxic shot may be used while waterfowl or coyote hunting. Furthermore, only shotguns with any size shot and archery equipment as defined in 15A NCAC 10B .0116 may be possessed during the big game season for turkey. No person shall hunt with or have in possession any shotgun shell containing lead or toxic shot while hunting on any posted waterfowl impoundment on any game land, or while hunting waterfowl on Butner-Falls of Neuse Game Land or New Hope Game Land, except shotgun shells containing lead buckshot may be used while deer hunting.

**(d) Game Lands License: Hunting and Trapping**

- (1) Requirement. Except as provided in Subparagraph (2) of this Paragraph, any person entering upon any game land for the purpose of hunting, trapping, or participating in dog training or field trial activities shall have in his possession a game lands license in addition to the appropriate hunting or trapping licenses. A field trial participant is defined as a Judge, Handler, Scout or Owner.
- (2) Exceptions
  - (A) A person under 16 years of age may hunt on game lands on the license of his parent or legal guardian.
  - (B) The resident and nonresident sportsman's licenses include game lands use privileges.
  - (C) Judges and nonresidents participating in field trials under the circumstances set forth in Paragraph (e) of this Rule may do so without the game lands license.
  - (D) On the game lands described in Rule .0103(e)(2) of this Section, the game lands license is required only for hunting doves; all other activities are subject to the control of the landowners.

**(e) Field Trials and Training Dogs.** A person serving as judge of a field trial which, pursuant to a written request from the sponsoring organization, has been authorized in writing and scheduled for occurrence on a game land by an authorized representative of the Wildlife Resources Commission, and any nonresident Handler, Scout or Owner participating therein may do so without procuring a game lands license, provided such nonresident has in his possession a valid hunting license issued by the state of his residence. Any individual or organization sponsoring a field trial on the Sandhills Field Trial grounds or the Laurinburg Fox Trial facility shall file with the commission's

agent an application to use the area and facility accompanied by the facility use fee computed at the rate of one hundred dollars (\$100.00) 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 for any reason trials are not run but the building or facilities are used or occupied. A fee of twenty-five dollars (\$25.00) 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 any other entity shall enter or use in any manner any of the physical facilities located on the Laurinburg Fox Trial or the Sandhills Field Trial grounds without first having obtained written approval of such entry or use from an authorized agent of the Wildlife Resources Commission, and no such entry or use of any such facility shall exceed the scope of or continue beyond the approval so obtained. The Sandhills Field Trial facilities shall be used only for field trials scheduled with the approval of the Wildlife Resources Commission. No more than 16 days of field trials may be scheduled for occurrence on the Sandhills facilities during any calendar month, and no more than four days may be scheduled during any calendar week; provided, that a field trial requiring more than four days may be scheduled during one week upon reduction of the maximum number of days allowable during some other week so that the monthly maximum of 16 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 October 22 and November 18 and between December 3 and March 31 shall submit its proposed schedule of such use to the Wildlife Resources Commission for its consideration and approval. The use of the Sandhills Field Trial facilities at any time 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 any game land located west 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 such field trial does not conflict with other planned activities on the Game Land or field trial facilities and the applying organization can demonstrate 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 primary goals of the agency.

**(f) Trapping.** Subject to the restrictions contained in 15A NCAC 10B .0110, .0302 and .0303, trapping of furbearing animals is permitted on game lands during the applicable open seasons, except that trapping is prohibited:

- (1) on the field trial course of the Sandhills Game Land;

- (2) on the Harmon Den and Sherwood bear sanctuaries in Haywood County;
- (3) in posted "safety zones" located on any game land;
- (4) 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;
- (5) on Cowan's Ford Waterfowl Refuge in Gaston, Lincoln and Mecklenburg Counties;
- (6) on the Hunting Creek Swamp Waterfowl Refuge;
- (7) on the John's River Waterfowl Refuge in Burke County; and
- (8) on the Dupont State Forest Game Lands.

On those areas of state-owned land known collectively as the Roanoke River Wetlands controlled trapping is allowed under a permit system.

(g) Use of Weapons. In addition to zone restrictions described in Paragraph (a) no person shall discharge a weapon within 150 yards of any Game Lands building or designated Game Lands camping area, except where posted otherwise, or within 150 yards of any residence located on or adjacent to game lands, except no person shall discharge a firearm within 150 yards of any residence located on or adjacent to Butner-Falls of Neuse and Jordan Game Lands.

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

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

(i) Camping. No person shall camp on any game land except on an area designated by the landowner for camping. ~~Camping and associated equipment in designated Hunter Camping Areas at Butner Falls of the Neuse, Caswell, and Sandhills Game Lands is limited to September 1 through February 29 and April 7 through May 14.~~

(j) Swimming. Swimming is prohibited in the lakes located on the Sandhills Game Land.

(k) Disabled Sportsman Program. In order to qualify for special hunts for disabled sportsmen listed in 15A NCAC 10D .0103 an individual shall possess a Disabled Veteran Sportsman license, a Totally Disabled Sportsman license or a disabled sportsman hunt certification issued by the Commission. In order to qualify for the certification, the applicant shall provide medical certification of one or more of the following disabilities:

- (1) missing 50 percent or more of one or more limbs, whether by amputation or natural causes;
- (2) paralysis of one or more limbs;
- (3) dysfunction of one or more limbs rendering the person unable to perform the task of grasping and lifting with the hands and arms or

unable to walk without mechanical assistance, other than a cane;

- (4) disease or injury or defect confining the person to a wheelchair, walker, or crutches; or
- (5) deafness.

Participants in the program who also hold a disabled access permit, except those qualifying by deafness, may operate vehicles on ungated or open-gated roads normally closed to vehicular traffic on Game Lands owned by the Wildlife Resources Commission. Each program participant may be accompanied by one able-bodied companion provided such companion has in his possession the companion card issued by the Commission.

(l) Release of Animals and Fish. It is unlawful to release pen-raised animals or birds, wild animals or birds, or hatchery-raised fish on game lands without prior written authorization. It is unlawful to move wild fish from one stream to another on game lands without prior written authorization. Written authorization shall be given when release of such animals is determined by a North Carolina Wildlife Resources Commission biologist not to be harmful to native wildlife in the area and such releases are in the public interest or advance the programs and goals of the Wildlife Resources Commission.

(m) 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. People who have obtained a Disabled Access Program permit are exempt from this rule but must comply with the terms of their permit.

(n) Disabled Access Program. Permits issued under this program shall be based upon medical evidence submitted by the person verifying that a handicap exists that limits physical mobility to the extent that normal utilization of the game lands is not possible without vehicular assistance. Persons meeting this requirement may operate electric wheel chairs, all terrain vehicles, and other passenger vehicles on 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 such use. Those game lands where this Paragraph applies shall be designated in the game land rules and map book. This Paragraph does not permit vehicular access on fields, openings, roads, paths, or trails planted to wildlife food or cover. One able-bodied companion, who is identified by a special card issued to each qualified disabled person, may accompany a disabled person to provide assistance, provided the companion is at all times in visual or verbal contact with the disabled person. The companion may participate in all lawful activities while assisting a disabled person, provided license requirements are met. Any vehicle used by a qualified disabled person for access to game lands under this provision shall prominently display the vehicular access permit issued by the Wildlife Resources Commission in the passenger area of the vehicle. It shall be unlawful for anyone other than those holding a Disabled Access Permit to hunt, during waterfowl season, within 100 yards of a waterfowl blind designated by the Wildlife Resources Commission as a Disabled Sportsman's hunting blind.

(o) Public nudity. Public nudity, including nude sunbathing, is prohibited on any Game Land, 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.

(p) Definitions: For the purpose of this Subchapter "Permanent Hunting Blind" shall be defined as any structure that is used for hunter concealment, constructed from man made or natural materials, and that is not disassembled and removed at the end of each day's hunt.

(q) Shooting Ranges. On state-owned game lands, no person shall use designated shooting ranges for any purpose other than for firearm or bow and arrow marksmanship, development of shooting skills or for other safe uses of firearms and archery equipment. All other uses, including camping, building fires, operating concessions or other activities not directly involved with recreational or competitive shooting are prohibited, except that activities which have been approved by the Commission and for which a permit has been issued may be conducted, provided that the permit authorizing such activity is available for inspection by wildlife enforcement officers at the time the activity is taking place. No person, when using any shooting range, shall deposit any debris or refuse on the grounds of the range. This includes any 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 any items made of glass on the grounds of the range. No person may leave any vehicle or other obstruction in such a location or position that it will prevent, impede or inconvenience the use by other persons of any shooting range. No person shall leave parked any vehicle or other object at any place on the shooting range other than such a place or zone as is designated as an authorized parking zone and posted or marked as such. No person shall handle any 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 any 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 any person(s). Persons using a shooting range must obey posted range safety rules and those persons who violate range safety rules or create a public safety hazard must leave the shooting range if directed to by law enforcement officers or Commission employees. No person shall handle any 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. Shooting ranges are open from sunrise to sunset on Monday through Saturday. Firearms are to be unloaded and cased when being transported to the shooting range while on Game Lands. No person, when using any shooting range, shall do any act which is prohibited or neglect to do any act which is required by signs or markings placed on such area under authority of this Rule for the purpose of regulating the use of the area.

*Authority G.S. 113-134; 113-264; 113-270.3; 113-291.2; 113-291.5; 113-305; 113-306.*

**15A NCAC 10D .0103 HUNTING ON GAME LANDS**

(a) Safety Requirements. No person while hunting on any designated game land shall be under the influence of alcohol or any narcotic drug, or fail to comply with restrictions enacted by the National Park Service regarding the use of the Blue Ridge Parkway where it adjoins game lands listed in this Rule.

(b) Traffic Requirements. No person shall park a vehicle on game lands in such a manner as to block traffic, gates or otherwise prevent vehicles from using any roadway.

(c) Tree Stands. It is unlawful to erect or to occupy, for the purpose of hunting, any tree stand or platform attached by nails, screws, bolts or wire to a tree on any game land designated herein. This prohibition shall not apply to lag-screw steps or portable stands that are removed after use with no metal left remaining in or attached to the tree.

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

(e) Definitions:

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

(2) For purposes of this Section, "Dove Only Area" refers to a Game Land on which doves may be taken and dove hunting is limited to Mondays, Wednesdays, Saturdays and to

Thanksgiving, Christmas and New Year's Days within the federally-announced season.

- (3) For purposes of this Section, "Three Days per Week Area" refers to a Game Land on which any game may be taken during the open seasons and hunting is limited to Mondays, Wednesdays, Saturdays and Thanksgiving, Christmas and New Year's Days. These "open days" also apply to either-sex hunting seasons listed under each game land. Raccoon and opossum hunting may continue until 7:00 a.m. on Tuesdays, until 7:00 a.m. on Thursdays, and until midnight on Saturdays.

- (4) For purposes of this Section, "Six Days per Week Area" refers to a Game Land on which any game may be taken during the open seasons, ~~except that: seasons.~~

~~(A) Bears shall not be taken on lands designated and posted as bear sanctuaries;~~

~~(B) Wild boar shall not be taken with the use of dogs on such bear sanctuaries, and wild boar may be hunted only during the bow and arrow seasons, the muzzle loading deer season and the regular gun season on deer on bear sanctuaries;~~

~~(C) On game lands open to deer hunting located in or west of the counties of Rockingham, Guilford, Randolph, Montgomery and Anson, the following rules apply to the use of dogs during the regular season for hunting deer with guns:~~

~~(i) Except for the counties of Cherokee, Clay, Graham, Jackson, Macon, Madison, Polk, and Swain, game birds may be hunted with dogs.~~

~~(ii) In the counties of Cherokee, Clay, Graham, Jackson, Macon, Madison, Polk, and Swain, small game in season may be hunted with dogs on all game lands except on bear sanctuaries.~~

~~(iii) Raccoon and opossum may be hunted when in season on Uwharrie Game Lands;~~

~~(D) On bear sanctuaries in and west of Madison, Buncombe, Henderson and Polk counties dogs shall not be trained or allowed to run unleashed between March 1 and the Monday on or nearest October 15.~~

(f) Hunting with Dogs on Game Lands. 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.

(g) Bear Sanctuaries. On Three Days per Week Areas and Six Days per Week Areas bears shall not be taken on lands designated and posted as bear sanctuaries except when authorized by permit only elsewhere in this Chapter. Wild boar shall not be taken with the use of dogs on such bear sanctuaries, and wild boar may be hunted only during the Bow and Arrow deer seasons, the Muzzle-Loading deer seasons and the Deer With Visible Antlers seasons on bear sanctuaries. Dogs shall not be trained or allowed to run unleashed between March 1 and the Monday on or nearest October 15 on bear sanctuaries in and west of the counties and parts of counties described in 15A NCAC 10B .0109.

~~(h)~~ (h) The listed seasons and restrictions apply in the following game lands:

- (1) Alcoa Game Land in Davidson, Davie, Montgomery, Rowan and Stanly counties

(A) Six Days per Week Area

(B) Deer of either sex may be taken the first six open days and the last six open days of the applicable Deer With Visible Antlers Season in that portion in Montgomery county and deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season in those portions in Davie, Davidson, Rowan and Stanly counties.

- (2) Alligator River Game Land in Tyrrell County

(A) Six Day per Week Area

(B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.

(C) Bear may only be taken the first three hunting days during the November Bear Season and the first three hunting days during the second week of the December Bear Season.

- (3) Angola Bay Game Land in Duplin and Pender counties

(A) Six Days per Week Area

(B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.

- (4) Bachlelor Bay Game Land in Bertie and Washington counties

(A) Six Days per Week Area

(B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.

- (5) Bertie County Game Land in Bertie County

(A) Six Days per Week Area

(B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.

- (6) Bladen Lakes State Forest Game Land in Bladen County

(A) Three Days per Week Area

(B) Deer of either sex may be taken ~~the first six all the~~ open days ~~and the last~~

- ~~six open days~~ of the applicable Deer With Visible Antlers Season. Deer of either sex may also be taken the Saturday preceding Eastern bow season with bow and arrow and the Friday preceding the Eastern muzzle-loading season with any legal weapon (with weapons exceptions described in this Paragraph) by participants in the Disabled Sportsman Program who acquire special hunt permits.
- (C) Handguns shall not be carried and, except for muzzle-loaders, rifles larger than .22 caliber rimfire shall not be used or possessed.
- (D) On the Singletary Lake Tract deer and bear may be taken only by still hunting.
- (E) Wild turkey hunting on the Singletary Lake Tract is by permit only.
- (F) Camping is restricted to Sept. 1 through Feb. 28 and April 7 through May 14 in areas both designated and posted as camping areas.
- (7) Brinkleyville Game Land in Halifax County
- (A) Six Days per Week Area
- (B) Deer of either sex may be taken the first six open days and the last six open days of the applicable deer with visible antlers season.
- (C) Horseback riding, including all equine species, is prohibited.
- (8) Broad River Game Land in Cleveland County.
- (A) Three Days per Week Area
- (B) Deer of either sex may be taken the last six open days of the applicable Deer with Visible Antlers Season.
- (C) Use of centerfire rifles is prohibited.
- (9) Brunswick County Game Land in Brunswick County: Permit Only Area
- (10) ~~Buckhorn Game Land in Orange County: Permit Only Area-County~~
- (A) Hunting is by permit only.
- (B) Horseback riding, including all equine species, is prohibited.
- (11) Buckridge Game Land in Tyrrell County.
- (A) Three Days per Week Area
- (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
- (C) Bear may only be taken the first three hunting days during the November Bear Season and the first three hunting days of the second week of the December Bear Season.
- (12) Buffalo Cove Game Land in Caldwell and Wilkes Counties
- (A) Six Days per Week Area
- (B) The Deer With Visible Antlers season for deer consists of the open hunting days from the Monday before Thanksgiving through the third Saturday after Thanksgiving. Deer may be taken with bow and arrow on open days beginning the Monday on or nearest September 10 to the fourth Saturday thereafter, and Monday on or nearest October 15 to the Saturday before Thanksgiving and during the deer with visible antlers season. Deer may be taken with muzzle-loading firearms on open days beginning the Monday on or nearest October 8 through the following Saturday, and during the Deer With Visible Antlers season.
- (C) Deer of either sex may be taken the last open day of the applicable Deer With Visible Antlers Season.
- (D) Horseback riding is prohibited except on designated trails May 16 through August 31 and all horseback riding is prohibited from September 1 through May 15. This Rule includes all equine species.
- (13) Bullard and Branch Hunting Preserve Game Lands in Robeson County
- (A) Three Days per Week Area
- (B) Deer of either sex may be taken the first six open days and the last six open days of the applicable Deer With Visible Antlers Season.
- (14) Butner - Falls of Neuse Game Land in Durham, Granville and Wake counties
- (A) Six Days per Week Area
- (B) Deer of either sex may be taken the last six open days of the applicable Deer With Visible Antlers Season.
- (C) Waterfowl shall be taken only on Tuesdays, Thursdays and Saturdays; Christmas and New Year's Days, and on the opening and closing days of the applicable waterfowl seasons. Waterfowl shall not be taken after 1:00 p.m. On the posted waterfowl impoundments a special permit is required for all waterfowl hunting after November 1.
- (D) Horseback riding, including all equine species, is prohibited.
- (E) Target shooting is prohibited
- (F) Wild turkey hunting is by permit only, except on those areas posted as an archery zone.
- (G) The use of dogs for hunting deer is prohibited on that portion west of NC 50 and south of Falls Lake.

- (H) The use of bicycles is restricted to designated areas, except that this restriction shall not apply to hunters engaged in the act of hunting during the open days of the applicable seasons for game birds and game animals.
- (I) Camping and the presence of campers and tents in designated Hunter Camping Areas are limited to September 1 through the last day of February and April 7 through May 14.
- (15) Cape Fear River Wetlands Game Land in Pender County
- (A) Six Days per Week Area
- (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
- (C) Turkey Hunting is by permit only on that portion known as the Roan Island Tract.
- (D) The use of dogs for hunting deer is prohibited on the portion of the game land that is west of the Black River, north of Roan Island, east of Lyon Swamp Canal to Canetuck Road and south of NC 210 to the Black River.
- (16) Carteret County Game Land in Carteret County
- (A) Six Days per Week Area
- (B) Deer of either sex may be taken the first six open days and the last six open days of the applicable Deer With Visible Antlers Season.
- (C) The use of dogs for hunting deer is prohibited.
- (17) R. Wayne Bailey-Caswell Game Land in Caswell County
- (A) Three Days per Week Area
- (B) Deer of either sex may be taken the last six open days of the applicable Deer With Visible Antlers Season. Deer of either sex may also be taken the Thursday and Friday preceding the Central muzzle-loading season with any legal weapon by participants in the Disabled Sportsman Program who acquire special hunt permits.
- (C) Horseback riding is allowed only during June, July, and August and on Sundays during the remainder of the year except during open turkey and deer seasons. Horseback riding is allowed only on roads opened to vehicular traffic. Participants must obtain a game lands license prior to engaging in such activity.
- (D) Bearded or beardless turkeys may be taken from the Monday on or nearest to January 15 through the following Saturday by permit only.
- (E) The area encompassed by the following roads is closed to all quail and woodcock hunting and all bird dog training: From Yanceyville south on NC 62 to the intersection of SR 1746, west on SR1746 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 NC62 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.
- (F) On the posted waterfowl impoundment, waterfowl hunting is by permit only after November 1.
- (G) Camping and the presence of campers and tents in designated Hunter Camping Areas are limited to September 1 through the last day of February and April 7 through May 14.
- (18) Caswell Farm Game Land in Lenoir County
- (A) Dove-Only Area
- (B) Dove hunting is by permit only from opening day through either the first Saturday or Labor Day which ever comes last of the first segment of dove season.
- (19) Catawba Game Land in Catawba County
- (A) Three Days per Week Area
- (B) Deer of either sex may be taken the last open day of the applicable Deer With Visible Antlers Season.
- (C) Deer may be taken with bow and arrow only from the tract known as Molly's Backbone.
- (20) Chatham Game Land in Chatham County
- (A) Six Days per Week Area
- (B) Deer of either sex may be taken the first six open days and the last six open days of the applicable Deer With Visible Antlers Season.
- (C) Wild turkey hunting is by permit only.
- (D) Horseback riding, including all equine species, is allowed only during June, July, and August and on Sundays during the remainder of the year except during open turkey and deer seasons.
- (E) Target shooting is prohibited.
- (21) Cherokee Game Land in Ashe County
- (A) Six Days per Week Area



- (B) Deer of either sex may be taken the last six open days of the applicable Deer With Visible Antlers Season.
- (22) Chowan Game Land in Chowan County
- (A) Six Days per Week Area
- (B) Deer of either sex may be taken all the days of the applicable Deer With Visible Antlers Season.
- (23) Chowan Swamp Game Land in Bertie, Gates and Hertford counties, ~~Gates County~~
- (A) Six Days per Week Area
- (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
- (C) Bear hunting is restricted to the first three hunting days during the November bear season and the first three days during the December bear season.
- (24) Cold Mountain Game Land in Haywood County
- (A) Six Days per Week Area
- (B) Horseback riding is prohibited except on designated trails May 16 through August 31 and all horseback riding is prohibited from September 1 through May 15. This Rule includes all equine species.
- (25) Columbus County Game Land in Columbus County.
- (A) Three Days per Week Area
- (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
- (26) Croatan Game Land in Carteret, Craven and Jones counties
- (A) Six Days per Week Area
- (B) Deer of either sex may be taken all the first six open days and the last six open days of the applicable Deer With Visible Antlers Season.
- (C) Waterfowl shall be taken only on the following days:
- (i) the opening and closing days of the applicable waterfowl seasons;
- (ii) Thanksgiving, Christmas, New Year's and Martin Luther King, Jr. Days; and
- (iii) Tuesdays and Saturdays of the applicable waterfowl seasons.
- (D) Dove hunting is by permit only from opening day through the following Saturday of the first segment of dove season on posted areas. During the rest of dove season, no permit is required to hunt doves.
- (27) Currituck Banks Game Land in Currituck County
- (A) Six Days per Week Area
- (B) Permanent waterfowl blinds in Currituck Sound on these game lands shall be hunted by permit only from November 1 through the end of the waterfowl season.
- (C) Licensed hunting guides may accompany the permitted individual or party provided the guides do not possess or use a firearm.
- (D) The boundary of the Game Land shall extend 5 yards from the edge of the marsh or shoreline.
- (E) Dogs shall be allowed only for waterfowl hunting by permitted waterfowl hunters on the day of their hunt.
- (F) No screws, nails, or other objects penetrating the bark shall be used to attach a tree stand or blind to a tree.
- (G) Deer of either sex may be taken all the days of the applicable deer with visible antlers season.
- (28) Dare Game Land in Dare County
- (A) Six Days per Week Area
- (B) Deer of either sex may be taken the last six open days~~day~~ of the applicable Deer With Visible Antlers Season.
- (C) No hunting on posted parts of bombing range.
- (D) The use and training of dogs is prohibited from March 1 through June 30.
- (29) Dover Bay Game Land in Craven County
- (A) Six Days per Week Area
- (B) Deer of either sex may be taken all the days of the applicable deer with visible antlers season
- (30) Dupont State Forest Game Lands in Henderson and Transylvania counties
- (A) Hunting is by Permit only.
- (B) The training and use of dogs for hunting is prohibited except by special hunt permit holders during scheduled small-game permit hunts. ~~hunts for squirrel, grouse, rabbit, or quail is prohibited.~~
- (C) Participants of the Disabled Sportsman Program who acquire special hunt permits may also take deer of either sex with any legal weapon on the Saturday prior to the first segment of the Western bow and arrow season.
- (31) Elk Knob Game Land in Ashe and Watauga counties

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| <p>(A) Six Days per Week Area</p> <p>(B) Deer of either sex may be taken the last six open days of the applicable Deer With Visible Antlers Season.</p> <p>(32) Embro Game Land in Warren County</p> <p>(A) Six Days per Week Area</p> <p>(B) Deer of either sex may be taken the first six open days and the last six open days of the applicable Deer With Visible Antlers Season.</p> <p>(C) Horseback riding, including all equine species, is prohibited.</p> <p>(33) Goose Creek Game Land in Beaufort and Pamlico counties</p> <p>(A) Six Days per Week Area</p> <p>(B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.</p> <p>(C) Except as provided in Part (D) of this Subparagraph, waterfowl in posted waterfowl impoundments shall be taken only on the following days:</p> <p style="padding-left: 20px;">(i) the opening and closing days of the applicable waterfowl seasons; and</p> <p style="padding-left: 20px;">(ii) Thanksgiving, Christmas, New Year's and Martin Luther King, Jr. Days; and</p> <p style="padding-left: 20px;">(iii) Tuesdays and Saturdays of the applicable waterfowl seasons.</p> <p>(D) From November 1 through the end of the waterfowl season, on the Pamlico Point, Campbell Creek, Parker Farm, Hunting Creek and Spring Creek impoundments, a special permit is required for hunting on opening and closing days of the applicable waterfowl seasons, Saturdays of the applicable waterfowl seasons, and on Thanksgiving, Christmas, New Year's and Martin Luther King, Jr. Days.</p> <p>(E) On Pamlico Point and Campbell Creek Waterfowl Impoundments all activities, except waterfowl hunting on designated waterfowl hunting days and trapping during the trapping season, are restricted to the posted Scouting-only Zone during the period November 1 through March 15.</p> <p>(F) Camping is restricted to September 1 through February 28 and April 7 through May 14 in areas both designated and posted as camping areas.</p> <p>(34) Green River Game Land in Henderson, and Polk counties</p> <p>(A) Six Days per Week Area</p> | <p>(B) Deer of either sex may be taken the last open day of the applicable Deer With Visible Antlers Season.</p> <p>(C) Horseback riding, including all equine species, is prohibited.</p> <p>(35) Green Swamp Game Land in Brunswick County</p> <p>(A) Six Days per Week Area</p> <p>(B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.</p> <p>(36) Gull Rock Game Land in Hyde County</p> <p>(A) Six Days per Week Area</p> <p>(B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.</p> <p>(C) Waterfowl on posted waterfowl impoundments shall be taken only on the following days:</p> <p style="padding-left: 20px;">(i) the opening and closing days of the applicable waterfowl seasons; and</p> <p style="padding-left: 20px;">(ii) Thanksgiving, Christmas, New Year's and Martin Luther King, Jr. Days; and</p> <p style="padding-left: 20px;">(iii) Tuesdays and Saturdays of the applicable waterfowl season.</p> <p>(D) Camping is restricted to September 1 through February 28 and April 7 through May 14 in areas both designated and posted as camping areas.</p> <p>(E) Bear may only be taken the first three hunting days during the November Bear Season and the first three hunting days during the second week of the December Bear Season on the Long Shoal River Tract of Gull Rock Game Land.</p> <p>(37) Harris Game Land in Chatham, Harnett and Wake counties</p> <p>(A) Six Days per Week Area</p> <p>(B) Deer of either sex may be taken the first six open days and the last six open days of the applicable Deer With Visible Antlers Season.</p> <p>(C) Waterfowl shall be taken only on Tuesdays, Fridays, Saturdays; on Thanksgiving, Christmas and New Year's Days; and on the opening and closing days of the applicable waterfowl seasons.</p> <p>(D) The use or construction of permanent hunting blinds shall be prohibited.</p> <p>(E) Wild turkey hunting is by permit only.</p> <p>(F) <u>Target shooting is prohibited.</u></p> <p>(38) Holly Shelter Game Land in Pender County</p> |
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- (A) Three Days per Week Area.
  - (B) Deer of either sex may be taken all the first six open days and the last six open days of the applicable Deer With Visible Antlers Season. Deer of either sex may also be taken the Friday preceding the Eastern muzzle-loading season with any legal weapon and the Saturday preceding Eastern bow season with bow and arrow by participants in the Disabled Sportsman Program who acquire special hunt permits.
  - (C) Waterfowl may be taken ~~on the opening and closing days of the applicable waterfowl seasons regardless of the day of the week on which they occur, provided however, that waterfowl in posted waterfowl impoundments shall be taken only on the following days:~~
    - (i) the opening and closing days of the applicable waterfowl seasons;
    - (ii) Thanksgiving, Christmas, New Year's and Martin Luther King, Jr. Days; and
    - (iii) Tuesdays and Saturdays of the applicable waterfowl seasons.
  - (D) Camping is restricted to September 1 through February 28 and April 7 through May 14 in areas both designated and posted as camping areas.
  - (E) On that portion north of the Bear Garden Road, west of Shaw Road to Baby Branch, east of the Northeast Cape Fear River, south of NC 53 and west of NC 50, deer hunting and bear hunting are permit only.
  - (F) The use of dogs for hunting deer and bear is prohibited on that portion of the game land that is south of Baby Branch extending west to Stag Park Road, west of Shaw Road, north of Meeks Road extending west to Stag Park Road and east of Stag Park Road.
- (39) Hyco Game land in Person County
- (A) Six Days per Week Area
  - (B) Deer of either sex may be taken the first six open days and the last six open days of the applicable Deer With Visible Antlers Season.
  - (C) Bearded or beardless turkeys may be taken from the Monday on or nearest to January 15 through the following Saturday by permit only.
  - (D) Target shooting is prohibited.
- (40) J. Morgan Futch Game Land in Tyrrell County, Permit Only Area.
- (41) Johns River Game Land in Burke County
- (A) Hunting is by permit only
  - (B) During permitted deer hunts deer of either-sex may be taken by permit holders.
  - (C) Entry on posted waterfowl impoundments is prohibited October 1 through March 31 except by lawful waterfowl hunting permit holders and only on those days written on the permits.
  - (D) The use or construction of permanent hunting blinds is prohibited.
- (41)(42) Jordan Game Land in Chatham, Durham, Orange and Wake counties
- (A) Six Days per Week Area
  - (B) Deer of either sex may be taken the first six open days and the last six open days of the applicable Deer With Visible Antlers Season.
  - (C) Waterfowl may be taken only on Mondays, Wednesdays, Saturdays; on Thanksgiving, Christmas and New Year's Days; and on the opening and closing days of the applicable waterfowl seasons.
  - (D) Horseback riding, including all equine species, is prohibited except 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 all other trails posted for equestrian use, horseback riding is allowed only during June, July and August, and on Sundays the remainder of the year except during open turkey and deer seasons.
  - (E) Target shooting is prohibited.
  - (F) Wild turkey hunting is by permit only, except on those areas posted as an Archery Zone.
  - (G) The use of bicycles is restricted to designated areas, except that this restriction shall not apply to hunters engaged in the act of hunting during the open days of the applicable seasons for game birds and game animals.
- (43) Juniper Creek Game Land in Brunswick County
- (A) Six Days per Week Area

- (B) Deer of either sex may be taken all the open days of the Deer With Visible Antlers Season.
- ~~(42)~~(44) Kerr Scott Game Land in Wilkes County
- (A) Six Days per Week Area
- (B) Use of centerfire rifles shall be prohibited.
- (C) Use of muzzleloaders, shotguns, or rifles for hunting deer during the applicable Deer With Visible Antlers Season shall be prohibited.
- (D) Tree stands shall not be left overnight and no screws, nails, or other objects penetrating the bark shall be used to attach a tree stand or blind to a tree.
- (E) Deer of either sex may be taken on all open days of the applicable deer with visible antlers season.
- (F) Hunting on posted waterfowl impoundments is by permit only.
- (G) The use of firearms for hunting wild turkey is prohibited.
- ~~(43)~~(45) Lantern Acres Game Land in Tyrrell and Washington counties
- (A) Six Days per Week Area
- (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
- (C) Wild turkey hunting is by permit only.
- (D) The use of dogs for hunting deer on the Godley Tract is prohibited.
- (F) Waterfowl hunting on posted waterfowl impoundments is by permit only.
- ~~(44)~~(46) Lee Game Land in Lee County
- (A) Six Days per Week Area
- (B) Deer of either sex may be taken the first six open days and the last six open days of the applicable Deer With Visible Antlers Season.
- (C) Target shooting is prohibited.
- ~~(45)~~(47) Light Ground Pocosin Game Land in Pamlico County
- (A) Six Days per Week Area
- (B) Deer of either sex may be taken all the open days of the applicable Deer with Visible Antlers Season.
- ~~(46)~~(48) Linwood Game Land in Davidson County
- (A) Six Days per Week Area
- (B) Deer of either sex may be taken on all of the open days of the applicable Deer With Visible Antlers Season.
- ~~(47)~~(49) Lower Fishing Creek Game Land in Edgecombe County
- (A) Six Days per Week Area
- (B) Deer of either sex may be taken the first six open days and the last six open days of the applicable Deer With Visible Antlers Season.
- (C) Horseback riding, including all equine species, is prohibited.
- (D) The use of dogs for hunting deer is prohibited.
- ~~(48)~~(50) Mayo Game Land in Person County
- (A) Six Days per Week Area
- (B) Deer of either sex may be taken the first six open days and the last six open days of the applicable Deer With Visible Antlers Season.
- (C) Waterfowl shall be taken only on Tuesdays, Thursdays and Saturdays; Christmas and New Year's Days, and on the opening and closing days of the applicable waterfowl seasons.
- (D) Bearded or beardless turkeys may be taken from the Monday on or nearest to January 15 through the following Saturday by permit only.
- (E) Target shooting is prohibited.
- ~~(49)~~(51) Mitchell River Game Land in Surry County
- (A) Six Three Days per Week Area
- (B) Deer of either sex may be taken the last six days of the applicable Deer with Visible Antlers Season.
- (C) Horseback riding, including all equine species, is prohibited except on designated trails May 16 through August 31 and all horseback riding is prohibited from September 1 through May 15.
- ~~(50)~~(52) Nantahala Game Land in Cherokee, Clay, Graham, Jackson, Macon, Swain and Transylvania counties
- (A) Six Days per Week Area
- (B) Deer of either sex may be taken the last open day of the applicable Deer With Visible Antlers Season in that portion located in Transylvania County.
- ~~(51)~~(53) Needmore Game Land in Macon and Swain counties.
- (A) Six Days per Week Area
- (B) Horseback riding is prohibited except on designated trails May 16 through August 31 and all horseback riding shall be prohibited from September 1 through May 15. This Rule includes all equine species.
- ~~(52)~~(54) Neuse River Game Land in Craven County
- (A) Six Days per Week Area
- (B) Deer of either sex may be taken the first six open days and the last six open days of the applicable Deer With Visible Antlers Season.
- ~~(53)~~(55) New Lake Game Land in Hyde and Tyrrell counties

- (A) Six Days per Week Area
- (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
- ~~(54)~~(56) Nicholson Creek Game Land in Hoke County
  - (A) Three Days per Week Area
  - (B) Deer of either sex may be taken with bow and arrow on open hunting days from the Saturday on or nearest September 10 to the third Friday before Thanksgiving.
  - (C) Deer of either sex may be taken with muzzle-loading firearms on open hunting days beginning the third Saturday before Thanksgiving through the following Wednesday.
  - (D) The Deer With Visible Antlers season consists of the open hunting days from the second Saturday before Thanksgiving through the third Saturday after Thanksgiving.
  - (E) Deer of either sex may be taken the last open day of the applicable Deer With Visible Antlers Season.
  - (F) The use of dogs for hunting deer is prohibited.
  - (G) Wild turkey hunting is by permit only.
- ~~(55)~~(57) North River Game Land in Currituck, Camden and Pasquotank counties
  - (A) Six Days per Week Area
  - (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
  - (C) The boundary of the Game Land shall extend five yards from the edge of the marsh or shoreline.
  - (D) Wild turkey hunting is by permit only on that portion in Camden County.
  - (E) Hunting on the posted waterfowl impoundment is by permit only.
- ~~(56)~~(58) Northwest River Marsh Game Land in Currituck County
  - (A) Six Days per Week Area
  - (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
  - (C) The boundary of the Game Land shall extend five yards from the edge of the marsh or shoreline.
- ~~(57)~~(59) Pee Dee River Game Land in Anson, Montgomery, Richmond and Stanly counties
  - (A) Six Days per Week Area
  - (B) Deer of either sex may be taken the first six open days and the last six open days of the applicable Deer With Visible Antlers Season.
- (C) Use of centerfire rifles prohibited in that portion in Anson and Richmond counties North of US-74.
- ~~(D)~~ Target shooting is prohibited.
- ~~(58)~~(60) Perkins Game Land in Davie County
  - (A) Three Days per Week Area
  - (B) Deer of either sex may be taken the last open day of the applicable Deer With Visible Antlers Season.
- ~~(59)~~(61) Pisgah Game Land in Avery, Buncombe, Burke, Caldwell, Haywood, Henderson, Madison, McDowell, Mitchell, Transylvania, Watauga and Yancey counties
  - (A) Six Days per Week Area
  - (B) Deer of either sex may be taken the last open day of the applicable Deer With Visible Antlers ~~Season. Season except on that portion in Avery County south of the Blue Ridge Parkway, Yancey County, and that portion in Haywood County encompassed by US 276 on the north, US 74 on the west, and the Blue Ridge Parkway on the south and east.~~
- (C) Harmon Den and Sherwood Bear Sanctuaries in Haywood County are closed to hunting raccoon, opossum and wildcat.
- (D) Horseback riding, including all equine species, is prohibited on the Black Bear (McDowell County), Linville River (Burke County), and Little Tablerock Tracts (Avery, McDowell, and Mitchell counties).
- ~~(60)~~(62) Pungo River Game Land in Hyde County
  - (A) Six Days per Week Area
  - (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
- ~~(61)~~(63) Rhodes Pond Game Land in Cumberland County
  - (A) Hunting is by permit only.
  - (B) Swimming is prohibited on the area.
- ~~(62)~~(64) Roanoke River Wetlands in Bertie, Halifax, Martin and Northampton counties
  - (A) Hunting is by Permit only.
  - (B) Vehicles are prohibited on roads or trails except those operated on Commission business or by permit holders.
- (C) Camping is restricted to September 1 through February 28 and April 7 through May 14 in areas both designated and posted as camping areas.
- ~~(63)~~(65) Roanoke Island Marshes Game Land in Dare County-Hunting is by permit only.
- ~~(64)~~(66) Robeson Game Land in Robeson County
  - (A) Three Days per Week Area

- (B) Deer of either sex may be taken the first six open days and the last six open days of the applicable Deer With Visible Antlers Season.
- ~~(65)~~(67) Rockfish Creek Game Land in Hoke County
- (A) Three Days per Week Area
- (B) Deer of either sex may be taken with bow and arrow on open hunting days from the Saturday on or nearest September 10 to the third Friday before Thanksgiving.
- (C) Deer of either sex may be taken with muzzle-loading firearms on open hunting days beginning the third Saturday before Thanksgiving through the following Wednesday.
- (D) The Deer With Visible Antlers season consists of the open hunting days from the second Saturday before Thanksgiving through the third Saturday after Thanksgiving.
- (E) Deer of either sex may be taken the last open day of the applicable Deer With Visible Antlers Season.
- (F) The use of dogs for hunting deer is prohibited.
- (G) Wild turkey hunting is by permit only.
- ~~(66)~~(68) Sampson Game Land in Sampson County
- (A) Three Days per Week Area
- (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
- ~~(67)~~(69) Sandhills Game Land in Hoke, Moore, Richmond and Scotland counties
- (A) Three Days per Week Area
- (B) The Deer With Visible Antlers season for deer consists of the open hunting days from the second Saturday before Thanksgiving through the third Saturday after Thanksgiving except on the field trial grounds where the gun season is open days from the second Monday before Thanksgiving through the Saturday following Thanksgiving. Deer may be taken with bow and arrow on all open hunting days during the bow and arrow season, as well as during the regular gun season. Deer may be taken with muzzle-loading firearms on open days beginning the third Saturday before Thanksgiving through the following Wednesday, and during the Deer With Visible Antlers season.
- (C) Gun either-sex deer hunting is by permit only. For participants in the Disabled Sportsman Program who acquire special hunt permits, either-sex deer hunting with any legal weapon is permitted on all areas the Thursday and Friday prior to the muzzle-loading season described in the preceding paragraph. Except for the deer, opossum, rabbit, raccoon and squirrel seasons indicated for the field trial grounds in this Rule and Disabled Sportsman Program hunts, the field trial grounds are closed to all hunting during the period October 22 to March 31.
- (D) In addition to the regular hunting days, waterfowl may be taken on the opening and closing days of the applicable waterfowl seasons
- (E) Wild turkey hunting is by permit only.
- (F) Dove hunting on the field trial grounds is prohibited from the second Sunday in September through the remainder of the hunting season.
- (G) Opossum, raccoon and squirrel (fox and gray) hunting on the field trial grounds will be allowed on open days from the second Monday before Thanksgiving through the Saturday following Thanksgiving and rabbit season on the field trial grounds will be from the Saturday preceding Thanksgiving through the Saturday following Thanksgiving.
- (H) The following areas are closed to all quail and woodcock hunting and dog training on birds: In Richmond County: that part east of US 1; In Scotland County: that part east of east of SR 1001 and west of US 15/501.
- (I) Horseback riding on field trial grounds from October 22 through March 31 shall be prohibited unless riding in authorized field trials.
- (J) Camping and the presence of campers and tents in designated Hunter Camping Areas are limited to September 1 through the last day of February and April 7 through May 14.
- ~~(68)~~(70) Sandy Creek Game Land in Nash and Franklin Counties
- (A) Six Days per Week Area
- (B) Deer of either sex may be taken the first six open days and the last six open days of the applicable Deer With Visible Antlers Season.
- (C) Horseback riding, including all equine species, is prohibited.

- (D) The use of dogs for hunting deer is prohibited.
- ~~(69)~~(71) Sandy Mush Game Land in Buncombe and Madison counties.
  - (A) Three Days per Week Area
  - (B) Horseback riding is prohibited except on designated trails May 16 through August 31 and all horseback riding is prohibited from September 1 through May 15. This Rule includes all equine species.
- ~~(70)~~(72) Second Creek Game Land in Rowan County- hunting is by permit only.
- ~~(71)~~(73) Shocco Creek Game Land in ~~Franklin~~ Franklin, Halifax and Warren counties
  - (A) Six Days per Week Area
  - (B) Deer of either sex may be taken the first six open days and the last six open days of the applicable Deer With Visible Antlers Season.
  - (C) Horseback riding, including all equine species, is prohibited.
- ~~(72)~~(74) South Mountains Game Land in Burke, Cleveland, McDowell and Rutherford counties
  - (A) Six Days per Week Area
  - (B) The Deer With Visible Antlers season for deer consists of the open hunting days from the Monday before Thanksgiving through the third Saturday after Thanksgiving. Deer may be taken with bow and arrow on open days beginning the Monday on or nearest September 10 to the fourth Saturday thereafter, and Monday on or nearest October 15 to the Saturday before Thanksgiving and during the Deer With Visible Antlers season. Deer may be taken with muzzle-loading firearms on open days beginning the Monday on or nearest October 8 through the following Saturday, and during the Deer With Visible Antlers season.
  - (C) Deer of either sex may be taken the last open day of the applicable Deer With Visible Antlers Season.
  - (D) Horseback riding is prohibited except on designated trails May 16 through August 31 and all horseback riding is prohibited from September 1 through May 15. This Rule includes all equine species.
  - (E) That part of South Mountains Game Land in Cleveland, McDowell, and Rutherford counties is closed to all grouse, quail and woodcock hunting and all bird dog training.
- ~~(73)~~(75) Stones Creek Game Land in Onslow County
  - (A) Six-Day per Week Area.
- (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season
- (C) Swimming in all lakes is prohibited.
- ~~(D)~~ Waterfowl on posted waterfowl impoundments may be taken only on the following days:
  - (i) the opening and closing days of the applicable waterfowl seasons;
  - (ii) Thanksgiving, Christmas, New Year's and Martin Luther King, Jr. Days; and
  - (iii) Tuesdays and Saturdays of the applicable waterfowl seasons.
- ~~(74)~~(76) Suggs Mill Pond Game Land in Bladen County
  - (A) Hunting and trapping is by Permit only.
  - (B) Camping is restricted to September 1 through February 28 and April 7 through May 14 in areas both designated and posted as camping areas.
  - ~~(C)~~ Entry is prohibited on scheduled hunt or trapping days except for:
    - (i) hunters or trappers holding special hunt or trapping permits; and
    - (ii) persons using Campground Road to access Suggs Mill Pond Lake at the dam.
- ~~(75)~~(77) Sutton Lake Game Land in New Hanover and Brunswick counties
  - (A) Six Days per Week Area
  - (B) Deer of either sex may be taken the last six open days of the applicable Deer With Visible Antlers Season.
  - ~~(C)~~ Target shooting is prohibited.
- ~~(76)~~(78) Tar River Game Land in Edgecombe County - hunting is by permit only.
- ~~(77)~~(79) Three Top Mountain Game Land in Ashe County
  - (A) Six Days per Week Area
  - (B) Deer of either sex may be taken the last six open days of the applicable Deer With Visible Antlers Season.
  - (C) Horseback riding including all equine species is prohibited.
- ~~(78)~~(80) Thurmond Chatham Game Land in Wilkes County
  - (A) Six Days per Week Area
  - (B) Deer of either sex may be taken the first six open days and the last six open days of the applicable Deer With Visible Antlers Season. Participants of the Disabled Sportsman Program who acquire

- special hunt permits may also take either-sex deer with bow and arrow on the Saturday prior to Northwestern bow and arrow season.
- (C) Horseback riding is prohibited except on designated trails May 16 through August 31 and all horseback riding is prohibited from September 1 through May 15. This Rule includes all equine species. Participants must obtain a game lands license prior to horseback riding on this area.
- (D) Bearded or beardless turkeys may be taken from the Monday on or nearest to January 15 through the following Saturday by permit only.
- ~~(79)~~(81) Tillery game Land in Halifax County
- (A) Six Days per Week Area
- (B) Deer of either sex may be taken the first six open days and the last six open days of the applicable Deer With Visible Antlers Season.
- (C) Horseback riding, including all equine species, is prohibited.
- (D) The use of dogs for hunting deer is prohibited.
- (E) Wild turkey hunting is by permit only.
- ~~(80)~~(82) Toxaway Game Land in Transylvania County
- (A) Six Days per Week Area
- (B) Deer of either sex may be taken the last open day of the applicable Deer With Visible Antlers Season. Participants of the Disabled Sportsman Program who acquire special hunt permits may also take deer of either sex with any legal weapon on the Saturday prior to the first segment of the Western bow and arrow season.
- (C) Horseback riding is prohibited except on designated trails May 16 through August 31 and all horseback riding is prohibited from September 1 through May 15. This Rule includes all equine species.
- ~~(81)~~(83) Uwharrie Game Land in Davidson, Montgomery and Randolph counties
- (A) Six Days per Week Area
- (B) Deer of either sex may be taken the first six open days and the last open six days of the applicable Deer With Visible Antlers Season.
- ~~(82)~~(84) Vance Game Land in Vance County
- (A) Six Days per Week Area
- (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
- (C) The use of dogs, centerfire rifles and handguns for hunting deer is prohibited on the Nutbush Peninsula tract.
- ~~(83)~~(85) Van Swamp Game Land in Beaufort and Washington counties
- (A) Six Days per Week Area
- (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
- (C) Bear may only be taken the first three hunting days during the November Bear Season and the first three hunting days during the second week of the December Bear Season.
- ~~(84)~~(86) White Oak River Game Land in Onslow County
- (A) Three Days per Week Area
- (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
- (C) Except as provided in Part (D) of this Subparagraph, waterfowl in posted waterfowl impoundments shall be taken only on the following days:
- (i) the opening and closing days of the applicable waterfowl seasons;
- (ii) Thanksgiving, Christmas, New Year's and Martin Luther King, Jr. Days; and
- (iii) Tuesdays and Saturdays of the applicable waterfowl seasons.
- (D) From October 1 through the end of the waterfowl season, a special permit is required for hunting on opening and closing days of the applicable waterfowl seasons, Saturdays of the applicable waterfowl seasons, and on Thanksgiving, Christmas, New Year's and Martin Luther King, Jr. Days.
- (F) The Huggins Tract is a Restrictive Firearms zone with the following restrictions:
- (i) Access on Hargett Avenue requires a valid Special Permit;
- (ii) Hunting is by permit only; and
- (iii) The use of dogs for hunting deer is prohibited.
- (G) Wild turkey hunting is by permit only.
- ~~(g)~~(i) On permitted type hunts deer of either sex may be taken on the hunt dates indicated on the permit. Completed applications must be received by the Commission not later than the first day of September next preceding the dates of hunt. Permits shall be issued by random computer selection, shall be



mailed to the permittees prior to the hunt, and shall be nontransferable. A hunter making a kill must validate the kill and report the kill to a wildlife cooperater agent or by phone.

~~(h)(j)~~ The following game lands and refuges are closed to all hunting except to those individuals who have obtained a valid and current permit from the Wildlife Resources Commission:  
Bertie, Halifax and Martin counties-Roanoke River Wetlands  
Bertie County-Roanoke River National Wildlife Refuge  
Bladen County—Suggs Mill Pond Game Lands  
Burke County—John's River Waterfowl Refuge  
Dare County-Dare Game Lands (Those parts of bombing range posted against hunting)

Dare County--Roanoke Sound Marshes Game Lands  
Davie-Hunting Creek Swamp Waterfowl Refuge  
Gaston, Lincoln and Mecklenburg counties-Cowan's Ford Waterfowl Refuge  
Henderson and Transylvania counties--Dupont State Forest Game Lands

~~(i)(k)~~ Free-ranging swine may be taken by licensed hunters during the open season for any game animal using any legal manner of take allowed during those seasons, except in Cherokee, Clay, Graham, Jackson, Macon, and Swain counties. Dogs may not be used to hunt free-ranging swine except on game lands which allow the use of dogs for hunting deer or bear and during the applicable deer or bear season.

(l) Youth Waterfowl Day. On the day declared by the Commission to be Youth Waterfowl Day, youths may hunt on any game land and on any impoundment without a special hunt permit, including permit-only areas, except where specifically prohibited in Paragraph (h) of this Rule.

*Authority G.S. 113-134; 113-264; 113-291.2; 113-291.5; 113-305.*

## **SUBCHAPTER 10I - ENDANGERED AND THREATENED SPECIES**

### **SECTION .0100 - ENDANGERED AND THREATENED SPECIES**

#### **15A NCAC 10I .0103 ENDANGERED SPECIES LISTED**

(a) The following species of resident wildlife are designated as federally-listed endangered species:

- (1) Amphibians:  
None Listed At This Time.
- (2) Birds:
  - (A) Bachman's warbler (*Vermivora bachmanii*);
  - (B) Ivory-billed woodpecker (*Campephilus principalis*);
  - (C) Kirtland's warbler (*Dendroica kirtlandii*);
  - (D) Piping plover (*Charadrius melodus circumcinctus*);
  - (E) Red-cockaded woodpecker (*Picoides borealis*);
  - (F) Roseate tern (~~*Sterna d.*~~ (*Sterna dougallii dougallii*);

- (G) Wood stork (*Mycteria americana*).
  - (3) Crustacea: None Listed At This Time.
  - (4) Fish:
    - (A) Cape Fear shiner (*Notropis mekistocholas*);
    - (B) Roanoke logperch (*Percina rex*);
    - ~~(B)(C)~~ Shortnose sturgeon (*Acipenser brevirostrum*), when found in inland fishing waters.
  - (5) Mammals:
    - (A) Carolina northern flying squirrel (*Glaucomys sabrinus coloratus*);
    - (B) Eastern cougar (*Puma concolor*);
    - (C) Gray bat (*Myotis grisescens*);
    - (D) Indiana bat (*Myotis sodalis*);
    - (E) Manatee (*Trichechus manatus*), when found in inland fishing waters;
    - (F) Virginia big-eared bat (*Corynorhinus townsendii virginianus*).
  - (6) Mollusks:
    - (A) Appalachian elktoe (*Alasmodonta raveniliana*);
    - (B) Carolina heelsplitter (*Lasmigona decorata*);
    - (C) Dwarf wedge mussel (*Alasmodonta heterodon*);
    - (D) James spinymussel (*Pleurobema collina*);
    - ~~(D)(E)~~ Little-wing pearlymussel (*Pegias fabula*);
    - (F) Tan riffleshell (*Epioblasma florentina walkeri*);
    - ~~(E)(G)~~ Tar river—River spinymussel, ~~spiny mussel~~ (*Elliptio* ~~*canthyria*~~ *steinmansana*).
  - (7) Reptiles:
    - (A) ~~Atlantic Kemp's ridley turtle~~ seaturtle (*Lepidochelys kempii*);
    - (B) ~~Hawksbill turtle—Atlantic hawksbill seaturtle~~ (*Eretmochelys imbricate*); *imbricata imbricata*;
    - (C) Leatherback ~~turtle~~ seaturtle (*Dermochelys coriacea*).
- (b) The following species of resident wildlife are designated as state-listed endangered species:
- (1) Amphibians: Green salamander (*Aneides aeneus*).
  - (2) Birds:
    - (A) American peregrine falcon (*Falco peregrinus anatum*);
    - (B) Bewick's wren (*Thryomanes bewickii*).
  - (3) Crustacea: Bennett's Mill cave water slater (*Caecidotea carolinensis*).
  - (4) Fish:
    - (A) Blotchside logperch (*Percina burtoni*);
    - ~~(B) Cutlips minnow—(*Exoglossum maxillingua*);~~

- (B) Bridle shiner (Notropis bifrenatus);
- (C) Dusky darter (Percina sciera);
- (D) Orangefin madtom (Noturus gilberti);
- (E) Paddlefish (Polyodon spathula);
- (F) Robust redhorse (Moxostoma robustum);
- ~~(F)~~(G) Rustyside sucker (Thoburnia hamiltoni);
- ~~(G)~~(H) Stonecat (Noturus flavus).
- (5) Mammals: None Listed At This Time.
- (6) Mollusks:
  - (A) Atlantic pigtoe (Fusconaia masoni);
  - (B) Barrel floater (Anodonta couperiana);
  - (C) Brook floater (Alasmidonta varicosa);
  - (D) Carolina creekshell (Villosa vaughaniana);
  - (E) Fragile glyph (Glyphyalinia clingmani);
  - (F) Green floater (Lasmigona subviridis);
  - (G) Greenfield rams-horn (Helisoma eucosmum);
  - (H) Knotty elimia (Goniobasis interrupta);
  - (I) Magnificent rams-horn (Planorbella magnifica);
  - (J) Neuse spike (Elliptio judithae);
  - (K) Purple wartyback (Cyclonaias tuberculata);
  - (L) Savannah lilliput (Toxolasma pullus);
  - (M) Slippershell mussel (Alasmidonta viridis);
  - (N) Tennessee clubshell (Pleurobema oviforme);
  - (O) Tennessee heelsplitter (Lasmigona holstonia);
  - (P) Tennessee pigtoe (Fusconaia barnesiana);
  - (Q) Yellow lampmussel (Lampsilis cariosa);
  - (R) Yellow lance (Elliptio lanceolata).
- (7) Reptiles:
  - (A) Eastern coral snake (Micrurus fulvius);
  - (B) Eastern diamondback rattlesnake (Crotalus adamanteus).

- (3) Crustacea: None Listed At This Time.
- (4) Fish:
  - (A) Spotfin chub (Cyprinella monacha);
  - (B) Waccamaw silverside (Menidia extensa).
- (5) Mammals: None Listed At This Time.
- (6) Mollusks: Noonday globe ~~(Mesodon)~~ (Patera clarki nantahala).
- (7) Reptiles:
  - (A) Bog turtle (Clemmys muhlenbergii);
  - (B) American alligator (Alligator mississippiensis);
  - (C) Green turtle-seaturtle (Chelonia mydas);
  - (D) Loggerhead turtle-seaturtle (Caretta caretta).

(b) The following species of resident wildlife are designated as state-listed threatened species:

- (1) Amphibians:
  - (A) Carolina gopher frog (Rana capito capito);
  - (B) Eastern tiger salamander (Ambystoma tigrinum tigrinum);
  - (C) Junaluska salamander (Eurycea junaluska);
  - (D) Wehrle's salamander (Plethodon wehrlei).
- (2) Birds:
  - (A) Bald eagle (Haliaeetus leucocephalus)
  - ~~(A)~~(B) Gull-billed tern (Sterna nilotica aranea);
  - ~~(B)~~(C) Northern saw-whet owl (Aegolius acadicus ssp.).
- (3) Crustacea: ~~None Listed At This Time.~~
  - (A) Broad River stream crayfish (Cambarus lenati);
  - (B) Yancey sideswimmer (Stygobromus carolinensis).
- (4) Fish:
  - (A) American brook lamprey (Lampetra appendix);
  - (B) Banded sculpin (Cottus carolinae);
  - (C) Bigeye jumprock (Scartomyzon ariommus);
  - (D) Blackbanded darter (Percina nigrofasciata);
  - (E) Carolina madtom (Noturus furiosus);
  - ~~(D)~~(F) Carolina pygmy sunfish (Elassoma boehlkei);
  - (G) Carolina redhorse (Moxostoma sp.) (Pee Dee River and its tributaries and Cape Fear River and its tributaries);
  - ~~(D)~~ Freshwater drum (Aplodinotus grunniens);
  - ~~(F)~~(H) Least brook lamprey (Lampetra aepyptera);

Authority G.S. 113-134; 113-291.2; 113-292; 113-333.

#### 15 NCAC 101 .0104 THREATENED SPECIES LISTED

(a) The following species of resident wildlife are designated as federally-listed threatened species:

- (1) Amphibians: None Listed At This Time.
- (2) Birds:
  - (A) Bald eagle (Haliaeetus leucocephalus);
  - ~~(B)~~(A) Piping plover (Charadrius melodus melodus).

- (~~G~~)(I) Logperch (*Percina caprodes*);  
(~~H~~)(J) Rosyface chub (*Hybopsis rubrifrons*);  
(~~H~~)(K) Sharphead darter (*Etheostoma acuticeps*);  
(L) Sicklefin redhorse (*Moxostoma* sp.)  
(Hiwassee River and its tributaries  
and Little Tennessee River and its  
tributaries);  
(~~J~~) ~~Striped shiner (*Luxilus*~~  
~~*chrysocephalus*); and~~  
(M) Turquoise darter (*Etheostoma*  
*inscriptum*);  
(~~K~~)(N) Waccamaw darter (*Etheostoma*  
*perlongum*).  
(5) Mammals:  
(A) Eastern woodrat (*Neotoma* ~~f~~  
*floridana floridana*);  
(B) Rafinesque's big-eared bat  
(*Corynorhinus* ~~*rafinesquii*~~); *rafinesquii*  
(6) Mollusks:  
(A) Alewife floater (*Anodonta implicata*);  
(B) Big-tooth covert (~~*Mesodon*~~  
~~*jonesianus*~~); (*Fumonelix jonesiana*);  
(C) Cape Fear threetooth (*Triodopsis*  
*soelneri*);  
(D) Carolina fatmucket (*Lampsilis radiata*  
*conspicua*);  
(E) Clingman covert (~~*Mesodon*~~  
(*Fumonelix wheatleyi* *clingmanicus*);  
(F) Eastern lampmussel (*Lampsilis*  
*radiata radiata*);  
(G) Eastern pondmussel (*Ligumia*  
*nasuta*);  
(H) Engraved covert (~~*Mesodon*~~  
(*Fumonelix orestes*);  
(I) Mountain creekshell (*Villosa*  
*vanuxemensis*);  
(J) Roan supercoil (*Paravitrea varidens*);  
(K) Roanoke slabshell (*Elliptio*  
*roanokensis*);  
(L) Sculpted supercoil (*Paravitrea*  
*ternaria*);  
(M) Seep mudalia (*Leptoxis dilatata*);  
(N) Smoky Mountain covert (~~*Mesodon*~~  
(*Inflectarius ferrissi*);  
(O) Squawfoot (*Strophitus undulatus*);  
(P) Tidewater mucket (*Leptodea*  
*ochracea*);  
(Q) Triangle floater (*Alasmidonta*  
*undulata*);  
(R) Waccamaw ambersnail (*Catinella*  
*waccamawensis*);  
(S) Waccamaw fatmucket (*Lampsilis*  
*fullerkati*); ~~and~~  
(T) Waccamaw spike (*Elliptio*  
*waccamawensis*).  
(7) Reptiles: None Listed At This Time.

Authority G.S. 113-134; 113-291.2; 113-292; 113-333.

**15A NCAC 101.0105 SPECIAL CONCERN SPECIES LISTED**

The following species of resident wildlife are designated as state-listed special concern species:

- (1) Amphibians:  
(a) Crevice salamander (*Plethodon longicrus*);  
(b) Dwarf salamander [~~silver morph~~]  
(*Eurycea quadridigitata*);  
(c) Eastern hellbender (~~*Cryptobranchus*~~  
*a-* (*Cryptobranchus alleganiensis*  
*alleganiensis*);  
(d) Four-toed salamander  
(*Hemidactylium scutatum*);  
(e) Longtail salamander (~~*Eurycea*~~ *l.*  
(*Eurycea longicauda longicauda*);  
(f) Mole salamander (*Ambystoma*  
*talpoideum*);  
(g) Mountain chorus frog (*Pseudacris*  
*brachyphona*);  
(h) Mudpuppy (*Necturus maculosus*);  
(i) Neuse River waterdog (*Necturus*  
*lewisi*);  
(j) River frog (*Rana heckscheri*);  
(k) Southern zigzag salamander  
(*Plethodon ventralis*);  
(~~k~~)(l) Weller's salamander (*Plethodon*  
*welleri*); *welleri*).  
(~~l~~) Zigzag salamander (*Plethodon*  
*Ventralis*).  
(2) Birds:  
(a) American oystercatcher (*Haematopus*  
*palliatus*);  
(~~a~~)(b) Bachman's sparrow (*Aimophila*  
*aestivalis*);  
(~~b~~)(c) Black-capped chickadee (*Poecile*  
*atricapillus*);  
(d) Black rail (*Laterallus jamaicensis*);  
(~~e~~)(e) Black skimmer (*Rynchops niger*);  
(~~d~~) Black vulture (*Coragyps atratus*);  
(~~e~~)(f) Brown creeper (*Certhia americana*  
*nigrescens*);  
(g) Cerulean warbler (*Dendroica*  
*cerulea*);  
(~~f~~)(h) Common tern (*Sterna hirundo*);  
(~~g~~) Cooper's hawk (*Accipiter cooperii*);  
(~~h~~)(i) Glossy ibis (*Plegadis falcinellus*);  
(j) Golden-winged warbler (*Vermivora*  
*chrysoptera*);  
(k) Henslow's sparrow (*Ammodramus*  
*henslowii*);  
(l) Least bittern (*Ixobrychus exilis*);  
(~~i~~)(m) Least tern (*Sterna antillarum*);  
(~~j~~)(n) Little blue heron (*Egretta caerulea*);  
(~~k~~)(o) Loggerhead shrike (*Lanius*  
*ludovicianus*);

- (3) Crustacea:
- (a) Broad River spiny crayfish (*Cambarus spicatus*);
  - (b) Carolina skistodiaptomus (*Skistodiaptomus carolinensis*);
  - (c) Carolina well diacyclops (*Diacyclops jeannelli putei*);
  - (~~b~~)(d) Chowanoke crayfish (*Orconectes virginienensis*);
  - (e) Graceful clam shrimp (*Lynceus gracilicornis*);
  - (~~e~~)(f) Greensboro burrowing crayfish (*Cambarus catagius*);
  - (~~d~~)(g) Hiwassee headwaters crayfish (*Cambarus parrishi*);
  - (~~e~~)(h) Little Tennessee River crayfish (*Cambarus georgiae*);
  - (~~f~~)(i) North Carolina spiny crayfish (*Orconectes carolinensis*);
  - (~~g~~)(j) Oconee stream crayfish (*Cambarus chaugaensis*);
  - (~~h~~)(k) Waccamaw crayfish (*Procambarus braswelli*).
- (4) Fish:
- (a) Atlantic sturgeon (*Acipenser ~~oxyrinchus~~; oxyrinchus*);
  - (b) Bluefin killifish (*Lucania goodei*);
  - (c) Blue Ridge sculpin (*Cottus caeruleomentum*);
  - (~~e~~)(d) Blueside darter (*Etheostoma jessiae*);
  - (d) ~~Bridle shiner (*Notropis bifrenatus*)~~;
  - (e) ~~Broadtail madtom (*Noturus n.* (*Noturus* sp.) (Lumber River and its tributaries and Cape Fear River and its tributaries)~~;
  - (f) Carolina darter (*Etheostoma collis*);
  - (~~g~~) ~~Carolina madtom (*Noturus furiosus*) (Neuse River and its tributaries)~~;
  - (g) Cutlip minnow (*Exoglossum maxillingua*);
  - (h) Freshwater drum (*Aplodinotus grunniens*) (French Broad River);
  - (~~h~~)(i) Highfin carpsucker (*Carpododes velifer*) (Cape Fear River and its tributaries);
  - (~~i~~)(j) Kanawha minnow (*Phenacobius teretulus*);
  - (~~i~~)(k) Lake sturgeon (*Acipenser fulvescens*);
  - (~~k~~)(l) Least killifish (*Heterandria formosa*);
  - (~~j~~)(m) Longhead darter (*Percina macrocephala*);
  - (~~m~~)(n) Mooneye (*Hiodon tergisus*);
  - (~~n~~)(o) Mountain madtom (*Noturus eleutherus*);
  - (~~o~~)(p) Olive darter (*Percina squamata*);
  - (~~p~~)(q) Pinewoods darter (*Etheostoma mariae*);
  - (~~q~~)(r) River carpsucker (*Carpododes carpio*);
  - (~~r~~)(s) Riverweed darter (*Etheostoma podostemone*);
  - (s) ~~Rosyside dace (*Clinostomus funduloides* ssp.) (Little Tennessee River and its tributaries)~~;
  - (~~t~~)(t) Sandhills chub (*Semotilus lumbee*);
  - (~~u~~)(u) Sharpnose darter (*Percina oxyrhynchus*);
  - (v) Smoky dace (*Clinostomus* sp.) (Little Tennessee River and tributaries);
  - (w) Striped shiner (*Luxilus chrysocephalus*);
  - (~~v~~)(x) Tennessee snubnose darter (*Etheostoma simoterum*);
  - (~~w~~)(y) Thinlip chub (*Cyprinella zanema*) (Lumber River and its tributaries and Cape Fear River and its tributaries);
  - (x) ~~Turquoise darter (*Etheostoma inscriptum*)~~;
  - (~~y~~)(z) Waccamaw killifish (*Fundulus waccamensis*);
  - (~~z~~)(aa) Wounded darter (*Etheostoma vulneratum*);
  - (~~aa~~)(bb) Yellowfin shiner (*Notropis lutipinnis*) (Savannah River and its tributaries) ~~and Little Tennessee River and its tributaries~~;
- (5) Mammals:
- (a) Allegheny woodrat (*Neotoma magister*);
  - (b) Buxton Woods white-footed mouse (*Peromyscus leucopus buxtoni*);
  - (c) Coleman's oldfield mouse (*Peromyscus polionotus colemani*);
  - (d) Eastern big-eared bat (*Corynorhinus rafinesquii macrotis*);
  - (e) Eastern small-footed bat (*Myotis leibii leibii*);
  - (~~b~~)(f) Elk (*Cervus elaphus*);
  - (g) Florida yellow bat (*Lasiurus intermedius floridanus*);
  - (~~c~~) ~~Keen's bat (*Myotis septentrionalis*)~~;
  - (~~d~~) ~~Long tailed shrew (*Sorex dispar blitchi*)~~;
  - (~~e~~)(h) Pungo white-footed mouse (*Peromyscus leucopus easti*);

- (f) ~~Rock vole (*Microtus chrotorrhinus carolinensis*);~~  
 (g) ~~Small footed bat (*Myotis l. leibii*);~~  
 (h)(i) ~~Southeastern bat (*Myotis austroriparius*);~~  
 (i) ~~Southern Appalachian woodrat (*Neotoma floridana haematorcia*);~~  
 (j) ~~Southern rock shrew (*Sorex dispar blitchi*);~~  
 (k) ~~Southern rock vole (*Microtus chrotorrhinus carolinensis*);~~  
 (l) ~~Southern water shrew (*Sorex palustris punctulatus*);~~  
 (j)(m) ~~Star-nosed mole (*Condylura cristata parva*); parva.~~  
 (k) ~~Water shrew (*Sorex palustris punctulatus*).~~
- (6) Mollusks:  
 (a) Appalachian gloss (*Zonitoides patuloides*);  
 (b) Bidentate dome (*Ventridens coelaxis*);  
 (c) Black mantleslug (*Pallifera hemphilli*);  
 (d) Blackwater ancyliid (*Ferrissia hendersoni*);  
 (e) Blue-foot lancetooth (*Haplotrema kendeighi*);  
 (f) Cape Fear spike (*Elliptio marsupiobesa*);  
 (g) Dark glyph (*Glyphyalinia junaluskana*);  
 (h) Dwarf proud globe (~~*Mesodon*~~ *Patera clarki clarki*);  
 (i) Dwarf threetooth (*Triodopsis fulciden*);  
 (j) Fringed coil (*Helicodiscus fimbriatus*);  
 (k) Glossy supercoil (*Paravitrea placentula*);  
 (l) Great Smoky slitmouth (*Stenotrema depilatum*);  
 (m) High mountain supercoil (*Paravitrea andrewsae*);  
 (n) Honey glyph (*Glyphyalinia vanattai*);  
 (o) Lamellate supercoil (*Paravitrea lamellidens*);  
 (p) Mirey Ridge supercoil (*Paravitrea clappi*);  
 (q) Notched rainbow (*Villosa constricta*);  
 (r) Open supercoil (*Paravitrea umbilicaris*);  
 (s) Pink glyph (*Glyphyalinia pentadelphia*);  
 (t) Pod lance (*Elliptio folliculata*);  
 (u) Queen crater (~~*Mesodon*~~ *Appalachina chilhoweensis*);  
 (v) Rainbow (*Villosa ~~nebulosa~~; iris*);
- (w) Ramp Cove supercoil (*Paravitrea lacteodens*);  
 (x) Saw-tooth disc (*Discus bryanti*);  
 (y) ~~pike~~ Spike (*Elliptio dilatata*);  
 (z) Spiral coil (*Helicodiscus bonamicus*);  
 (aa) Velvet covert (~~*Mesodon*~~ *Inflectarius subpalliat*);  
 (bb) Waccamaw amnicola (*Amnicola* sp.);  
 (cc) Waccamaw lampmussel (*Lampsilis crocata*);  
 (dd) Waccamaw siltsnail (*Cincinnatia* sp.);  
 (ee) Wavy-rayed lampmussel (*Lampsilis fasciola*).
- (7) Reptiles:  
 (a) Carolina pigmy rattlesnake (*Sistrurus ~~m. miliarius~~ miliarius*);  
 (b) Carolina ~~salt marsh snake~~ watersnake (*Nerodia sipedon williamengelsi*);  
 (c) Diamondback terrapin (*Malaclemys terrapin*);  
 (d) Eastern smooth green snake (*Opheodrys ~~v. vernalis~~ vernalis*);  
 (e) Eastern spiny softshell (*Apalone ~~s. spinifera~~ spinifera*);  
 (f) Mimic glass lizard (*Ophisaurus mimicus*);  
 (g) Northern pine snake (~~*Pituophis m.*~~ *Pituophis melanoleucus melanoleucus*);  
 (h) Outer ~~banks~~ Banks kingsnake (*Lampropeltis getula sticticeps*);  
 (i) Southern hognose snake (*Heterodon simus*);  
 (j) Stripeneck musk turtle (*Sternotherus minor peltifer*);  
 (k) Timber rattlesnake (*Crotalus horridus*).

Authority G.S. 113-134; 113-291.2; 113-292; 113-333.

## TITLE 21 – OCCUPATIONAL LICENSING BOARDS AND COMMISSIONS

### CHAPTER 32 – NORTH CAROLINA MEDICAL BOARD

*Notice is hereby given in accordance with G.S. 150B-21.2 that the North Carolina Medical Board intends to adopt the rules cited as 21 NCAC 32W .0101 - .0115.*

**Proposed Effective Date:** April 1, 2008

**Public Hearing:**

**Date:** February 1, 2008

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

**Location:** N.C. Medical Board, 1203 Front Street, Raleigh, NC 27609

**Reason for Proposed Action:**

**21 NCAC 32W .0101** – To define terms to be used for the rules governing the practice of North Carolina anesthesiologist assistants.

**21 NCAC 32W .0102** – To provide for the qualifications of licensure for North Carolina anesthesiologist assistants.

**21 NCAC 32W .0103** – To provide criteria regarding the inactivation and reactivation of licensure for North Carolina anesthesiologist assistants.

**21 NCAC 32W .0104** – To provide for the licensure renewal process for North Carolina anesthesiologist assistants.

**21 NCAC 32W .0105** – To provide the continuing medical education requirements for North Carolina anesthesiologist assistants.

**21 NCAC 32W .0106** – To provide rules for the identification, training and scope of practice for North Carolina student anesthesiologist assistants.

**21 NCAC 32W .0107** – To provide exemptions of licensure for North Carolina anesthesiologist assistants.

**21 NCAC 32W .0108** – To provide rules regarding the scope of practice for North Carolina anesthesiologist assistants.

**21 NCAC 32W .0109** – To provide rules regarding the supervision of North Carolina anesthesiologist assistants.

**21 NCAC 32W .0110** – To provide rules defining the limitations of practice for North Carolina anesthesiologist assistants.

**21 NCAC 32W .0111** – To provide rules defining the title to be used by North Carolina anesthesiologist assistants.

**21 NCAC 32W .0112** – To provide rules defining what should appear on name tags to be worn by North Carolina anesthesiologist assistants.

**21 NCAC 32W .0113** – To provide for the fees applicable to licensure for North Carolina anesthesiologist assistants.

**21 NCAC 32W .0114** – To provide for those acts which, if committed by a licensed North Carolina anesthesiologist assistant or an applicant for an anesthesiologist assistant, would subject such licensee or applicant to discipline or denial of the application for licensure.

**21 NCAC 32W .0115** – To provide rules governing the practice of anesthesiologist assistants during the times of a declared disaster.

**Procedure by which a person can object to the agency on a proposed rule:** Person may submit objections to these Rules by contacting R. David Henderson, Executive Director, North Carolina Medical Board, 1203 Front Street, Raleigh, NC 27609, fax (919) 326-0036, or email [info@ncmedboard.org](mailto:info@ncmedboard.org).

**Comments may be submitted to:** R. David Henderson, Executive Director, North Carolina Medical Board, 1203 Front Street, Raleigh, NC 27609, phone (919) 326-1100, fax (919) 326-0036, email [david.henderson@ncmedboard.org](mailto:david.henderson@ncmedboard.org)

**Comment period ends:** February 1, 2008

**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. If the Rules Review Commission receives written and signed objections 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 919-733-2721.

**Fiscal Impact:**

- ☐ State  
☐ Local  
☐ Substantive (≥\$3,000,000)  
☒ None

**SUBCHAPTER 32W - ANESTHESIOLOGIST ASSISTANT REGULATIONS**

**21 NCAC 32W .0101 DEFINITIONS**

The following definitions apply to this Subchapter:

- (1) "Board" means the North Carolina Medical Board.
- (2) "Anesthesiologist" means a physician who has successfully completed an anesthesiology training program approved by the Accreditation Committee on Graduate Medical Education or the American Osteopathic Association or who is credentialed to practice anesthesiology by a Hospital or an Ambulatory Surgical Facility.
- (3) "Anesthesiologist Assistant" means a person licensed by and registered with the Board pursuant to Rule .0102 of this Subchapter to provide anesthesia services under the supervision of a Supervising Anesthesiologist.
- (4) "Anesthesiologist Assistant License" means the authority for the Anesthesiologist Assistant to provide anesthesia services under North Carolina law.
- (5) "Renewal" means paying the annual renewal fee and providing the information requested by the Board as outlined in Rule .0104 of this Subchapter.
- (6) "Supervising Anesthesiologist" means an anesthesiologist who is responsible for supervising the Anesthesiologist Assistant in providing anesthesia services. A Supervising Anesthesiologist must be licensed by the Board, actively engaged in clinical practice as an anesthesiologist, and immediately available onsite to provide assistance to the Anesthesiologist Assistant.
- (7) "Primary Supervising Anesthesiologist" is the Supervising Anesthesiologist who accepts primary responsibility for the Anesthesiologist Assistant's professional activities, including developing and implementing the

Anesthesiologist Assistant's Supervision Agreement and assuring the Board that the Anesthesiologist Assistant is qualified by education and training to perform all anesthesia services delegated to the Anesthesiologist Assistant.

- (8) "Supervision" means overseeing the activities of, and accepting responsibility for, the anesthesia services rendered by an Anesthesiologist Assistant.
- (9) "Supervision Agreement" means a written agreement between the Primary Supervising Anesthesiologist(s) and an Anesthesiologist Assistant that describes the anesthesia services delegated to the Anesthesiologist Assistant consistent with the Anesthesiologist Assistant's qualifications, training, skill, and competence, and these Rules.
- (10) "Certifying Examination" means the Certifying Examination for Anesthesiologist Assistants administered by the National Commission for Certification of Anesthesiologist Assistants or its successor organization.

*Authority G.S. 90-11(a1); 90-18(c)(20); 90-18.5.*

#### **21 NCAC 32W .0102 QUALIFICATIONS FOR LICENSE**

(a) Except as otherwise provided in this Subchapter, an individual shall obtain a license from the Board before practicing as an Anesthesiologist Assistant. The Board may grant an Anesthesiologist Assistant license to an applicant who has met all the following criteria:

- (1) submits a completed license application on forms provided by the Board;
- (2) pays the license fee established by Rule .0113 in this Subchapter;
- (3) submits to the Board proof of completion of a training program for Anesthesiologist Assistants accredited by the Commission on Accreditation of Allied Health Education Programs or its preceding or successor organization;
- (4) submits to the Board proof of current certification by the National Commission for Certification of Anesthesiologist Assistants (NCCAA) or its successor organization, including passage of the Certifying Examination for Anesthesiologist Assistants administered by the NCCAA within 12 months after completing training;
- (5) certifies that he or she is mentally and physically able to safely practice as an Anesthesiologist Assistant;
- (6) has no license, certificate, or registration as an Anesthesiologist Assistant currently under discipline, revocation, suspension, or probation;

- (7) has good moral character; and
- (8) submits to the Board any other information the Board deems necessary to evaluate the applicant's qualifications.

(b) The Board may deny any application for licensure for any enumerated reason contained in G.S. 90-14 or for any violation of the rules of this Subchapter.

(c) An applicant may be required to appear, in person, for an interview with the Board, or its representatives upon completion of all credentials.

*Authority G.S. 90-11(a1); 90-18(c)(20); 90-18.5.*

#### **21 NCAC 32W .0103 INACTIVE LICENSE STATUS**

(a) By notifying the Board in writing, any Anesthesiologist Assistant may elect to place his or her license on inactive status. An Anesthesiologist Assistant with an inactive license shall not practice as an Anesthesiologist Assistant. Any Anesthesiologist Assistant who engages in practice while his or her license is on inactive status shall be considered to be practicing without a license.

(b) An Anesthesiologist Assistant who has been inactive for less than six months may request reactivation of his or her license. He or she shall pay the current annual fee as defined in Rule .0113 of this Subchapter, provide documentation to the Board verifying current certification by the National Commission for Certification of Anesthesiologist Assistants and shall complete the Board's registration form.

(c) An Anesthesiologist Assistant who has been inactive for more than six months shall submit an application for a license and pay the application fee as defined in Rule .0113 of this Subchapter. The Board may deny any such application for any enumerated reason contained in G.S. 90-14 or for any violation of the rules of this Subchapter.

*Authority G.S. 90-18(c)(20); 90-18.5.*

#### **21 NCAC 32W .0104 ANNUAL RENEWAL**

(a) Each person who holds a license as an Anesthesiologist Assistant in this state shall renew his or her Anesthesiologist Assistant License each year no later than 30 days after his or her birthday by:

- (1) completing the Board's registration form;
- (2) verifying that he or she is currently certified by the National Commission for Certification of Anesthesiologist Assistants (NCCAA), or its successor organization; and
- (3) submitting the annual renewal fee under Rule .0113 of this Subchapter.

(b) The license of any Anesthesiologist Assistant who does not renew for a period of 30 days after certified notice of the failure to the licensee's last known address of record shall automatically become inactive.

*Authority G.S. 90-15; 90-18(c)(20); 90-18.5.*

#### **21 NCAC 32W .0105 CONTINUING MEDICAL EDUCATION**

(a) In order to maintain Anesthesiologist Assistant licensure, each Anesthesiologist Assistant shall complete at least 40 hours of continuing medical education (CME) as required by the National Commission for Certification of Anesthesiologist Assistants (NCCAA), or its successor organization, for every two year period. CME documentation must be available for inspection by the Board or an agent of the Board upon request.

(b) Each licensed Anesthesiologist Assistant shall comply with all recertification requirements of the NCCAA, or its successor organization, including registration of CME credit and successful completion of the Examination for Continued Demonstration of Qualifications of Anesthesiologist Assistants administered by the NCCAA.

*Authority G.S. 90-18(c)(20); 90-18.5.*

#### **21 NCAC 32W .0106 STUDENT ANESTHESIOLOGIST ASSISTANTS**

(a) A student in any Anesthesiologist Assistant training program shall be identified as a "Student Anesthesiologist Assistant" or an "Anesthesiologist Assistant Student," but under no circumstances shall the student use or permit to be used on the student's behalf the terms "intern," "resident," or "fellow."

(b) Student Anesthesiologist Assistants are authorized to provide anesthesia services under the supervision of a Supervising Anesthesiologist, provided that the student Anesthesiologist Assistant is participating in a training program accredited by the Commission for Accreditation of Allied Health Education Programs or its successor organization and a qualified anesthesia provider is present at all times while the patient is under anesthesia care. Such training programs shall provide the requisite training to allow the Student Anesthesiologist Assistant, upon graduation, to apply for certification by the National Commission for Certification of Anesthesiologist Assistants and licensure as an Anesthesiologist Assistant under this Subchapter.

*Authority G.S. 90-18.5.*

#### **21 NCAC 32W .0107 EXEMPTION FROM LICENSE**

Nothing in this Subchapter shall be construed to require licensure

- (1) a Student Anesthesiologist Assistant enrolled in an Anesthesiologist Assistant training program accredited by the Commission on Accreditation of Allied Health Education Programs or its successor organization; or
- (2) agents or employees of physicians who perform delegated tasks in the office of a physician consistent with G.S. 90-18(c)(13) and who are not rendering services as Anesthesiologist Assistants or identifying themselves as Anesthesiologist Assistants.

*Authority G.S. 90-18.5.*

#### **21 NCAC 32W .0108 SCOPE OF PRACTICE**

(a) Anesthesiologist Assistants may provide anesthesia services only under the supervision of a Supervising Anesthesiologist and

consistent with the Anesthesiologist Assistant's Supervision Agreement as defined by Rule .0101(9) of this Subchapter and the rules of this Subchapter. No Anesthesiologist Assistant shall practice where a Supervising Anesthesiologist is not immediately available onsite to provide assistance to the Anesthesiologist Assistant.

(b) Anesthesiologist Assistants perform those duties and responsibilities that are delegated by their Supervising Anesthesiologist(s). The duties and responsibilities delegated to an Anesthesiologist Assistant shall be consistent with the Anesthesiologist Assistant's Supervision Agreement and the rules of this Subchapter.

*Authority G.S. 90-18(c)(20); 90-18.5.*

#### **21 NCAC 32W .0109 SUPERVISION OF ANESTHESIOLOGIST ASSISTANTS**

(a) The Primary Supervising Anesthesiologist shall ensure that the Anesthesiologist Assistant's scope of practice is identified; that delegation of anesthesia services is appropriate to the level of competence of the Anesthesiologist Assistant; that the relationship of, and access to, each Supervising Anesthesiologist is defined; and that a process for evaluation of the Anesthesiologist Assistant's performance is established.

(b) The Supervision Agreement defined in Rule .0101(9) of this Subchapter must be signed by the Primary Supervising Anesthesiologist(s) and Anesthesiologist Assistant and shall be made available upon request by the Board or its agents. A list of all Supervising Anesthesiologists, signed and dated by each Supervising Anesthesiologist, the Primary Supervising Anesthesiologist, and the Anesthesiologist Assistant, must be retained as part of the Supervision Agreement and shall be made available upon request by the Board or its representatives.

(c) A Supervising Anesthesiologist, who need not be the Primary Supervising Anesthesiologist, shall supervise the Anesthesiologist Assistant and ensure that all anesthesia services delegated to the Anesthesiologist Assistant are consistent with the Anesthesiologist Assistant's Supervision Agreement.

(d) A Supervising Anesthesiologist may supervise no more than two Anesthesiologist Assistants or Student Anesthesiologist Assistants at one time. The limitation on the number of Anesthesiologist Assistants or Student Anesthesiologist Assistants that an anesthesiologist may supervise shall in no way affect the number of other qualified anesthesia providers an anesthesiologist may concurrently supervise.

(e) Entries by an Anesthesiologist Assistant into patient charts of inpatients (hospital, long term care institutions) must comply with the rules and regulations of the institution.

*Authority G.S. 90-18(c)(20); 90-18.5.*

#### **21 NCAC 32W .0110 LIMITATIONS ON PRACTICE**

An Anesthesiologist Assistant shall not:

- (1) perform a task which has not been listed and delegated in the Supervision Agreement;
- (2) prescribe drugs, medications, or devices of any kind; however, this Rule shall not preclude the Anesthesiologist Assistant from implementing or administering a treatment or pharmaceutical



regimen prescribed by the Supervising Anesthesiologist.

*Authority G.S. 90-18.5.*

**21 NCAC 32W .0111 TITLE AND PRACTICE PROTECTION**

(a) Any person who is licensed to provide anesthesia services as an Anesthesiologist Assistant under this Subchapter may use the title "Anesthesiologist Assistant," "AA," "Anesthesiologist Assistant-Certified," or "AA-C." An Anesthesiologist Assistant who is doctorally prepared shall not use the title "Doctor," or the appellation "Dr.," on a name badge or other form of identification when practicing in a clinical setting.

(b) Any person not licensed under this Subchapter is in violation of G.S. 90-18.5 and is subject to penalties if he or she:

- (1) falsely identifies himself or herself as an Anesthesiologist Assistant;
- (2) uses any combination or abbreviation of the title "Anesthesiologist Assistant" to indicate or imply that he or she is an Anesthesiologist Assistant; or
- (3) holds himself or herself out to be an Anesthesiologist Assistant or to be so licensed, or in any other way acts as an Anesthesiologist Assistant, without first obtaining a license.

*Authority G.S. 90-18(c)(20); 90-18.5; 90-640.*

**21 NCAC 32W .0112 IDENTIFICATION REQUIREMENTS**

An Anesthesiologist Assistant licensed under this Subchapter shall keep proof of current licensure and registration available for inspection at the primary place of practice and shall, when engaged in professional activities, wear a name tag identifying the licensee as an "Anesthesiologist Assistant," which may be abbreviated as "AA," or as an "Anesthesiologist Assistant – Certified," which may be abbreviated as "AA-C."

*Authority G.S. 90-18.5; 90-640.*

**21 NCAC 32W .0113 FEES**

The Board requires the following fees:

- (1) Anesthesiologist Assistant License Application Fee—one hundred fifty dollars (\$150.00).
- (2) Annual Renewal Fee—one hundred fifty dollars (\$150.00), except that an

Anesthesiologist Assistant who registers not later than 30 days after his or her birthday shall pay an annual registration fee of one hundred twenty-five dollars (\$125.00).

*Authority G.S. 90-15; 90-18.5.*

**21 NCAC 32W .0114 VIOLATIONS**

The Board pursuant to G.S. 90-14 may place on probation with or without conditions, impose limitations and conditions on, publicly reprimand, assess monetary redress, issue public letters of concern, mandate free medical services, require satisfactory completion of treatment programs or remedial or educational training, fine, deny, annul, suspend, or revoke the license, or other authority to function as a anesthesiologist assistant in this State. The following acts constitute violations:

- (1) Failure to function in accordance with the rules of this Subchapter or with any provision of G.S. 90-14 shall constitute unprofessional or dishonorable conduct;
- (2) Representing oneself as a physician constitutes dishonorable or unethical conduct.
- (3) Allowing one's certification with the National Commission for Certification of Anesthesiologist Assistants (NCCAA) or its successor organization to lapse at any time.

*Authority G.S. 90-18.5.*

**21 NCAC 32W .0115 PRACTICE DURING A DISASTER**

An Anesthesiologist Assistant licensed in this State or in any other state may practice as an Anesthesiologist Assistant under the supervision of an Anesthesiologist licensed to practice medicine in North Carolina during a disaster within a county in which a state of disaster has been declared or counties contiguous to a county in which a state of disaster has been declared (in accordance with G.S. 166A-6). A team of Anesthesiologist(s) and Anesthesiologist Assistant(s) practicing pursuant to this Rule shall not be required to maintain on-site documentation describing supervisory arrangements as otherwise required in Rules .0109 of this Subchapter. The Board may waive other regulatory requirements regarding licensure and practice to facilitate an Anesthesiologist Assistant practicing during a disaster consistent with G.S. 90-12.2.

*Authority G.S. 90-12.2; 166A-6.*

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**APPROVED RULES**

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

*Rules approved by the Rules Review Commission at its meeting on October 18, 2007.*

**REGISTER CITATION TO THE  
NOTICE OF TEXT****ALCOHOLIC BEVERAGE CONTROL COMMISSION**

<u>Keg Registration Transportation Permit</u>	04 NCAC 02S .0237*	22:01 NCR
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**CHILD CARE COMMISSION**

<u>Definitions</u>	10A NCAC 09 .0102*	21:19 NCR
<u>Off Premise Activities</u>	10A NCAC 09 .0512*	21:14 NCR
<u>Condition of Outdoor Learning Environment</u>	10A NCAC 09 .0605*	21:14 NCR
<u>In-Service Training Approval</u>	10A NCAC 09 .0708*	21:19 NCR
<u>Safe Procedures</u>	10A NCAC 09 .1003*	21:14 NCR
<u>Aquatic Activities</u>	10A NCAC 09 .1403*	21:19 NCR
<u>Staff Qualifications</u>	10A NCAC 09 .2510*	21:14 NCR
<u>Application for Permits</u>	10A NCAC 09 .2701*	21:19 NCR
<u>Criminal Record Check Requirements for Child Care Providers</u>	10A NCAC 09 .2702*	21:19 NCR

**PUBLIC HEALTH, COMMISSION FOR**

<u>Reportable Diseases and Conditions</u>	10A NCAC 41A .0101*	21:24 NCR
<u>Method of Reporting</u>	10A NCAC 41A .0102*	21:24 NCR
<u>Control Measures HIV</u>	10A NCAC 41A .0202*	21:24 NCR
<u>Control Measures - Sexually Transmitted Diseases</u>	10A NCAC 41A .0204*	21:24 NCR

**HEALTH AND HUMAN SERVICES, DEPARTMENT OF**

<u>Definitions</u>	10A NCAC 41B .0101*	22:01 NCR
<u>Log</u>	10A NCAC 41B .0311	22:01 NCR
<u>Intoxilyzer: Model 5000</u>	10A NCAC 41B .0320	22:01 NCR
<u>Preventative Maintenance: Intoxilyzer: Model 5000</u>	10A NCAC 41B .0321	22:01 NCR
<u>Intoximeter: Model: EC/IR II</u>	10A NCAC 41B .0322*	22:01 NCR
<u>Preventative Maintenance: Intoximeter: Model EC/IR II</u>	10A NCAC 41B .0323*	22:01 NCR

**SOCIAL SERVICES COMMISSION**

<u>Exceptions for Notification</u>	10A NCAC 67A .0202	22:02 NCR
<u>Social Services Block Grant Funded Services</u>	10A NCAC 71R .0101*	22:02 NCR
<u>Mandated and Optional Services</u>	10A NCAC 71R .0103*	22:02 NCR
<u>Fiscal Management</u>	10A NCAC 71R .0201*	22:02 NCR
<u>Family Services Manual and Policy Directives</u>	10A NCAC 71R .0302	22:02 NCR

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**APPROVED RULES**

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<u>Recipient Service Records</u>	10A NCAC 71R .0303	22:02 NCR
<u>Application Requirement</u>	10A NCAC 71R .0401	22:02 NCR
<u>Opportunity to Apply</u>	10A NCAC 71R .0402	22:02 NCR
<u>Who May Apply</u>	10A NCAC 71R .0403	22:02 NCR
<u>Residency</u>	10A NCAC 71R .0404	22:02 NCR
<u>Application Documentation Requirements</u>	10A NCAC 71R .0405	22:02 NCR
<u>Basic Eligibility Criteria</u>	10A NCAC 71R .0501	22:02 NCR
<u>Income Maintenance Status</u>	10A NCAC 71R .0502	22:02 NCR
<u>Income Eligible Status</u>	10A NCAC 71R .0503*	22:02 NCR
<u>Definition of Established</u>	10A NCAC 71R .0504	22:02 NCR
<u>Maximum Income Levels for Services</u>	10A NCAC 71R .0505	22:02 NCR
<u>Without Regard to Income Status</u>	10A NCAC 71R .0506*	22:02 NCR
<u>Eligibility Determination</u>	10A NCAC 71R .0601	22:02 NCR
<u>Basis for Establishing</u>	10A NCAC 71R .0602	22:02 NCR
<u>Basis for Denial or Termination of Services</u>	10A NCAC 71R .0603	22:02 NCR
<u>Redetermination of Eligibility</u>	10A NCAC 71R .0604	22:02 NCR
<u>Documentation of Eligibility Decision</u>	10A NCAC 71R .0605	22:02 NCR
<u>Quarterly Review</u>	10A NCAC 71R .0606	22:02 NCR
<u>Methods of Eligibility Determination</u>	10A NCAC 71R .0701	22:02 NCR
<u>Verification Method</u>	10A NCAC 71R .0702*	22:02 NCR
<u>Declaration Method</u>	10A NCAC 71R .0703	22:02 NCR
<u>Method of Determining Need for Services</u>	10A NCAC 71R .0704	22:02 NCR
<u>Notification Time Frames</u>	10A NCAC 71R .0801	22:02 NCR
<u>Requirements for Prompt Provision</u>	10A NCAC 71R .0803	22:02 NCR
<u>Foster Care Services for Children</u>	10A NCAC 71R .0907*	22:02 NCR
<u>Health Support Services</u>	10A NCAC 71R .0908*	22:02 NCR
<u>Protective Services for Children</u>	10A NCAC 71R .0916*	22:02 NCR
<u>Benefit Levels</u>	10A NCAC 71V .0202*	22:02 NCR

**PRIVATE PROTECTIVE SERVICES BOARD**

<u>Renewal or Reissue of Licenses and Trainee Permits</u>	12 NCAC 07D .0203	21:06 NCR
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**CRIMINAL JUSTICE EDUCATION AND TRAINING STANDARDS COMMISSION**

<u>Responsibilities of the School Director</u>	12 NCAC 09B .0202*	21:14 NCR
<u>Time-Distance Instructor Training Course</u>	12 NCAC 09B .0211*	21:19 NCR
<u>Supplemental SMI Training</u>	12 NCAC 09B .0215*	21:19 NCR
<u>Re-Certification Training for Radar Instructors</u>	12 NCAC 09B .0218*	21:19 NCR
<u>Re-Certification Training for Time-Distance Instructors</u>	12 NCAC 09B .0219*	21:19 NCR
<u>Re-Certification Course for Radar Operators</u>	12 NCAC 09B .0220*	21:19 NCR
<u>Re-Certification Course for Radar/Time-Distance Operators</u>	12 NCAC 09B .0221*	21:19 NCR
<u>Re-Certification Course for Time-Distance Operators</u>	12 NCAC 09B .0222*	21:19 NCR
<u>Lidar Instructor Training Course</u>	12 NCAC 09B .0237*	21:19 NCR
<u>Certification Training for Lidar Operators</u>	12 NCAC 09B .0238*	21:19 NCR
<u>Re-Certification Training for Lidar Instructors</u>	12 NCAC 09B .0239	21:19 NCR

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**APPROVED RULES**

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<u>Re-Certification Training Course for Lidar Operators</u>	12	NCAC 09B	.0240	21:19 NCR
<u>Certification Training for Radar/Lidar Operators</u>	12	NCAC 09B	.0242*	21:19 NCR
<u>Re-Certification Training Course for Radar/Lidar Operators</u>	12	NCAC 09B	.0243	21:19 NCR
<u>Certification Training for Radar/Time-Distance/Lidar Oper...</u>	12	NCAC 09B	.0244*	21:19 NCR
<u>Re-Certification Training Course for Radar/Time-Distance/...</u>	12	NCAC 09B	.0245	21:19 NCR
<u>Terms and Conditions of General Instructor Certification</u>	12	NCAC 09B	.0303*	21:14 NCR
<u>Terms and Conditions of Specialized Instructor Certification</u>	12	NCAC 09B	.0305*	21:14 NCR
<u>Terms and Conditions - SMI Instructors</u>	12	NCAC 09B	.0310*	21:19 NCR
<u>Comprehensive Written Examination - Basic SMI Certification</u>	12	NCAC 09B	.0408	21:19 NCR
<u>Satisfaction of Training - SMI Operators</u>	12	NCAC 09B	.0409*	21:19 NCR
<u>Satisfaction of Minimum Training - SMI Instructor</u>	12	NCAC 09B	.0416	21:19 NCR
<u>Speed Measurement Instrument (SMI) Operators Certificatio...</u>	12	NCAC 09C	.0308*	21:19 NCR
<u>Approved Speed-Measuring Instruments</u>	12	NCAC 09C	.0601	21:19 NCR
<u>Speed-Measuring Instrument Operating Procedures</u>	12	NCAC 09C	.0608*	21:19 NCR

**ENVIRONMENTAL MANAGEMENT COMMISSION**

<u>Little Tennessee River Basin and Savannah River Drainage ...</u>	15A	NCAC 02B	.0303*	21:20 NCR
<u>French Broad River Basin</u>	15A	NCAC 02B	.0304*	21:20 NCR
<u>Watauga River Basin</u>	15A	NCAC 02B	.0305	21:20 NCR
<u>New River Basin</u>	15A	NCAC 02B	.0307*	21:20 NCR
<u>Yadkin-Pee Dee River Basin</u>	15A	NCAC 02B	.0309*	21:20 NCR
<u>Lumber River Basin</u>	15A	NCAC 02B	.0310*	21:20 NCR
<u>Cape Fear River Basin</u>	15A	NCAC 02B	.0311*	21:20 NCR
<u>White Oak River Basin</u>	15A	NCAC 02B	.0312*	21:20 NCR
<u>Roanoke River Basin</u>	15A	NCAC 02B	.0313*	21:20 NCR
<u>Neuse River Basin</u>	15A	NCAC 02B	.0315*	21:22 NCR
<u>Tar-Pamlico River Basin</u>	15A	NCAC 02B	.0316*	21:20 NCR
<u>Pasquotank River Basin</u>	15A	NCAC 02B	.0317*	21:20 NCR

**WILDLIFE RESOURCES COMMISSION**

<u>Descriptive Boundaries</u>	15A	NCAC 10C	.0503	21:11 NCR
<u>Cherokee County</u>	15A	NCAC 10F	.0359	21:23 NCR
<u>Transylvania County</u>	15A	NCAC 10F	.0373	21:23 NCR

**RADIATION PROTECTION COMMISSION**

<u>Definitions</u>	15A	NCAC 11	.0104*	21:22 NCR
<u>Incorporation By Reference</u>	15A	NCAC 11	.0117	21:22 NCR
<u>Specific Licenses: General Requirements for Human Use</u>	15A	NCAC 11	.0318*	21:22 NCR
<u>Specific Licenses: Human Use By Individual</u>	15A	NCAC 11	.0320*	21:22 NCR

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**APPROVED RULES**

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**Physicians**

<u>Specific Licenses: General Requirements for Human Use of ...</u>	15A NCAC 11	.0321*	21:22 NCR
<u>Specific Licenses: Human Use of Sealed Sources</u>	15A NCAC 11	.0322*	21:22 NCR
<u>Specific Licenses: Manufacture of Radiopharmaceuticals</u>	15A NCAC 11	.0333*	21:22 NCR
<u>Records and Reports of Misadministration</u>	15A NCAC 11	.0350	21:22 NCR
<u>Procedures for Administrations Requiring a Written Directive</u>	15A NCAC 11	.0356*	21:22 NCR
<u>Measurements/Dosages of Unsealed Radioactive Material for...</u>	15A NCAC 11	.0359*	21:22 NCR
<u>Survey's of Radiopharmaceutical Areas For Contamination &amp; Radiation Exposure Rate</u>	15A NCAC 11	.0360*	21:22 NCR
<u>Medical Use of Unsealed Radioactive Material</u>	15A NCAC 11	.0361*	21:22 NCR
<u>Provisions For The Protection of Human Research Subjects</u>	15A NCAC 11	.0363	21:22 NCR
<u>Medical Events</u>	15A NCAC 11	.0364*	21:22 NCR
<u>Report and Notification of a Dose To An Embryo/Fetus or a Nursing Child</u>	15A NCAC 11	.0365*	21:22 NCR
<u>Interstitial: Intracavitary and Superficial Applications</u>	15A NCAC 11	.0702*	21:22 NCR
<u>Teletherapy</u>	15A NCAC 11	.0703	21:22 NCR
<u>Dose Limits for Individual Members or the Public</u>	15A NCAC 11	.1611*	21:22 NCR

**PUBLIC HEALTH, COMMISSION FOR**

<u>STDS Applicable to Generators of Hazardous Waste- Part 262</u>	15A NCAC 13A	.0107	21:24 NCR
<u>Refrigeration Thawing and Preparation of Food</u>	15A NCAC 18A	.2609*	21:19 NCR
<u>Storage and Handling of Utensils and Equipment</u>	15A NCAC 18A	.2620*	21:19 NCR
<u>General Requirements for Pushcarts and Mobile Food Units</u>	15A NCAC 18A	.2638*	21:19 NCR

**SECRETARY OF STATE, DEPARTMENT OF**

<u>Scope</u>	18 NCAC 13	.0101	22:02 NCR
<u>Definitions</u>	18 NCAC 13	.0102*	22:02 NCR
<u>Time</u>	18 NCAC 13	.0103	22:02 NCR
<u>Filing Locations and Methods</u>	18 NCAC 13	.0201	22:02 NCR
<u>Filing Using Department's Forms</u>	18 NCAC 13	.0202*	22:02 NCR
<u>Form Completion Requirements</u>	18 NCAC 13	.0203*	22:02 NCR
<u>Filing Submission Date and Time</u>	18 NCAC 13	.0204	22:02 NCR
<u>Rejection of Incomplete Filing</u>	18 NCAC 13	.0205	22:02 NCR
<u>Department Refusal to File</u>	18 NCAC 13	.0206	22:02 NCR
<u>Expedited Review of Filing</u>	18 NCAC 13	.0207	22:02 NCR
<u>Effective Date of Filing</u>	18 NCAC 13	.0208*	22:02 NCR
<u>Department's Delivery of Copy to Filer</u>	18 NCAC 13	.0209*	22:02 NCR
<u>General Requirements</u>	18 NCAC 13	.0301	22:02 NCR
<u>Purpose</u>	18 NCAC 13	.0401*	22:02 NCR
<u>Descriptions of Service Areas</u>	18 NCAC 13	.0403*	22:02 NCR
<u>Required Map Components</u>	18 NCAC 13	.0405	22:02 NCR

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**APPROVED RULES**

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<u>General Requirements for Service Area</u>	18	NCAC 13	.0407	22:02 NCR
<u>Map Boundary Detail Requirements for Service Areas Coveri...</u>	18	NCAC 13	.0408*	22:02 NCR
<u>Map Boundary Detail Requirements for Service Areas Coveri...</u>	18	NCAC 13	.0409	22:02 NCR
<u>Increased Map Boundary Detail Requirements for Service Ar...</u>	18	NCAC 13	.0410	22:02 NCR
<u>Map Sources</u>	18	NCAC 13	.0411*	22:02 NCR
<u>Additional Map Information Permitted</u>	18	NCAC 13	.0413	22:02 NCR
<u>Filing of Maps</u>	18	NCAC 13	.0414*	22:02 NCR
<u>Electronic Map Format Requirements</u>	18	NCAC 13	.0415*	22:02 NCR
<u>Electronic Map Media Requirements</u>	18	NCAC 13	.0416*	22:02 NCR
<u>Permitted Map and Description Amendments</u>	18	NCAC 13	.0418	22:02 NCR
<u>Annual Service Report Map Submission</u>	18	NCAC 13	.0419	22:02 NCR
<u>Schedules</u>	18	NCAC 13	.0501	22:02 NCR
<u>Notice of Commencement of Service</u>	18	NCAC 13	.0601*	22:02 NCR
<u>Minimum Requirements</u>	18	NCAC 13	.0701	22:02 NCR
<u>Withdrawal Notice Covers Entire Service Area</u>	18	NCAC 13	.0702	22:02 NCR
<u>One Annual Service Report Description and Map Information</u>	18	NCAC 13	.0802	22:02 NCR
<u>Annual Service Report Schedule</u>	18	NCAC 13	.0803	22:02 NCR
<u>Required Customer Service Information</u>	18	NCAC 13	.0804	22:02 NCR
<u>Annual Service Report Percentage of Households Passed</u>	18	NCAC 13	.0805	22:02 NCR
<u>Accessing Public Records</u>	18	NCAC 13	.0901	22:02 NCR

**CHIROPRACTIC EXAMINERS, BOARD OF**

<u>Advertising and Publicity</u>	21	NCAC 10	.0302*	21:24 NCR
<u>Designation of Specialties</u>	21	NCAC 10	.0304	21:24 NCR

**LOCKSMITH LICENSING BOARD**

<u>Special Administration</u>	21	NCAC 29	.0206*	21:24 NCR
<u>Exceptions</u>	21	NCAC 29	.0805	21:24 NCR

**MASSAGE AND BODYWORK THERAPY, BOARD OF**

<u>Program Director and Administrative Staff Qualifications</u>	21	NCAC 30	.0611*	21:21 NCR
<u>Approval Process for Key Administrative and Instructional...</u>	21	NCAC 30	.0613*	21:21 NCR
<u>Management of Staff</u>	21	NCAC 30	.0614*	21:21 NCR
<u>School Plant and Equipment</u>	21	NCAC 30	.0615*	21:21 NCR
<u>Tuition Refunds and Financial Aid</u>	21	NCAC 30	.0619*	21:21 NCR

**OCCUPATIONAL THERAPY, BOARD OF**

<u>Limited Permit Defined</u>	21	NCAC 38	.1001*	G.S. 150B-21.5(b)(1)
<u>Supervision of Limited Permittee</u>	21	NCAC 38	.1002*	G.S. 150B-21.5(b)(1)
<u>Service Competency of Limited Permittee</u>	21	NCAC 38	.1003*	G.S. 150B-21.5(b)(1)

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**APPROVED RULES**

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<u>Signature of Limited Permittee</u>	21	NCAC 38	.1004*	G.S. 150B-21.5(b)(1)
<u>Board Notification</u>	21	NCAC 38	.1005*	G.S. 150B-21.5(b)(1)

**APPRAISAL BOARD**

<u>Filing and Fees</u>	21	NCAC 57A	.0102*	21:23 NCR
<u>Registration, License and Certificate Renewal</u>	21	NCAC 57A	.0203	21:23 NCR
<u>Continuing Education</u>	21	NCAC 57A	.0204*	21:23 NCR
<u>Replacement Registration, License and Certificate Fees</u>	21	NCAC 57A	.0208	21:23 NCR
<u>National Appraiser Registry</u>	21	NCAC 57A	.0209	21:23 NCR
<u>Temporary Practice</u>	21	NCAC 57A	.0210*	21:23 NCR
<u>Nonresident Trainee Registration, Appraiser Licensure and...</u>	21	NCAC 57A	.0211*	21:23 NCR
<u>Time and Place</u>	21	NCAC 57A	.0301*	21:23 NCR
<u>Use of Titles</u>	21	NCAC 57A	.0401	21:23 NCR
<u>Advertising</u>	21	NCAC 57A	.0403	21:23 NCR
<u>Appraisal Reports</u>	21	NCAC 57A	.0405*	21:23 NCR
<u>Supervision of Trainees</u>	21	NCAC 57A	.0407*	21:23 NCR
<u>Appraisal Standards</u>	21	NCAC 57A	.0501*	21:23 NCR
<u>Registered Trainee and Licensed Residential Real Estate A...</u>	21	NCAC 57B	.0101	21:23 NCR
<u>Certified Residential Real Estate Appraiser Course Requir...</u>	21	NCAC 57B	.0102	21:23 NCR
<u>Certified General Real Estate Appraiser Course Requirements</u>	21	NCAC 57B	.0103	21:23 NCR
<u>Facilities and Equipment</u>	21	NCAC 57B	.0204	21:23 NCR
<u>Certificate of Course Completion</u>	21	NCAC 57B	.0209	21:23 NCR
<u>Course Records</u>	21	NCAC 57B	.0210	21:23 NCR
<u>Course Content</u>	21	NCAC 57B	.0302	21:23 NCR
<u>Course Scheduling</u>	21	NCAC 57B	.0304	21:23 NCR
<u>Instructor Requirements</u>	21	NCAC 57B	.0306	21:23 NCR
<u>Criteria for Course Recognition</u>	21	NCAC 57B	.0307*	21:23 NCR
<u>Applicability</u>	21	NCAC 57B	.0401	21:23 NCR
<u>Original Course Approval Fee</u>	21	NCAC 57B	.0402	21:23 NCR
<u>Fee for Renewal of Course Approval</u>	21	NCAC 57B	.0403	21:23 NCR
<u>Applicability</u>	21	NCAC 57B	.0501	21:23 NCR
<u>Original Course Approval Fee</u>	21	NCAC 57B	.0502	21:23 NCR
<u>Fee for Renewal of Course Approval</u>	21	NCAC 57B	.0503	21:23 NCR
<u>Application and Fee</u>	21	NCAC 57B	.0602*	21:23 NCR
<u>Criteria for Course Approval</u>	21	NCAC 57B	.0603*	21:23 NCR
<u>Course Operational Requirements</u>	21	NCAC 57B	.0606	21:23 NCR
<u>Certification of Course Completion</u>	21	NCAC 57B	.0607	21:23 NCR
<u>Sponsor Reporting of Continuing Education Credit</u>	21	NCAC 57B	.0608	21:23 NCR
<u>Renewal of Approval and Fees</u>	21	NCAC 57B	.0611	21:23 NCR
<u>Withdrawal or Denial of Approval</u>	21	NCAC 57B	.0612*	21:23 NCR

**ADMINISTRATIVE HEARINGS, OFFICE OF**

<u>Availability of the North Carolina Register</u>	26	NCAC 02C .0303	21:21 NCR
<u>Other Notices for Publication</u>	26	NCAC 02C .0307	21:21 NCR

**The following rules are subject to Legislative Review pursuant to G.S. 150B-21.3(b2).**

**AGRICULTURE, BOARD OF**

<u>Unpasteurized Milk</u>	02	NCAC 09E .0116*	21:08 NCR
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**ENVIRONMENTAL MANAGEMENT COMMISSION**

<u>Purpose</u>	15A	NCAC 02R .0101*	21:12 NCR
<u>Purpose</u>	15A	NCAC 02R .0201	21:12 NCR
<u>Public Involvement, Availability</u>	15A	NCAC 02R .0203	21:12 NCR
<u>Wetlands Restoration Fund, Purpose</u>	15A	NCAC 02R .0401	21:12 NCR
<u>Schedule of Fees</u>	15A	NCAC 02R .0402*	21:12 & 21:18 NCR

**SECRETARY OF STATE, DEPARTMENT OF**

<u>Amendments to Service Areas Prohibited</u>	18	NCAC 13 .0417	22:02 NCR
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**TITLE 02 – DEPARTMENT OF AGRICULTURE AND  
CONSUMER SERVICES**

**02 NCAC 09E .0116 UNPASTEURIZED MILK**

- (a) Unpasteurized milk distributed as commercial feed shall be decharacterized with a food coloring which will render the milk charcoal gray in color. The use of the food coloring shall be in compliance with the Federal Food, Drug, and Cosmetic Act.
- (b) Unpasteurized milk distributed as commercial feed shall include in its labeling the statement, "NOT FOR HUMAN CONSUMPTION," in letters at least one-quarter inch in height on packages of eight ounces or less and at least one-half inch in height on any other size package.

*History Note:* Authority G.S. 106-284.41;  
Eff. Pending Legislative Review.

**TITLE 04 – DEPARTMENT OF COMMERCE**

**04 NCAC 02S .0237 KEG PURCHASE-  
TRANSPORTATION PERMIT**

- (a) Retail Permittee to Issue. Whenever a person chooses to purchase and transport a keg designed to hold and dispense 7.75 gallons or more of malt beverages, the person shall apply to the retail permittee from whom such purchase will be made for a Keg Purchase-Transportation Permit. The retail permittee from

whom the keg is purchased shall issue the purchaser such permit following G.S. 18B-403.1.

(b) The Keg Purchase-Transportation Permit shall specify the following information on the face of the permit:

- (1) Date of issue;
- (2) Name and address of the retail business from which the purchase is made;
- (3) Purchaser's name and address;
- (4) Purchaser's driver's license, North Carolina ID, Military ID or passport number;
- (5) Address of destination of keg(s);
- (6) Total number of kegs purchased;
- (7) Underage responsibility warning; and
- (8) Signatures of the purchaser and an authorized retail employee.

(c) The retailer shall retain a copy of the permit at the retail location where the purchase was made for 90 days unless requested by any individual in writing to the retailer to retain the copy for a specified period longer than 90 days but not longer than 180 days. The permit shall accompany the keg during its transport and usage and shall be exhibited to any law enforcement officer upon request.

(d) The Commission shall provide Keg Purchase-Transportation Permits to any retailer who requests such permits. Permittees may also download a copy of the Keg Purchase-Transportation Permit from the Commission's website (www.ncabc.com).

*History Note:* Authority G.S. 18B-207; 18B-403.1;



*Temporary Adoption Eff. December 1, 2006;  
Eff. November 1, 2007.*

**TITLE 10A – DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**10A NCAC 09 .0102 DEFINITIONS**

The terms and phrases used in this Chapter are defined as follows except when the content of the rule requires a different meaning. The definitions prescribed in G.S. 110-86 also apply to these Rules.

- (1) "Agency" as used in Section .2200 of this Chapter, means Division of Child Development, Department of Health and Human Services located at 319 Chapanoke Road, Suite 120, Raleigh, North Carolina 27603.
- (2) "Appellant" means the person or persons who request a contested case hearing.
- (3) "Basic School-Age Care Training" (BSAC Training) means the seven clock hours of training developed by the North Carolina State University Department of 4-H Youth Development for the Division of Child Development on the elements of quality school-age care.
- (4) "Child Care Program" means a single center or home, or a group of centers or homes or both, which are operated by one owner or supervised by a common entity.
- (5) "Child care provider" as defined by G.S. 110-90.2 (a) (2) a. and used in Section .2700 of this Chapter, includes the following employees who have contact with the children in a child care program: facility directors, administrative staff, teachers, teachers' aides, cooks, maintenance personnel, and drivers.
- (6) "Child Development Associate Credential" means the national early childhood credential administered by the Council for Early Childhood Professional Recognition.
- (7) "Developmentally appropriate" means suitable to the chronological age range and developmental characteristics of a specific group of children.
- (8) "Division" means the Division of Child Development within the Department of Health and Human Services.
- (9) "Drop-in care" means a child care arrangement where children attend on an intermittent, unscheduled basis.
- (10) "Early Childhood Environment Rating Scale - Revised edition" (Harms, Cryer, and Clifford, 1998, published by Teachers College Press, New York, NY) is the instrument used to evaluate the quality of care received by a group of children in a child care center, when

the majority of children in the group are two and a half years old through five years old, to achieve three or more points for the program standards of a rated license. This instrument is incorporated by reference and includes subsequent editions. Individuals wishing to purchase a copy may call Teachers College Press at 1-800-575-6566. The cost of this scale in August 2006 is sixteen dollars and ninety-five cents (\$16.95). A copy of this instrument is on file at the Division at the address given in Item (1) of this Rule and is available for public inspection during regular business hours.

- (11) "Family Day Care Rating Scale" (Harms and Clifford, 1989, published by Teachers College Press, New York, NY) is the instrument used to evaluate the quality of care received by children in family child care homes to achieve three or more points for the program standards of a rated license. This instrument is incorporated by reference and includes subsequent editions. Individuals wishing to purchase a copy may call Teachers College Press at 1-800-575-6566. The cost of this scale in August 2006 is fifteen dollars and ninety-five cents (\$15.95). A copy of this instrument is on file at the Division at the address given in Item (1) of this Rule and is available for public inspection during regular business hours.
- (12) "Group" means the children assigned to a specific caregiver or caregivers, to meet the staff/child ratios set forth in G.S. 110-91(7) and this Chapter, using space which is identifiable for each group.
- (13) "Household member" means a person who resides in a family home as evidenced by factors including, maintaining clothing and personal effects at the household address, receiving mail at the household address, using identification with the household address, or eating and sleeping at the household address on a regular basis.
- (14) "Infant/Toddler Environment Rating Scale - Revised edition" (Harms, Cryer, and Clifford, 1990, published by Teachers College Press, New York, NY) is the instrument used to evaluate the quality of care received by a group of children in a child care center, when the majority of children in the group are younger than thirty months old, to achieve three or more points for the program standards of a rated license. This instrument is incorporated by reference and includes subsequent editions. Individuals wishing to purchase a copy may call Teachers College Press at 1-800-575-6566. The cost of this scale in August 2006 is sixteen dollars and

- ninety-five cents (\$16.95). A copy of this instrument is on file at the Division at the address given in Item (1) of this Rule and is available for public inspection during regular business hours.
- (15) "ITS-SIDS Training" means the Infant/Toddler Safe Sleep and SIDS Risk Reduction Training developed by the NC Healthy Start Foundation for the Division of Child Development for caregivers of children ages 12 months and younger.
  - (16) "Licensee" means the person or entity that is granted permission by the State of North Carolina to operate a child care facility.
  - (17) "North Carolina Early Childhood Credential" means the state early childhood credential that is based on completion of coursework and standards found in the North Carolina Early Childhood Instructor Manual (published by the NC Community College System Office). These standards are incorporated by reference and include subsequent amendments. A copy of the North Carolina Early Childhood Credential requirements is on file at the Division at the address given in Item (1) of this Rule and is available for public inspection or copying at no charge during regular business hours.
  - (18) "Operator" means the person or entity held legally responsible for the child care business. The terms "operator", "sponsor", or "licensee" may be used interchangeably.
  - (19) "Owner" means any person with a five percent or greater equity interest in a child care facility.
  - (20) "Parent" means a child's parent, legal guardian, or full-time custodian.
  - (21) "Part-time care" means a child care arrangement where children attend on a regular schedule but less than a full-time basis.
  - (22) "Passageway" means a hall or corridor.
  - (23) "Person" means any individual, trust, estate, partnership, corporation, joint stock company, consortium, or any other group, entity, organization, or association.
  - (24) "Preschooler" or "preschool-aged child" means any child who does not fit the definition of school-aged child in this Rule.
  - (25) "School-Age Care Environment Rating Scale" (Harms, Jacobs, and White, 1996, published by Teachers College Press) is the instrument used to evaluate the quality of care received by a group of children in a child care center, when the majority of the children in the group are older than five years, to achieve three or more points for the program standards of a rated license. This instrument is incorporated by reference and includes subsequent editions. Individuals wishing to purchase a copy may call Teachers College Press at 1-800-575-6566. The cost of this scale in August 2006 is fifteen dollars and ninety-five cents (\$15.95). A copy of this instrument is on file at the Division at the address given in Item (1) of this Rule and is available for public inspection during regular business hours.
  - (26) "School-aged child" means any child who is attending or who has attended, a public or private grade school or kindergarten and meets age requirements as specified in G.S. 115C-364.
  - (27) "Seasonal Program" means a recreational program as set forth in G.S. 110-86(2)(b).
  - (28) "Section" means Division of Child Development.
  - (29) "Substitute" means any person who temporarily assumes the duties of a staff person for a time period not to exceed two consecutive months.
  - (30) "Temporary care" means any child care arrangement which provides either drop-in care or care on a seasonal or other part-time basis and is required to be regulated pursuant to G.S. 110-86.
  - (31) "Volunteer" means a person who works in a child care facility and is not monetarily compensated by the facility.
- History Note: Authority G.S. 110-88; 143B-168.3; Eff. January 1, 1986; Amended Eff. April 1, 1992; October 1, 1991; October 1, 1990; November 1, 1989; Temporary Amendment Eff. January 1, 1996; Amended Eff. November 1, 2007; May 1, 2006; May 1, 2004; April 1, 2003; July 1, 2000; April 1, 1999; July 1, 1998; April 1, 1997.*

**10A NCAC 09 .0512 OFF PREMISE ACTIVITIES**

- (a) Off premise activities refer to any activity which takes place away from a licensed and approved space. Licensed and approved space includes "primary space" as described in 10A NCAC 09 .1401(a), outdoor space as described in 10A NCAC 09 .1402, single use rooms, or other administrative areas.
- (b) When children participate in off premise activities the following shall apply:
  - (1) Children under the age of three shall not participate in off premise activities that involve children being transported in a motor vehicle.
  - (2) When children are transported in a motor vehicle for off premise activities, the provisions in Rule .1003(c) through (i) and (k) of this Chapter shall apply.
  - (3) Before staff members walk children off premises for play or outings, the parent of each child shall give written permission for the child to be included in such activities.

- (4) Parents may provide a written statement giving standing permission which may be valid for up to 12 months for participation in off premise activities that occur on a regular basis.
- (5) The facility shall post a schedule of off premise activities in each participating classroom where it can be easily viewed by parents, and a copy shall be given to parents. The schedule shall be current and shall include the:
  - (A) location of the activity,
  - (B) purpose of the activity,
  - (C) time the activity will take place,
  - (D) date of the activity; and
  - (E) name of the person(s) to be contacted in the event of an emergency.
- (6) Each time that children are taken off the premises, staff shall take a list of the children participating in the activity with them. Staff members shall use this list to check attendance when leaving the facility, periodically when the children are involved in the activity, before leaving the activity to return to the child care facility, and upon return to the facility. A list of all children participating in the off premise activity shall also be available at the center.

(c) The provisions of Subparagraphs (b)(1) and (5) of this Rule shall be waived, to the extent necessary, to implement any child's Individualized Family Service Plan (IFSP) or Individualized Education Program (IEP).

*History Note: Authority G.S. 110-85; 110-91(9),(12); 143B-168.3; Eff. November 1, 2007.*

#### **10A NCAC 09 .0605 CONDITION OF OUTDOOR LEARNING ENVIRONMENT**

- (a) All equipment shall be in good repair and shall be maintained in useable condition. All commercially manufactured equipment shall be assembled and installed according to procedures specified by the manufacturer.
- (b) Equipment shall be sturdy, stable, and free of hazards that are accessible to children during normal supervised play including sharp edges, lead based paint, loose nails, splinters, protrusions (excluding nuts and bolts on sides of fences), and pinch and crush points.
- (c) All broken equipment shall be removed from the premises immediately or made inaccessible to the children.
- (d) Children shall not be allowed to play on outdoor equipment that is too hot to touch.
- (e) Any openings in equipment, steps, decks, and handrails shall be smaller than 3½ inches or greater than 9 inches to prevent entrapment.
- (f) All upright angles shall be greater than 55 degrees to prevent entrapment and entanglement.
- (g) The outdoor play area shall be protected by a fence or other protection. The height shall be a minimum of four feet and the top of the fence shall be free of protrusions. The requirement disallowing protrusions on the tops of fences shall not apply to

fences six feet high or above. The fencing shall exclude fixed bodies of water such as ditches, quarries, canals, excavations, and fish ponds. Gates to the fenced outdoor play area shall remain securely closed while children occupy the area.

(h) All stationary outdoor equipment more than 18 inches high shall be installed over protective surfacing. Footings which anchor equipment shall not be exposed. Loose surfacing material shall not be installed over concrete. Acceptable materials to be used for surfacing include: wood mulch, double shredded bark mulch, uniform wood chips, fine sand, coarse sand, and pea gravel. Other materials that have been certified by the manufacturer to be shock-absorbing protective material in accordance with the American Society for Testing and Materials (ASTM) Standard 1292, may be used only if installed, maintained, and replaced according to the manufacturer's instructions. Pea gravel shall not be used if the area will be used by children under three years of age. The depth of the surfacing that is required shall be based on the critical height of the equipment. The critical height is defined as the maximum height a child may climb, sit, or stand.

- (1) Equipment with a critical height of five feet or less shall have six inches of any of the surfacing materials listed.
- (2) Equipment with a critical height of more than five feet but less than seven feet shall have six inches of any of the surfacing materials listed, except for sand.
- (3) Equipment with a critical height of seven feet to 10 feet shall have nine inches of any of the surfacing materials listed, except for sand.
- (4) When sand is used as a surfacing material for equipment with a critical height of more than five feet, 12 inches is required.

(i) The area required to have protective surfacing is the area under and around the equipment where the child is likely to fall and it is called the fall zone. The area for fall zones is as follows:

- (1) For stationary outdoor equipment used by children under two years of age, the protective surfacing shall extend beyond the external limits of the equipment for a minimum of three feet, except that protective surfacing is only required at all points of entrance and exit for any structure that has a protective barrier.
- (2) For stationary outdoor equipment used by children two years of age or older, the protective surfacing shall extend beyond the external limits of the equipment for a minimum of six feet.

(j) Exceptions to Paragraph (i) of this Rule are as follows:

- (1) Fall zones may overlap around spring rockers, and around equipment that is more than 18 but less than 30 inches in height. If there are two adjacent structures and one is more than 18 but less than 30 inches in height, the protective surfacing shall extend a minimum of nine feet between the two structures.
- (2) Swings shall have protective surfacing that extends two times the length of the pivot point

- to the surface below. The surfacing shall be to the front and rear of the swing.
- (3) Tot swings shall have protective surfacing that extends two times the length of the pivot point to the bottom of the swing seat. The surfacing shall be to the front and rear of the swing. Tot swings are defined as swings with enclosed seats.
  - (4) Tire swings shall have protective surfacing that extends a distance of six feet plus the measurement from the pivot point to the swing seat and six feet to the side of the support structure.
- (k) Swing seats shall be made of plastic or soft or flexible material.
- (l) Elevated platforms shall have a guardrail or protective barrier, depending upon the height of the platform and the age of children that will have access to the piece of equipment. Guardrails shall prevent inadvertent or unintentional falls off the platform. The critical height for a platform with a guardrail is the top of the guardrail. Protective barriers shall prevent children from climbing over or through the barrier. The critical height for a platform with a protective barrier is the platform surface. All sides of platforms shall be protected except for the area which allows entry or exit. Measurements for the guardrails and protective barriers are stated below:
- (1) Equipment used exclusively by children under two years of age:
    - (A) Protective Barriers – an elevated surface that is more than 18 inches above the underlying surface shall have a protective barrier or protective surfacing. The minimum height of the top surface of the protective barrier shall be 24 inches.
    - (B) Maximum Height – the maximum height of a platform or elevated play surface shall be no greater than 32 inches.
  - (2) Equipment used exclusively by children two years of age up to school age:
    - (A) Guardrails - an elevated surface that is more than 20 inches and no more than 30 inches above the underlying surface shall have a guardrail. The minimum height of the top surface of the guardrail shall be 29 inches and the lower edge shall be no more than 23 inches above the platform.
    - (B) Protective Barriers - an elevated surface that is more than 30 inches above the underlying surface shall have a protective barrier. The minimum height of the top surface of the protective barrier shall be 29 inches.
  - (3) Equipment used by children two years of age and older:
    - (A) Guardrails - an elevated surface that is more than 20 inches and no more than 30 inches above the underlying surface shall have a guardrail. The minimum height of the top surface of the guardrail shall be 38 inches and the lower edge shall be no more than 23 inches above the platform.
    - (B) Protective Barriers - an elevated surface that is more than 30 inches above the underlying surface shall have a protective barrier. The minimum height of the top surface of the protective barrier shall be 38 inches.
  - (4) Equipment used exclusively by school-age children:
    - (A) Guardrails - an elevated surface that is more than 30 inches and no more than 48 inches above the underlying surface shall have a guardrail. The minimum height of the top surface of the guardrail shall be 38 inches and the lower edge shall be no more than 26 inches above the platform.
    - (B) Protective Barriers - an elevated surface that is more than 48 inches above the underlying surface shall have a protective barrier. The minimum height of the top surface of the protective barrier shall be 38 inches.
- (m) Composite structures that were installed between January 1, 1989 and January 1, 1996 according to manufacturer's instructions that met existing safety standards for playground equipment at the time of installation and received approval from the Division, may continue to be used.
- (n) Following completion of safety training as required by Rule .0705(e) of this Chapter, a monthly playground inspection shall be conducted by a trained individual. A trained administrator or staff person shall make a record of each inspection using a playground inspection checklist provided by the Division. The checklist shall be signed by the person who conducts the inspection and shall be maintained for 12 months in the center's files for review by a representative of the Division.

*History Note: Authority G.S. 110-85; 110-91(6); 143B-168.3;*  
*Temporary Adoption Eff. October 1, 1997;*  
*Eff. October 29, 1998;*  
*Amended Eff. November 1, 2007.*

**10A NCAC 09 .0708 IN-SERVICE TRAINING APPROVAL**

Staff may meet the in-service training requirements by attending child-care workshops, conferences, seminars, or courses, provided each training activity satisfies the following criteria:

- (1) Prior approval from the Division is not required for training offered by a college or

university with nationally recognized regional accreditation, a government agency, or a state or national professional organization or its affiliates, provided the content complies with G.S. 110-91(11). Government agencies or state or national professional organizations who provide training shall submit an annual training plan on a form provided by the Division for review by the Division. The plan is not required for any state, national, or international conferences sponsored by a professional child care organization.

- (2) Prior approval from the Division is required for any agencies, organizations, or individuals not specified in Item (1) of this Rule who wish to provide training for child care operators and staff. To obtain such approval, the agency, organization, or individual shall complete and submit the in-service training approval forms provided by the Division at least 20 business days prior to the training event. A training roster listing the attendees' name, the county of employment, and day time phone number shall be submitted to the Division no later than 15 days after the training event. The event sponsor shall provide training evaluations to be completed by attendees and shall keep the evaluations on file for three years.

- (3) Prior approval shall be determined based upon:
- (a) The trainer's education, training, and experience relevant to the training topic;
  - (b) Best practice in adult learning principles;
  - (c) Content that is in compliance with G.S. 110-91(11); and
  - (d) Contact hours reasonable for the proposed content and scope of the training session.

- (4) The Division shall not approve:
- (a) Agencies, organizations, or individuals not meeting the standards listed in this Rule and in G.S. 110-91(11); and
  - (b) Agencies, organizations, or individuals who intentionally falsify any information submitted to the Division.

*History Note:* Authority G.S. 110-85; 110-91(11); 143B-168.3;  
*Eff. January 1, 1986;*  
*Amended Eff. November 1, 2007; October 29, 1998; November 1, 1989; July 1, 1988; January 1, 1987.*

#### **10A NCAC 09 .1003 SAFE PROCEDURES**

- (a) The driver or other adult in the vehicle shall assure that all children are transferred to a responsible person who is indicated

on the child's application as specified in Rule .0801(a)(4) of this Chapter or as authorized by the parent.

- (b) Each center shall establish safe procedures for pick-up and delivery of children. These procedures shall be communicated to parents, and a copy shall be posted in the center where they can easily be seen. Centers licensed for three to 12 children located in a residence are not required to post these procedures.

- (c) A first-aid kit shall be located in each vehicle used on a regular basis to transport children. The first-aid kit shall be firmly mounted or otherwise secured if kept in the passenger compartment.

- (d) For each child being transported emergency and identifying information shall be in the vehicle.

- (e) The driver shall:

- (1) be 21 years old or a licensed bus driver;
- (2) have a valid driver's license of the type required under North Carolina Motor Vehicle Law for the vehicle being driven or comparable license from the state in which the driver resides; and
- (3) have no convictions of Driving While Impaired (DWI) or any other impaired driving offense within the previous three years.

- (f) Each person in the vehicle must be seated in the manufacturer's designated areas. No child shall ride in the load carrying area or floor of a vehicle.

- (g) Children shall not be left in a vehicle unattended by an adult.

- (h) Children shall be loaded and unloaded from curbside or in a safe, off-street area, out of the flow of traffic, so that they are protected from all traffic hazards.

- (i) Before children are transported, written permission from a parent shall be obtained which shall include when and where the child is to be transported, expected time of departure and arrival, and the transportation provider.

- (j) Parents may give standing permission, valid for up to 12 months, for routine transport of children to and from the center.

- (k) When children are transported, staff in each vehicle shall have a functioning cellular telephone or other functioning two-way voice communication device with them for use in an emergency.

- (l) For routine transport of children to and from the center, staff shall have a list of the children being transported. Staff members shall use this list to check attendance as children board the vehicle and as they depart the vehicle. A list of all children being transported shall also be available at the center.

*History Note:* Authority G.S. 110-85; 110-91; 110-91(13); 143B-168.3;

*Eff. January 1, 1986;*

*Amended Eff. November 1, 2007; July 1, 1998; October 1, 1991; January 1, 1987.*

#### **10A NCAC 09 .1403 AQUATIC ACTIVITIES**

- (a) The requirements in this Rule apply to aquatic activities, which are defined as activities that take place in, on, or around a body of water such as swimming, swimming instruction, wading, visits to water parks, and boating. Aquatic activities do not include water play activities such as water table play, slip and slide activities, or playing in sprinklers.

(b) For every 25 children in care participating in aquatic activities, there shall be at least one person who has a current life guard training certificate issued by the Red Cross or other training determined by the Division to be equivalent to the Red Cross training, appropriate for both the type of body of water and type of aquatic activities. These certified lifeguards shall not be counted in the required staff-child ratios referenced in Paragraph (d) of this Rule.

(c) Children under the age of three shall not participate in aquatic activities except, to the extent necessary, to implement any child's Individualized Family Service Plan (IFSP) or Individualized Education Program (IEP).

(d) The following staff-child ratios shall be maintained whenever children participate in aquatic activities:

Age of Children	Ratio Staff/Children
3 to 4 Years	1/8
4 to 5 Years	1/10
5 Years and Older	1/13

Notwithstanding the staff-child ratios, at no time shall there be fewer than two staff members supervising the aquatic activity.

(e) Children shall be adequately supervised by center staff at all times while participating in aquatic activities. Adequate supervision shall mean that half of the center staff needed to meet the staff-child ratios in Paragraph (d) of this Rule is in the water and the other half is out of the water. If an uneven number of staff are needed to meet the required staff-child ratios, the majority shall be in the pool. Staff shall be stationed in pre-assigned areas that will enable them at all times to hear, see, and respond quickly to the children who are in the water and children who are out of the water. Children shall not enter the water before center staff are stationed in their pre-assigned areas. Center staff shall devote their full attention to supervising the children in their pre-assigned areas of coverage and shall communicate with one another about children moving from one area to another area.

(f) Prior to children participating in aquatic activities, the center shall develop policies that address the following:

- (1) aquatic safety hazards;
- (2) pool and aquatic activity area supervision including restroom or changing room use;
- (3) how discipline is handled during aquatic activities; and
- (4) the facility's specific field trip and transportation policies and procedures.

(g) Before staff first supervise children on an aquatic activity, and annually thereafter, staff shall sign and date statements that they have reviewed:

- (1) the center policies as specified in Paragraph (f) of this Rule;
- (2) any specific guidelines provided by the pool operator or other off-site aquatic facility; and
- (3) the requirements of this Rule.

The current statement shall be maintained in the staff person's personnel file for one year or until it is superseded by a new statement.

(h) Any outdoor swimming pool which is located on the child care facility premises shall be enclosed by a fence and shall be separated from the remaining outdoor play area by that fence.

(i) Swimming pool safety rules shall be posted near any swimming pool located on the child care facility premises. At a minimum, these Rules shall state:

- (1) the location of a first-aid kit;
- (2) that only water toys are permitted;
- (3) that children shall not run or push one another;
- (4) that swimming is allowed only when an adult is present; and
- (5) that glass objects are not allowed.

(j) All swimming pools used by children shall meet the "Rules Governing Public Swimming Pools" in accordance with 15A NCAC 18A .2500 which are incorporated by reference, including subsequent amendments. A copy of these Rules is on file with the Division of Child Development, 319 Chapanoke Road, Raleigh, NC 27626, or may be obtained at no cost by writing the North Carolina Division of Environmental Health, 1630 Mail Service Center, Raleigh, NC 27699-1630.

*History Note: Authority G.S. 110-85; 110-88(5); 110-91(1),(6); 143B-168.3;*

*Eff. January 1, 1986;*

*Amended Eff. November 1, 2007; January 1, 1996; January 1, 1992; January 1, 1987.*

#### **10A NCAC 09 .2510 STAFF QUALIFICATIONS**

(a) The individual who is responsible for ensuring the administration of the program, whether on-site or off-site, shall:

- (1) Prior to employment, have at least 400 hours of verifiable experience working with school-aged children in a licensed child care program or 600 hours of verifiable experience working with school-aged children in an unlicensed school-age care or camp setting; or have an undergraduate, graduate, or associate degree, with at least 12 semester hours in school-age care related coursework; and
- (2) Meet the requirements for a child care administrator in G.S. 110-91(8).

(b) At least one individual who is responsible for planning and ensuring the implementation of daily activities for a school-age program (program coordinator) shall:

- (1) Be at least 18 years old and have a high school diploma or its equivalent prior to employment;
- (2) Have completed two semester credit hours in child and youth development and two semester credit hours in school-age programming. Each individual who does not meet this requirement shall enroll in coursework within six months after becoming employed and shall complete this coursework within 18 months of enrollment. An individual who meets the staff requirements for administrator or lead teacher shall be considered as meeting the requirements for program coordinator, provided the individual completes Basic School-Age Care (BSAC) training; and
- (3) In a part day program be on site when children are in care. For a full day program be on site for two thirds of the hours of operation. This

includes times when the individual is off site due to illness or vacation.

(c) Staff who are responsible for supervising groups of school-aged children (group leaders) shall be at least 18 years of age and have a high school diploma or its equivalent prior to employment, and shall complete the BSAC Training.

(d) Staff who assist group leaders (assistant group leaders) shall be at least 16 years of age and shall complete the BSAC training.

(e) The individual who is on-site and responsible for the administration of the school-age component of a center which also provides care to preschool-age children, shall meet the requirements for child care administrator in G.S. 110-91(8) and Section .0700 of this Chapter.

(f) When an individual has responsibility for both administering the program and planning and ensuring the implementation of the daily activities of a school-age program, the individual shall meet the staff requirements for an administrator and shall complete the BSAC Training.

(g) Completion of the BSAC Training counts toward meeting one year's annual on-going training requirements in Section .0700 of this Chapter.

(h) Individuals who completed seven hours of school-age program training as approved by the Division prior to July 1, 2000 are not required to complete the BSAC Training.

(i) As used in this Rule, the term "experience working with school-aged children" means experience working with school-aged children as an administrator, program coordinator, group leader, assistant group leader, lead teacher, teacher, or aide.

(j) All staff shall receive on-site training and orientation as follows:

(1) Within the first two weeks of assuming responsibility for supervising a group of children, each employee shall complete at least six clock hours of training on:

- (A) the recognition of the signs and symptoms of child abuse or neglect and in the employee's duty to report suspected abuse and neglect;
- (B) the center's operational policies;
- (C) adequate supervision of children, taking into account their age, emotional, physical, and cognitive development.

(2) Within the first six weeks of assuming responsibility for supervising a group of children, each employee shall complete at least three additional clock hours of training on maintaining a safe and healthy environment and developmentally appropriate activities for school-age children.

(k) Staff in part-time or full day school-age care programs required to complete BSAC Training shall do so within three months of becoming employed. Staff in seasonal school-age care programs required to complete BSAC Training shall do so within six weeks of becoming employed.

*History Note: Authority G.S. 110-85; 110-91(8),(11); 143B-168.3; Eff. July 1, 1988;*

*Amended Eff. November 1, 2007; July 1, 2000; July 1, 1998; January 1, 1992; September 1, 1990.*

**10A NCAC 09 .2701 APPLICATION FOR PERMITS**

(a) In addition to the requirements set forth in Rules .0302 and .1702, of this Chapter, a prospective child care provider shall submit to the Division at the time of application the following forms:

- (1) a certified criminal history check from the Clerk of Superior Court's office in the county or counties where the individual has resided during the previous 12 months;
- (2) a signed Authority for Release of Information using the form provided by the Division; and
- (3) a completed fingerprint card using SBI form FD-258.

If the prospective child care provider has lived in North Carolina for less than five consecutive years, immediately preceding the date the fingerprint card is completed, a national check shall be completed pursuant to G.S. 110-90.2(c).

(b) The prospective child care provider shall sign a statement declaring under penalty of perjury if he or she has been convicted of a crime other than a minor traffic violation. The prospective child care provider shall maintain this statement on file available for review by a representative of the Division until the notice of qualification is received by the provider. If the prospective child care provider has been convicted, has pending charges or indictments, is under deferred prosecution, has received a Prayer For Judgment, or is on probation for a crime, the prospective child care provider shall acknowledge that he or she is aware that the issuance of a permit is conditional pending approval by the Division.

(c) If the prospective child care provider has been convicted, has pending charges or indictments, is under deferred prosecution, has received a Prayer For Judgment, or is on probation for a crime, he or she may submit to the Division additional information concerning the conviction or charges that could be used by the Division in making the determination of the prospective child care provider's qualification. The Division may consider the following in making its decision:

- (1) length of time since conviction;
- (2) nature of the crime;
- (3) circumstances surrounding the commission of the offense or offenses;
- (4) evidence of rehabilitation;
- (5) number of prior offenses; and
- (6) age of the individual at the time of occurrence.

(d) A prospective child care provider's refusal to complete the required criminal history record check paperwork is grounds to deny issuance of a permit.

(e) Determination by the Division that the prospective child care provider is disqualified is reasonable cause to deny issuance of a permit.

(f) If the prospective child care provider is a firm, partnership, association, or corporation, the chief executive officer or other person serving in like capacity or a person designated by the chief executive officer as responsible for the operation of the facility, shall complete the criminal history record check as specified in Paragraph (a) of this Rule.

(g) When a Letter of Intent to Operate pursuant to G.S. 110-106 is submitted to the Division, the person signing the Letter of Intent shall also submit all forms as required in Rule .2702(a) of this Section.

(h) Determination by the Division that the person submitting the Letter of Intent is disqualified is reasonable cause to issue a Notice to Cease Operation.

(i) Any child care provider who owns or operates an existing child care program, and who is applying for a permit for an additional child care program within one year from the date of qualification that was based on fingerprinting, shall submit a certified criminal history check from the Clerk of Superior Court's office in the county or counties where the individual has resided during the previous 12 months. A new fingerprint card is not required unless deemed necessary by the Division in making the determination of qualification. If the criminal history check was completed more than one year prior to the application for an additional child care program, the applicant shall complete all forms as required in Paragraph (a) of this Rule.

*History Note: Authority G.S. 110-85; 110-90.2; 114-19.5; 143B-168.3; S.L. 1995, c. 507, s. 23.25; Temporary Adoption Eff. January 1, 1996; Eff. April 1, 1997; Amended Eff. November 1, 2007.*

#### **10A NCAC 09 .2702 CRIMINAL RECORD CHECK REQUIREMENTS FOR CHILD CARE PROVIDERS**

(a) Child care providers shall submit the following to their employer no later than five business days after beginning work:

- (1) a certified criminal history check from the Clerk of Superior Court's office in the county where the individual resides;
- (2) a signed Authority for Release of Information using the form provided by the Division;
- (3) a fingerprint card using SBI form FD-258; and
- (4) a signed statement declaring under penalty of perjury if he or she has been convicted of a crime other than a minor traffic violation.

If the child care provider has been convicted, has pending charges or indictments, is under deferred prosecution, has received a Prayer For Judgment, or is on probation for a crime, the child care provider shall acknowledge on the statement that he or she is aware that the employment is conditional pending approval by the Division. If the child care provider has lived in North Carolina for less than five consecutive years immediately preceding the date the fingerprint card is completed, a national check shall be completed pursuant to G.S. 110-90.2(c).

(b) If the child care provider has been convicted, has pending charges or indictments, is under deferred prosecution, has received a Prayer For Judgment, or is on probation for a crime, he or she may submit to the Division additional information concerning the conviction or charges that could be used by the Division in making the determination of the provider's qualification for employment. The Division may consider the following in making a decision:

- (1) length of time since conviction;
- (2) nature of the crime;

- (3) circumstances surrounding the commission of the offense or offenses;
- (4) evidence of rehabilitation;
- (5) number and type of prior offenses; and
- (6) age of the individual at the time of occurrence.

(c) The child care provider's employer shall mail a complete and accurate packet that includes a certified criminal history check from the Clerk of Superior Court's office in the county where the individual resides, Authority for Release of Information using the form provided by the Division, and a fingerprint card to the Division no later than three business days after receipt. A copy of the submitted information and the declaration statement shall be maintained in the child care provider's personnel file, and shall be available for review by a representative of the Division until the notice of qualification is received by the provider. At that time the submitted information and the declaration statement may be discarded. The notice of qualification shall be maintained in the child care provider's personnel file, and shall be available for review by a representative of the Division.

(d) The child care provider shall be on probationary status pending the determination of qualification or disqualification by the Division.

(e) If the child care provider changes employers within one year from the date of qualification that was based on fingerprinting, he or she shall submit a certified criminal history check from the Clerk of Superior Court's office in the county where the individual resides. This local check shall be submitted to his or her employer no later than five business days after beginning work. The employer shall complete the steps as defined in Paragraphs (c), (d) and (g) of this Rule, except that the fingerprint card and the Authority for Release of Information as referenced in Paragraph (c) is not required. If the criminal history check was completed more than one year prior to employment, the child care provider shall complete all forms required in Paragraph (a) of this Rule.

(f) If a family child care home changes the location of operation, the family child care home providers and household members over 15 years old, including family members and non-family members who use the home on a permanent or temporary basis as their primary residence, shall submit a certified criminal history check from the Clerk of Superior Court's office in the county or counties where the provider and household members have lived during the previous 12 months. This local check shall be submitted to the child care consultant no later than 10 business days after the location change. A new fingerprint card is not required unless deemed necessary by the Division in making its determination of qualification.

(g) Child care providers determined by the Division to be disqualified shall be terminated by the center or family child care home immediately upon receipt of the disqualification notice.

(h) Refusal on the part of the employer to dismiss a child care provider who has been found to be disqualified shall be grounds for suspension, denial, or revocation of the permit in addition to any other administrative action or civil penalties pursued by the Division. If an employer appeals the administrative action, the child care provider shall not be employed during the appeal process.



(i) A substitute child care provider who is employed for more than five days, whether working full or part-time, shall submit all forms as required in Paragraph (a) of this Rule to the employer by the end of the fifth working day. The employer shall complete the steps as defined in Paragraphs (c), (d) and (g) of this Rule.

(j) If a child care provider or household member is employed or remains at the same facility for three consecutive years, a modified criminal record check shall be conducted by using the Administrative Office of the Courts (AOC) System. On each three year anniversary date of employment, the child care provider or household member shall complete and submit the form provided by the Division. The Division may request a certified criminal history check from the Clerk of Superior Court's office in the county where the individual resides or from the provider or household member to verify the AOC results.

(k) For persons employed at the same facility for more than three consecutive years, as of the effective date of this Rule, the required form shall be mailed to the provider by the Division on a schedule determined by the Division. These existing staff members shall complete and submit the form to the Division within 10 business days of Division notification.

(l) Existing family child care home providers and household members who were qualified more than three years prior to January 1, 2008, shall be notified by a separate mailing and shall complete and submit the required form to the Division within 10 business days of receipt of Division notification.

(m) After a child care provider or household member has been qualified, the Division may complete a new criminal record check at any time there has been an investigation that references the child care provider or household member conducted by the Department of Social Services or the Division of Child Development. The Division may complete a new criminal record check for the discovery or indication of any charges or indictments (pending or otherwise) that occurred after the initial qualification. When requested, the child care provider or household member shall complete and submit the packet as described in Paragraph (c) of this Rule to the Division within five business days of the request for a new criminal record check.

(n) Any individuals over 15 years old who move into the household or any individuals who live in the household who have had their 16<sup>th</sup> birthday after the initial licensing of a family child care home, including family members and non-family members who use the home on a permanent or temporary basis as their primary residence, shall complete and submit the packet as described in Paragraph (c) of this Rule to the Division within five business days of moving into the home or their 16<sup>th</sup> birthday.

*History Note: Authority G.S. 110-85; 110-90.2; 114-19.5; 143B-168.3; S.L. 1995, c. 507, s. 23.25; Temporary Adoption Eff. January 1, 1996; Eff. April 1, 1997; Amended Eff. November 1, 2007; April 1, 2003.*

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#### 10A NCAC 41A .0101 REPORTABLE DISEASES AND

#### CONDITIONS

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

- (1) acquired immune deficiency syndrome (AIDS) - 24 hours;
- (2) anthrax - 24 hours;
- (3) botulism - 24 hours;
- (4) brucellosis - 7 days;
- (5) campylobacter infection - 24 hours;
- (6) chancroid - 24 hours;
- (7) chlamydial infection (laboratory confirmed) - 7 days;
- (8) cholera - 24 hours;
- (9) Creutzfeldt-Jakob disease - 7 days;
- (10) cryptosporidiosis - 24 hours;
- (11) cyclosporiasis - 24 hours;
- (12) dengue - 7 days;
- (13) diphtheria - 24 hours;
- (14) Escherichia coli, shiga toxin-producing - 24 hours;
- (15) ehrlichiosis - 7 days;
- (16) encephalitis, arboviral - 7 days;
- (17) foodborne disease, including Clostridium perfringens, staphylococcal, Bacillus cereus, and other and unknown causes - 24 hours;
- (18) gonorrhea - 24 hours;
- (19) granuloma inguinale - 24 hours;
- (20) Haemophilus influenzae, invasive disease - 24 hours;
- (21) Hantavirus infection - 7 days;
- (22) Hemolytic-uremic syndrome/thrombotic thrombocytopenic purpura - 24 hours;
- (23) Hemorrhagic fever virus infection - 24 hours;
- (24) hepatitis A - 24 hours;
- (25) hepatitis B - 24 hours;
- (26) hepatitis B carriage - 7 days;
- (27) hepatitis C, acute - 7 days;
- (28) human immunodeficiency virus (HIV) infection confirmed - 24 hours;
- (29) influenza virus infection causing death in persons less than 18 years of age - 24 hours;
- (30) legionellosis - 7 days;
- (31) leprosy - 7 days;
- (32) leptospirosis - 7 days;
- (33) listeriosis - 24 hours;
- (34) Lyme disease - 7 days;
- (35) lymphogranuloma venereum - 7 days;
- (36) malaria - 7 days;
- (37) measles (rubeola) - 24 hours;
- (38) meningitis, pneumococcal - 7 days;
- (39) meningococcal disease - 24 hours;
- (40) monkeypox - 24 hours;
- (41) mumps - 7 days;
- (42) nongonococcal urethritis - 7 days;
- (43) plague - 24 hours;
- (44) paralytic poliomyelitis - 24 hours;
- (45) pelvic inflammatory disease - 7 days;

- (46) psittacosis - 7 days;
  - (47) Q fever - 7 days;
  - (48) rabies, human - 24 hours;
  - (49) Rocky Mountain spotted fever - 7 days;
  - (50) rubella - 24 hours;
  - (51) rubella congenital syndrome - 7 days;
  - (52) salmonellosis - 24 hours;
  - (53) severe acute respiratory syndrome (SARS) – 24 hours;
  - (54) shigellosis - 24 hours;
  - (55) smallpox – 24 hours;
  - (56) *Staphylococcus aureus* with reduced susceptibility to vancomycin – 24 hours;
  - (57) streptococcal infection, Group A, invasive disease - 7 days;
  - (58) syphilis - 24 hours;
  - (59) tetanus - 7 days;
  - (60) toxic shock syndrome - 7 days;
  - (61) toxoplasmosis, congenital - 7 days;
  - (62) trichinosis - 7 days;
  - (63) tuberculosis - 24 hours;
  - (64) tularemia - 24 hours;
  - (65) typhoid - 24 hours;
  - (66) typhoid carriage (*Salmonella typhi*) - 7 days;
  - (67) typhus, epidemic (louse-borne) - 7 days;
  - (68) vaccinia – 24 hours;
  - (69) vibrio infection (other than cholera) - 24 hours;
  - (70) whooping cough - 24 hours;
  - (71) yellow fever - 7 days.
- (b) For purposes of reporting confirmed human immunodeficiency virus (HIV) infection is defined as a positive virus culture, repeatedly reactive EIA antibody test confirmed by western blot or indirect immunofluorescent antibody test, positive nucleic acid detection (NAT) test, or other confirmed testing method approved by the Director of the State Public Health Laboratory conducted on or after February 1, 1990. In selecting additional tests for approval, the Director of the State Public Health Laboratory shall consider whether such tests have been approved by the federal Food and Drug Administration, recommended by the federal Centers for Disease Control and Prevention, and endorsed by the Association of Public Health Laboratories.
- (c) In addition to the laboratory reports for *Mycobacterium tuberculosis*, *Neisseria gonorrhoeae*, and syphilis specified in G.S. 130A-139, laboratories shall report:
- (1) Isolation or other specific identification of the following organisms or their products from human clinical specimens:
    - (A) Any hantavirus or hemorrhagic fever virus.
    - (B) Arthropod-borne virus (any type).
    - (C) *Bacillus anthracis*, the cause of anthrax.
    - (D) *Bordetella pertussis*, the cause of whooping cough (pertussis).
    - (E) *Borrelia burgdorferi*, the cause of Lyme disease (confirmed tests).
    - (F) *Brucella* spp., the causes of brucellosis.
    - (G) *Campylobacter* spp., the causes of campylobacteriosis.
    - (H) *Chlamydia trachomatis*, the cause of genital chlamydial infection, conjunctivitis (adult and newborn) and pneumonia of newborns.
    - (I) *Clostridium botulinum*, a cause of botulism.
    - (J) *Clostridium tetani*, the cause of tetanus.
    - (K) *Corynebacterium diphtheriae*, the cause of diphtheria.
    - (L) *Coxiella burnetii*, the cause of Q fever.
    - (M) *Cryptosporidium parvum*, the cause of human cryptosporidiosis.
    - (N) *Cyclospora cayetanensis*, the cause of cyclosporiasis.
    - (O) *Ehrlichia* spp., the causes of ehrlichiosis.
    - (P) Shiga toxin-producing *Escherichia coli*, a cause of hemorrhagic colitis, hemolytic uremic syndrome, and thrombotic thrombocytopenic purpura.
    - (Q) *Francisella tularensis*, the cause of tularemia.
    - (R) Hepatitis B virus or any component thereof, such as hepatitis B surface antigen.
    - (S) Human Immunodeficiency Virus, the cause of AIDS.
    - (T) *Legionella* spp., the causes of legionellosis.
    - (U) *Leptospira* spp., the causes of leptospirosis.
    - (V) *Listeria monocytogenes*, the cause of listeriosis.
    - (W) Monkeypox.
    - (X) *Mycobacterium leprae*, the cause of leprosy.
    - (Y) *Plasmodium falciparum*, *P. malariae*, *P. ovale*, and *P. vivax*, the causes of malaria in humans.
    - (Z) Poliovirus (any), the cause of poliomyelitis.
    - (AA) Rabies virus.
    - (BB) *Rickettsia rickettsii*, the cause of Rocky Mountain spotted fever.
    - (CC) Rubella virus.
    - (DD) *Salmonella* spp., the causes of salmonellosis.
    - (EE) *Shigella* spp., the causes of shigellosis.
    - (FF) Smallpox virus, the cause of smallpox.

- (GG) Staphylococcus aureus with reduced susceptibility to vanomycin.
- (HH) Trichinella spiralis, the cause of trichinosis.
- (II) Vaccinia virus.
- (JJ) Vibrio spp., the causes of cholera and other vibrioses.
- (KK) Yellow fever virus.
- (LL) Yersinia pestis, the cause of plague.
- (2) Isolation or other specific identification of the following organisms from normally sterile human body sites:
- (A) Group A Streptococcus pyogenes (group A streptococci).
- (B) Haemophilus influenzae, serotype b.
- (C) Neisseria meningitidis, the cause of meningococcal disease.
- (3) Positive serologic test results, as specified, for the following infections:
- (A) Fourfold or greater changes or equivalent changes in serum antibody titers to:
- (i) Any arthropod-borne viruses associated with meningitis or encephalitis in a human.
- (ii) Any hantavirus or hemorrhagic fever virus.
- (iii) Chlamydia psittaci, the cause of psittacosis.
- (iv) Coxiella burnetii, the cause of Q fever.
- (v) Dengue virus.
- (vi) Ehrlichia spp., the causes of ehrlichiosis.
- (vii) Measles (rubeola) virus.
- (viii) Mumps virus.
- (ix) Rickettsia rickettsii, the cause of Rocky Mountain spotted fever.
- (x) Rubella virus.
- (xi) Yellow fever virus.
- (B) The presence of IgM serum antibodies to:
- (i) Chlamydia psittaci
- (ii) Hepatitis A virus.
- (iii) Hepatitis B virus core antigen.
- (iv) Rubella virus.
- (v) Rubeola (measles) virus.
- (vi) Yellow fever virus.
- (4) Laboratory results from tests to determine the absolute and relative counts for the T-helper (CD4) subset of lymphocytes that have a level below that specified by the Centers for Disease Control and Prevention as the criteria used to define an AIDS diagnosis.
- Temporary Rule Eff. February 1, 1988, for a period of 180 days to expire on July 29, 1988;*  
*Eff. March 1, 1988;*  
*Amended Eff. October 1, 1994; February 1, 1990;*  
*Temporary Amendment Eff. July 1, 1997;*  
*Amended Eff. August 1, 1998;*  
*Temporary Amendment Eff. February 13, 2003; October 1, 2002; February 18, 2002; June 1, 2001;*  
*Amended Eff. April 1, 2003;*  
*Temporary Amendment Eff. November 1, 2003; May 16, 2003;*  
*Amended Eff. January 1, 2005; April 1, 2004;*  
*Temporary Amendment Eff. June 1, 2006;*  
*Amended Eff. November 1, 2007; October 1, 2006.*
- 10A NCAC 41A .0102 METHOD OF REPORTING**
- (a) When a report of a disease or condition is required to be made pursuant to G.S. 130A-135 through 139 and 10A NCAC 41A .0101, with the exception of laboratories, which shall proceed as in Subparagraph (d), the report shall be made to the local health director as follows:
- (1) For diseases and conditions required to be reported within 24 hours, the initial report shall be made by telephone, and the report required by Subparagraph (2) of this Paragraph shall be made within seven days.
- (2) In addition to the requirements of Subparagraph (1) of this Paragraph, the report shall be made on the communicable disease report card or in an electronic format provided by the Division of Public Health and shall include the name and address of the patient, the name and address of the parent or guardian if the patient is a minor, and epidemiologic information.
- (3) In addition to the requirements of Subparagraphs (1) and (2) of this Paragraph, forms or electronic formats provided by the Division of Public Health for collection of information necessary for disease control and documentation of clinical and epidemiologic information about the cases shall be completed and submitted for the following reportable diseases and conditions identified in 10A NCAC 41A .0101(a):
- (A) acquired immune deficiency syndrome (AIDS);
- (B) brucellosis;
- (C) cholera;
- (D) cryptosporidiosis;
- (E) cyclosporiasis;
- (F) E. coli 0157:H7 infection;
- (G) ehrlichiosis;
- (H) Haemophilus influenzae, invasive disease;
- (I) Hemolytic-uremic syndrome/thrombotic thrombocytopenic purpura;
- (J) hepatitis A;
- (K) hepatitis B;

*History Note: Authority G.S. 130A-134; 130A-135; 130A-139; 130A-141;*

- (L) hepatitis B carriage;
- (M) hepatitis C;
- (N) human immunodeficiency virus (HIV) confirmed;
- (O) legionellosis;
- (P) leptospirosis;
- (Q) Lyme disease;
- (R) malaria;
- (S) measles (rubeola);
- (T) meningitis, pneumococcal;
- (U) meningococcal disease;
- (V) mumps;
- (W) paralytic poliomyelitis;
- (X) psittacosis;
- (Y) Rocky Mountain spotted fever;
- (Z) rubella;
- (AA) rubella congenital syndrome;
- (BB) tetanus;
- (CC) toxic shock syndrome;
- (DD) trichinosis;
- (EE) tuberculosis;
- (FF) tularemia;
- (GG) typhoid;
- (HH) typhoid carriage (*Salmonella typhi*);
- (II) vibrio infection (other than cholera); and
- (JJ) whooping cough.

Communicable disease report cards, surveillance forms, and electronic formats are available from the Division of Public Health, 1915 Mail Service Center, Raleigh, North Carolina 27699-1915, and from local health departments.

(b) Notwithstanding the time frames established in 10A NCAC 41A .0101 a restaurant or other food or drink establishment shall report all outbreaks or suspected outbreaks of foodborne illness in its customers or employees and all suspected cases of foodborne disease or foodborne condition in food-handlers at the establishment by telephone to the local health department within 24 hours in accordance with Subparagraph (a)(1) of this Rule. However, the establishment is not required to submit a report card or surveillance form pursuant to Subparagraph (a)(2) of this Rule.

(c) For the purposes of reporting by restaurants and other food or drink establishments pursuant to G.S. 130A-138, the following diseases and conditions listed in 10A NCAC 41A .0101(a) shall be reported:

- (1) anthrax;
- (2) botulism;
- (3) brucellosis;
- (4) campylobacter infection;
- (5) cholera;
- (6) cryptosporidiosis;
- (7) cyclosporiasis;
- (8) *E. coli* 0157:H7 infection;
- (9) hepatitis A;
- (10) salmonellosis;
- (11) shigellosis;
- (12) streptococcal infection, Group A, invasive disease;
- (13) trichinosis;

- (14) tularemia;
  - (15) typhoid;
  - (16) typhoid carriage (*Salmonella typhi*); and
  - (17) vibrio infection (other than cholera).
- (d) Laboratories required to report test results pursuant to G.S. 130A-139 and 10A NCAC 41A .0101(c) shall report as follows:
- (1) The results of the specified tests for syphilis, chlamydia and gonorrhea shall be reported to the local health department by the first and fifteenth of each month. Reports of the results of the specified tests for gonorrhea, chlamydia and syphilis shall include the specimen collection date, the patient's age, race, and sex, and the submitting physician's name, address, and telephone numbers.
  - (2) Positive darkfield examinations for syphilis, all reactive prenatal and delivery STS titers, all reactive STS titers on infants less than one year old and STS titers of 1:8 and above shall be reported within 24 hours by telephone to the HIV/STD Prevention and Care Branch at (919) 733-7301, or the HIV/STD Prevention and Care Branch Regional Office where the laboratory is located.
  - (3) With the exception of positive laboratory tests for human immunodeficiency virus, positive laboratory tests as defined in G.S. 130A-139(1) and 10A NCAC 41A .0101(c) shall be reported to the Division of Public Health electronically, by mail, by secure telefax or by telephone within the time periods specified for each reportable disease or condition in 10A NCAC 41A .0101(a). Confirmed positive laboratory tests for human immunodeficiency virus as defined in 10A NCAC 41A .0101(b) shall be reported to the HIV/STD Prevention and Care Branch within 24 hours of obtaining reportable test results. Reports shall include as much of the following information as the laboratory possesses:
    - (A) the specific name of the test performed;
    - (B) the source of the specimen;
    - (C) the collection date(s);
    - (D) the patient's name, age, race, sex, address, and county; and
    - (E) the submitting physician's name, address, and telephone number.

*History Note: Authority G.S. 130A-134; 130A-135; 130A-138; 130A-139; 130A-141;*  
*Temporary Rule Eff. February 1, 1988, for a period of 180 days to expire on July 29, 1988;*  
*Eff. March 1, 1988;*  
*Amended Eff. October 1, 1994; February 3, 1992; December 1, 1991; May 1, 1991;*  
*Temporary Amendment Eff. December 16, 1994, for a period of 180 days or until the permanent rule becomes effective, whichever is sooner;*

*Temporary Amendment Expired June 16, 1995;  
Amended Eff. November 1, 2007; August 1, 2005; April 1, 2003;  
August 1, 1998.*

**10A NCAC 41A .0202 CONTROL MEASURES – HIV**

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

- (1) Infected persons shall:
  - (a) refrain from sexual intercourse unless condoms are used; exercise caution when using condoms due to possible condom failure;
  - (b) not share needles or syringes, or any other drug-related equipment, paraphernalia, or works that may be contaminated with blood through previous use;
  - (c) not donate or sell blood, plasma, platelets, other blood products, semen, ova, tissues, organs, or breast milk;
  - (d) have a skin test for tuberculosis;
  - (e) notify future sexual intercourse partners of the infection;
  - (f) if the time of initial infection is known, notify persons who have been sexual intercourse and needle partners since the date of infection; and,
  - (g) if the date of initial infection is unknown, notify persons who have been sexual intercourse and needle partners for the previous year.
- (2) The attending physician shall:
  - (a) give the control measures in Item (1) of this Rule to infected patients, in accordance with 10A NCAC 41A .0210;
  - (b) If the attending physician knows the identity of the spouse of an HIV-infected patient and has not, with the consent of the infected patient, notified and counseled the spouse, the physician shall list the spouse on a form provided by the Division of Public Health and shall mail the form to the Division. The Division shall undertake to counsel the spouse. The attending physician's responsibility to notify exposed and potentially exposed persons is satisfied by fulfilling the requirements of Sub-Items (2)(a) and (b) of this Rule;
  - (c) advise infected persons concerning clean-up of blood and other body fluids;
  - (d) advise infected persons concerning the risk of perinatal transmission and transmission by breastfeeding.

- (3) The attending physician of a child who is infected with HIV and who may pose a significant risk of transmission in the school or day care setting because of open, oozing wounds or because of behavioral abnormalities such as biting shall notify the local health director. The local health director shall consult with the attending physician and investigate the following circumstances:
  - (a) If the child is in school or scheduled for admission and the local health director determines that there may be a significant risk of transmission, the local health director shall consult with an interdisciplinary committee, which shall include school personnel, a medical expert, and the child's parent or guardian to assist in the investigation and determination of risk. The local health director shall notify the superintendent or private school director of the need to appoint such an interdisciplinary committee.
    - (i) If the superintendent or private school director establishes such a committee within three days of notification, the local health director shall consult with this committee.
    - (ii) If the superintendent or private school director does not establish such a committee within three days of notification, the local health director shall establish such a committee.
  - (b) If the child is in school or scheduled for admission and the local health director determines, after consultation with the committee, that a significant risk of transmission exists, the local health director shall:
    - (i) notify the parents;
    - (ii) notify the committee;
    - (iii) assist the committee in determining whether an adjustment can be made to the student's school program to eliminate significant risks of transmission;
    - (iv) determine if an alternative educational setting is necessary to protect the public health;
    - (v) instruct the superintendent or private school director concerning protective measures to be implemented

- in the alternative educational setting developed by school personnel; and
- (vi) consult with the superintendent or private school director to determine which school personnel directly involved with the child need to be notified of the HIV infection in order to prevent transmission and ensure that these persons are instructed regarding the necessity for protecting confidentiality.
- (c) If the child is in day care and the local health director determines that there is a significant risk of transmission, the local health director shall notify the parents that the child must be placed in an alternate child care setting that eliminates the significant risk of transmission.
- (4) When health care workers or other persons have a needlestick or nonsexual non-intact skin or mucous membrane exposure to blood or body fluids that, if the source were infected with HIV, would pose a significant risk of HIV transmission, the following shall apply:
- (a) When the source person is known:
- (i) The attending physician or occupational health care provider responsible for the exposed person, if other than the attending physician of the person whose blood or body fluids is the source of the exposure, shall notify the attending physician of the source that an exposure has occurred. The attending physician of the source person shall discuss the exposure with the source and, unless the source is already known to be infected, shall test the source for HIV infection without consent unless it reasonably appears that the test cannot be performed without endangering the safety of the source person or the person administering the test. If the source person cannot be tested, an existing specimen, if one exists, shall be tested. The attending physician of the exposed person shall be notified of the infection status of the source.
- (ii) The attending physician of the exposed person shall inform the exposed person about the infection status of the source, offer testing for HIV infection as soon as possible after exposure and at reasonable intervals up to one year to determine whether transmission occurred, and, if the source person was HIV infected, give the exposed person the control measures listed in Sub-Items (1)(a) through (c) of this Rule. The attending physician of the exposed person shall instruct the exposed person regarding the necessity for protecting confidentiality.
- (b) When the source person is unknown, the attending physician of the exposed persons shall inform the exposed person of the risk of transmission and offer testing for HIV infection as soon as possible after exposure and at reasonable intervals up to one year to determine whether transmission occurred.
- (c) A health care facility may release the name of the attending physician of a source person upon request of the attending physician of an exposed person.
- (5) The attending physician shall notify the local health director when the physician, in good faith, has reasonable cause to suspect a patient infected with HIV is not following or cannot follow control measures and is thereby causing a significant risk of transmission. Any other person may notify the local health director when the person, in good faith, has reasonable cause to suspect a person infected with HIV is not following control measures and is thereby causing a significant risk of transmission.
- (6) When the local health director is notified pursuant to Item (5) of this Rule, of a person who is mentally ill or mentally retarded, the local health director shall confer with the attending mental health physician or mental health authority and the physician, if any, who notified the local health director to develop a plan to prevent transmission.
- (7) The Division of Public Health shall notify the Director of Health Services of the North Carolina Department of Correction and the

- prison facility administrator when any person confined in a state prison is determined to be infected with HIV. If the prison facility administrator, in consultation with the Director of Health Services, determines that a confined HIV infected person is not following or cannot follow prescribed control measures, thereby presenting a significant risk of HIV transmission, the administrator and the Director shall develop and implement jointly a plan to prevent transmission, including making recommendations to the unit housing classification committee.
- (8) The local health director shall ensure that the health plan for local jails include education of jail staff and prisoners about HIV, how it is transmitted, and how to avoid acquiring or transmitting this infection.
  - (9) Local health departments shall provide counseling and testing for HIV infection at no charge to the patient. Third party payors may be billed for HIV counseling and testing when such services are provided and the patient provides written consent.
  - (10) HIV pre-test counseling is not required. Post-test counseling for persons infected with HIV is required, must be individualized, and shall include referrals for medical and psychosocial services and control measures.
  - (11) A local health department or the Department may release information regarding an infected person pursuant to G.S. 130A-143(3) only when the local health department or the Department has provided direct medical care to the infected person and refers the person to or consults with the health care provider to whom the information is released.
  - (12) Notwithstanding Rule .0201(d) of this Section, a local or state health director may require, as a part of an isolation order issued in accordance with G.S. 130A-145, compliance with a plan to assist the individual to comply with control measures. The plan shall be designed to meet the specific needs of the individual and may include one or more of the following available and appropriate services:
    - (a) substance abuse counseling and treatment;
    - (b) mental health counseling and treatment; and
    - (c) education and counseling sessions about HIV, HIV transmission, and behavior change required to prevent transmission.
  - (13) The Division of Public Health shall conduct a partner notification program to assist in the notification and counseling of partners of HIV infected persons.
  - (14) Every pregnant woman shall be offered HIV testing by her attending physician at her first prenatal visit and in the third trimester. The attending physician shall test the pregnant woman for HIV infection, unless the pregnant woman refuses to provide informed consent pursuant to G.S. 130A-148(h). If there is no record at labor and delivery of an HIV test result during the current pregnancy for the pregnant woman, the attending physician shall inform the pregnant woman that an HIV test will be performed, explain the reasons for testing, and the woman shall be tested for HIV without consent using a rapid HIV test unless it reasonably appears that the test cannot be performed without endangering the safety of the pregnant woman or the person administering the test. If the pregnant woman cannot be tested, an existing specimen, if one exists that was collected within the last 24 hours, shall be tested using a rapid HIV test. The attending physician must provide the woman with the test results as soon as possible. However, labor and delivery providers who do not currently have the capacity to perform rapid HIV testing are not required to use a rapid HIV test until January 1, 2009.
  - (15) If an infant is delivered by a woman with no record of the result of an HIV test conducted during the pregnancy and if the woman was not tested for HIV during labor and delivery, the fact that the mother has not been tested creates a reasonable suspicion pursuant to G.S. 130A-148(h) that the newborn has HIV infection and the infant shall be tested for HIV. An infant born in the previous 12 hours shall be tested using a rapid HIV test. However, providers who do not currently have the capacity to perform rapid HIV testing shall not be required to use a rapid HIV test until January 1, 2009.
  - (16) Testing for HIV may be offered as part of routine laboratory testing panels using a general consent which is obtained from the patient for treatment and routine laboratory testing, so long as the patient is notified that they are being tested for HIV and given the opportunity to refuse.

*History Note: Authority G.S. 130A-135; 130A-144; 130A-145; 130A-148(h);*  
*Temporary Rule Eff. February 1, 1988, for a period of 180 days to expire on July 29, 1988;*  
*Eff. March 1, 1988;*  
*Amended Eff. February 1, 1990; November 1, 1989; June 1, 1989;*  
*Temporary Amendment Eff. January 7, 1991 for a period of 180 days to expire on July 6, 1991;*

*Amended Eff. May 1, 1991;*

*Recodified from 15A NCAC 19A .0201 (d) and (e) Eff. June 11, 1991;*

*Amended Eff. August 1, 1995; October 1, 1994; January 4, 1994; October 1, 1992;*

*Temporary Amendment Eff. February 18, 2002; June 1, 2001;*

*Amended Eff. November 1, 2007; April 1, 2005; April 1, 2003.*

**10A NCAC 41A .0204 CONTROL MEASURES –  
SEXUALLY TRANSMITTED DISEASES**

(a) Local health departments shall provide diagnosis, testing, treatment, follow-up, and preventive services for syphilis, gonorrhea, chlamydia, nongonococcal urethritis, mucopurulent cervicitis, chancroid, lymphogranuloma venereum, and granuloma inguinale. These services shall be provided upon request and at no charge to the patient.

(b) Persons infected with, exposed to, or reasonably suspected of being infected with gonorrhea, chlamydia, non-gonococcal urethritis, and mucopurulent cervicitis shall:

- (1) Refrain from sexual intercourse until examined and diagnosed and treatment is completed, and all lesions are healed;
- (2) Be tested, treated, and re-evaluated in accordance with the STD Treatment Guidelines published by the U.S. Public Health Service. The recommendations contained in the STD Treatment Guidelines are the required control measures for testing, treatment, and follow-up for gonorrhea, chlamydia, nongonococcal urethritis, and mucopurulent cervicitis, and are incorporated by reference including subsequent amendments and editions. A copy of this publication is on file for public viewing with the and a copy may be obtained free of charge by writing the Division of Public Health, 1915 Mail Service Center, Raleigh, North Carolina 27699-1915, and requesting a copy. However, urethral Gram stains may be used for diagnosis of males rather than gonorrhea cultures unless treatment has failed;
- (3) Notify all sexual partners from 30 days before the onset of symptoms to completion of therapy that they must be evaluated by a physician or local health department.

(c) Persons infected with, exposed to, or reasonably suspected of being infected with syphilis, lymphogranuloma venereum, granuloma inguinale, and chancroid shall:

- (1) Refrain from sexual intercourse until examined and diagnosed and treatment is completed, and all lesions are healed;
- (2) Be tested, treated, and re-evaluated in accordance with the STD Treatment Guidelines published by the U.S. Public Health Service. The recommendations contained in the STD Treatment Guidelines are the required control measures for testing, treatment, and follow-up for syphilis, lymphogranuloma venereum, granuloma

inguinale, and chancroid, except that chancroid cultures are not required;

- (3) Give names to a disease intervention specialist employed by the local health department or by the Division of Public Health for contact tracing of all sexual partners and others as listed in this Rule:

(A) for syphilis:

- (i) congenital - parents and siblings;
- (ii) primary - all partners from three months before the onset of symptoms to completion of therapy and healing of lesions;
- (iii) secondary - all partners from six months before the onset of symptoms to completion of therapy and healing of lesions; and
- (iv) latent - all partners from 12 months before the onset of symptoms to completion of therapy and healing of lesions and, in addition, for women with late latent, spouses and children;

(B) for lymphogranuloma venereum:

- (i) if there is a primary lesion and no buboes, all partners from 30 days before the onset of symptoms to completion of therapy and healing of lesions; and
- (ii) if there are buboes all partners from six months before the onset of symptoms to completion of therapy and healing of lesions;

(C) for granuloma inguinale - all partners from three months before the onset of symptoms to completion of therapy and healing of lesions; and

(D) or chancroid - all partners from ten days before the onset of symptoms to completion of therapy and healing of lesions.

(d) All persons evaluated or reasonably suspected of being infected with any sexually transmitted disease shall be tested for syphilis, encouraged to be tested confidentially for HIV, and counseled about how to reduce the risk of acquiring sexually transmitted disease, including the use of condoms.

(e) All pregnant women shall be tested for syphilis, chlamydia and gonorrhea at the first prenatal visit. All pregnant women shall be tested for syphilis between 28 and 30 weeks of gestation and at delivery. Hospitals shall determine the syphilis serologic status of the mother prior to discharge of the newborn so that if necessary the newborn can be evaluated and treated as provided



in Subparagraph (c)(2) of this Rule. Pregnant women 25 years of age and younger shall be tested for chlamydia and gonorrhea in the third trimester and at delivery.

(f) Any woman who delivers a stillborn infant shall be tested for syphilis.

(g) All newborn infants shall be treated prophylactically against gonococcal ophthalmia neonatorum in accordance with the STD Treatment Guidelines published by the U.S. Public Health Service. The recommendations contained in the STD Treatment Guidelines are the required prophylactic treatment against gonococcal ophthalmia neonatorum.

*History Note: Authority G.S. 130A-135; 130A-144;  
Eff. December 1, 1991;  
Amended Eff. November 1, 2007; April 1, 2003; July 1, 1993.*

#### **10A NCAC 41B .0101 DEFINITIONS**

The definitions in G.S. 18B-101, G.S. 20-4.01, G.S. 130A-3 and the following shall apply throughout this Subchapter:

- (1) "Alcoholic Breath Simulator" means a constant temperature water-alcohol solution bath instrument devised for the purpose of providing a standard alcohol-air mixture;
- (2) "Breath-testing Instrument" means an instrument for making a chemical analysis of breath and giving the resultant alcohol concentration in grams of alcohol per 210 liters of breath;
- (3) "Controlled Drinking Program" means a bona fide scientific, experimental, educational, or demonstration program in which tests of a person's breath or blood are made for the purpose of determining his alcohol concentration when such person has consumed controlled amounts of alcohol;
- (4) "Director" means the Director of the Division of Public Health of the Department;
- (5) "Handling Alcoholic Beverages" means the acquisition, transportation, keeping in possession or custody, storage, administration, and disposition of alcoholic beverages done in connection with a controlled-drinking program;
- (6) "Observation Period" means a period during which a chemical analyst observes the person or persons to be tested to determine that the person or persons has not ingested alcohol or other fluids, regurgitated, vomited, eaten, or smoked in the 15 minutes immediately prior to the collection of a breath specimen. The chemical analyst may observe while conducting the operational procedures in using a breath-testing instrument. Dental devices or oral jewelry need not be removed;
- (7) "Permittee" means a chemical analyst possessing a valid permit from the Department to perform chemical analyses, of the type set forth within the permit;

(8) "Simulator Solution" means a water-alcohol solution made by preparing a stock solution of distilled or American Society for Testing and Materials Type I water and 48.4 grams of alcohol per liter of solution. Each 10 ml. of this stock solution is further diluted to 500 ml. by adding distilled or American Society for Testing and Materials Type I water. The resulting simulator solution corresponds to the equivalent alcohol concentration of 0.08;

(9) "Verify Instrument Accuracy" means verification of instrumental accuracy of an approved breath testing instrument or approved alcohol screening test device by employment of a control sample from an alcoholic breath simulator using simulator solution and obtaining the expected result or 0.01 less than the expected result as specified in Item (8) of this Rule; or by employment of a control sample from an ethanol gas canister and obtaining the expected result or 0.01 less than the expected result as specified in Item (10) of this Rule. When the procedures set forth for approved breath testing instruments in Section .0300 of this Subchapter and for approved alcohol screening test devices in Section .0500 of this Subchapter are followed and the result specified herein is obtained, the instrument shall be deemed accurate;

(10) "Ethanol Gas Canister" means a dry gas calibrator producing an alcohol-in-inert gas sample at an accurately known concentration from a compressed gas cylinder. The resulting alcohol-in-inert gas sample corresponds to the equivalent concentration of 0.08.

*History Note: Authority G.S. 20-139.1(b); 20-139.1(g);  
Eff. February 1, 1976;  
Readopted Eff. December 5, 1977;  
Amended Eff. November 1, 2007; April 1, 2001; January 1, 1995; January 4, 1994; October 1, 1990; September 1, 1990.*

#### **10A NCAC 41B .0311 LOG**

*History Note: Authority G.S. 20-16.5(j); 20-139.1(b);  
Eff. January 1, 1982;  
Amended Eff. April 1, 1992; October 1, 1990;  
Repealed Eff. November 1, 2007.*

#### **10A NCAC 41B .0320 INTOXILYZER: MODEL 5000**

The operational procedures to be followed in using the Intoxilyzer, Model 5000 are:

- (1) Insure instrument displays time and date;
- (2) Insure observation period requirements have been met;
- (3) Press "START TEST"; when "INSERT CARD" appears, insert test record;
- (4) Enter information as prompted;
- (5) Verify instrument accuracy;

- (6) When "PLEASE BLOW" appears, collect breath sample;
- (7) When "PLEASE BLOW" appears, collect breath sample; and
- (8) When test record ejects, remove.

If the alcohol concentrations differ by more than 0.02, a third breath sample shall be collected when "PLEASE BLOW" appears. Subsequent tests shall be administered as soon as feasible by repeating steps (1) through (8), as applicable.

*History Note:* Authority G.S. 20-139.1(b);

*Eff. January 1, 1985;*

*Amended Eff. November 1, 2007; April 1, 2001; April 1, 1993; April 1, 1992; January 1, 1990; March 1, 1989.*

#### **10A NCAC 41B .0321 PREVENTIVE MAINTENANCE: INTOXILYZER: MODEL 5000**

The preventive maintenance procedures for the Intoxilyzer Model 5000 to be followed at least once every four months are:

- (1) Verify alcoholic breath simulator thermometer shows 34 degrees, plus or minus .2 degree centigrade;
- (2) Verify instrument displays time and date;
- (3) Press "START TEST"; when "INSERT CARD" appears, insert test record;
- (4) Enter information as prompted;
- (5) Verify instrument accuracy;
- (6) When "PLEASE BLOW" appears, collect breath sample;
- (7) When "PLEASE BLOW" appears, collect breath sample;
- (8) When test record ejects, remove;
- (9) Verify Diagnostic Program; and
- (10) Verify alcoholic breath simulator solution is being changed every four months or after 125 Alcoholic Breath Simulator tests, whichever occurs first.

A signed original of the preventive maintenance record shall be kept on file for at least three years.

*History Note:* Authority G.S. 20-139.1(b)(b2);

*Temporary Amendment Eff. September 1, 1989 for a period of 180 days to expire on February 28, 1990;*

*Eff. January 1, 1985;*

*Amended Eff. November 1, 2007; April 1, 2001; April 1, 1993; April 1, 1992; January 1, 1990; March 1, 1989.*

#### **10A NCAC 41B .0322 INTOXIMETERS: MODEL INTOX EC/IR II**

The operational procedures to be followed in using the Intoximeters, Model Intox EC/IR II are:

- (1) Insure instrument displays time and date;
- (2) Insure observation period requirements have been met;
- (3) Initiate breath test sequence;
- (4) Enter information as prompted;
- (5) Verify instrument accuracy;
- (6) When "PLEASE BLOW" appears, collect breath sample;

- (7) When "PLEASE BLOW" appears, collect breath sample; and
- (8) Print test record.

If the alcohol concentrations differ by more than 0.02, a third or fourth breath sample shall be collected when "PLEASE BLOW" appears. Subsequent tests shall be administered as soon as feasible by repeating steps (1) through (8), as applicable.

*History Note:* G.S. 20-139.1(b);

*Eff. November 1, 2007.*

#### **10A NCAC 41B .0323 PREVENTIVE MAINTENANCE: INTOXIMETERS: MODEL INTOX EC/IR II**

The preventive maintenance procedures for the Intoximeters, Model Intox EC/IR II to be followed at least once every four months are:

- (1) Verify the ethanol gas canister displays pressure, or the alcoholic breath simulator thermometer shows 34 degrees, plus or minus .2 degree centigrade;
- (2) Verify instrument displays time and date;
- (3) Initiate breath test sequence;
- (4) Enter information as prompted;
- (5) Verify instrument accuracy;
- (6) When "PLEASE BLOW" appears, collect breath sample;
- (7) When "PLEASE BLOW" appears, collect breath sample;
- (8) Print test record;
- (9) Verify Diagnostic Program; and
- (10) Verify that the ethanol gas canister is being changed before expiration date, or the alcoholic breath simulator solution is being changed every four months or after 125 Alcoholic Breath Simulator tests, whichever occurs first.

A signed original of the preventive maintenance record shall be kept on file for at least three years.

*History Note:* G.S. 20-139.1(b2);

*Eff. November 1, 2007.*

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#### **10A NCAC 67A .0202 EXCEPTIONS FOR NOTIFICATION**

Except as otherwise provided by applicable program specific federal regulations, the county department of social services does not need to provide notification of action to the client when:

- (1) the agency is terminating services based on factual information confirming the death of the client;
- (2) the provision of protective services to children or protective services-evaluation to adults is initiated or terminated;
- (3) the county department of social services has applied for services in behalf of an individual

- for whom they have custody or guardianship for adults;
- (4) the county department of social services has applied for services in behalf of an individual who is incompetent incapacitated; or
- (5) the service is terminated at the end of a period of eligibility and the recipient has not requested that the services be continued.

*History Note: Authority G.S. 108A-25; 143B-153; 45 C.F.R. 205.10;*  
*Eff. October 1, 1981;*  
*Amended Eff. November 1, 2007.*

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**10A NCAC 71R .0101 SOCIAL SERVICES BLOCK GRANT FUNDED SERVICES**

The following services may be reimbursed with Social Services Block Grant Funds:

- (1) adjustment services for the blind or visually impaired;
- (2) adoption services;
- (3) adult placement services;
- (4) child care services;
- (5) children and adults needing mental health, developmental disability or substance abuse services;
- (6) community living services;
- (7) day care services for adults;
- (8) delinquency prevention services;
- (9) employment and training support services;
- (10) family planning services;
- (11) family preservation services;
- (12) family support services;
- (13) foster care services for adults;
- (14) foster care services for children;
- (15) health support services;
- (16) home health services (includes skilled nursing, physical therapy, speech therapy, occupational therapy, medical social services and nutrition care);
- (17) housing and home improvement services;
- (18) individual and family adjustment services;
- (19) in-home aide services;
- (20) in-home aide services for the blind;
- (21) intensive family preservation services;
- (22) personal and family counseling;
- (23) preparation and delivery of meals;
- (24) problem pregnancy services;
- (25) protective services for adults;
- (26) protective services for children;
- (27) residential treatment for the emotionally disturbed;
- (28) respite care services;
- (29) transportation services; and
- (30) youth services.

*History Note: Authority G.S. 108A-71; 143B-153;*

*Eff. July 1, 1983;*  
*Amended Eff. November 1, 2007; November 1, 1994; December 1, 1991; September 1, 1988; July 1, 1984.*

**10A NCAC 71R .0103 MANDATED AND OPTIONAL SERVICES**

(a) The following services funded with Social Services Block Grant funds shall be made available in each county. These services are:

- (1) adjustment services for the blind and visually impaired;
- (2) adoption services;
- (3) child care services;
- (4) in-home aide services for the blind;
- (5) family planning services;
- (6) adult placement services;
- (7) foster care services for adults;
- (8) foster care services for children;
- (9) health support services (sterilization component is optional);
- (10) individual and family adjustment services;
- (11) in-home aide services;
- (12) protective services for adults;
- (13) protective services for children.

(b) With the exception of those mandated services specified in Paragraph (a) of this Rule, all other services are optional for purposes of the Social Services Block Grant.

*History Note: Authority G.S. 143B-153;*  
*Eff. September 1, 1994;*  
*Amended Eff. November 1, 2007.*

**10A NCAC 71R .0201 FISCAL MANAGEMENT**

The fiscal requirements for the Social Services Block Grant (SSBG) are as follows:

- (1) Allocation of Funds. Any allocation of SSBG Funds made directly to Department of Health and Human Services divisions or public or private agencies by the Department of Health and Human Services is based on the following criteria:
  - (a) identified need for the service program as specified in Rule .0101 of this Subchapter;
  - (b) established priorities of the department as specified in Rules .0101 and .0103 of this Subchapter;
  - (c) allowability of the program under federal and state rules and regulations as specified in Rule .0102 of this Subchapter and as established by the General Assembly;
  - (d) assessed or potential performance of the service program as specified in Rule .0102 of this Subchapter;
  - (e) resource utilization as specified in this Rule and as established by the General Assembly; and

- (f) availability of funds necessary to secure federal financial participation as specified in this Rule and as established in federal regulations and by the General Assembly.
- (2) The amount of SSBG funds allocated by the Department of Health and Human Services through the Division of Social Services to each county department of social services is based on the average of the following two factors applied to the total amount of SSBG funds available for county departments of social services:
- (a) the percentage of the statewide population residing within each county; and
  - (b) the percentage of the statewide unduplicated count of SSI recipients, food stamp recipients, TANF recipients and medicaid eligible individuals residing in each county.
- Once allocations to county departments of social services are calculated as described in this Item, they remain at that level each subsequent year.
- (3) Matching Rates for Financial Participation. The following matching rates apply to financial participation in services funded by the SSBG:
- (a) 75 percent financial participation - financial participation for provision of any service listed in this Subchapter unless otherwise provided in this Item is available at a rate of 75 percent of the cost of providing the service;
  - (b) 87-1/2 percent financial participation - financial participation for provision of in-home services - day care services for adults, preparation and delivery of meals, housing and home improvement services, and in-home aide services (levels I through IV) -- is available at a rate of 87-1/2 percent of the cost of providing the service;
  - (c) 90 percent financial participation - financial participation for provision of family planning services and the family planning component of health support services is available at a rate of 90 percent of the cost of providing the service;
  - (d) 100 percent financial participation - financial participation for provision of child care services is available at a rate of 100 percent of the cost of services for those child care services reimbursed from an agency's designated 100 percent day care allocation.
- (4) Transferred Funds. If funds from the Temporary Assistance for Needy Families (TANF) Block Grant are transferred to the SSBG for services previously funded by SSBG, the matching rates outlined in Item (3) of this Rule shall apply. If funds from TANF are transferred to SSBG for services not previously funded by SSBG, the matching rates as outlined in Item (3) of this Rule shall not apply.
- History Note: Authority G.S. 143B-153; Eff. July 1, 1983; Amended Eff. December 1, 1991; July 1, 1990; December 1, 1983; Temporary Amendment Eff. November 10, 1999; Amended Eff. November 1, 2007; September 1, 2007; July 17, 2000.*
- 10A NCAC 71R .0302 FAMILY SERVICES MANUAL AND POLICY DIRECTIVES**
- History Note: Authority G.S. 143B-153; 1985 S.L., c. 479, s. 93; Eff. July 1, 1983; Amended Eff. May 1, 1990; July 1, 1984; Repealed Eff. November 1, 2007.*
- 10A NCAC 71R .0303 RECIPIENT SERVICE RECORDS**
- (a) An agency must open and maintain a service record for each individual for whom an application for social services is made and for each recipient of protective services. Recipient service records must be documented and maintained in accordance with procedures set forth in this Subchapter.
  - (b) Recipient service records shall be treated in accordance with policies governing confidentiality and access to client records as set forth in 10A NCAC 69.
  - (c) The service record must be updated and documented as necessary to reflect changes in a recipient's circumstances and to keep all information in the record current.
  - (d) All changes must be documented in the service record. These changes include addition of a service to a recipient's service plan, termination of service, redetermination of eligibility, changes in the recipient's circumstances that affect his/her need for or use of services, and any other action taken by the agency that affects the recipient's receipt of a service and termination of the recipient's service.
- History Note: Authority G.S. 143B-153; Eff. July 1, 1983; Amended Eff. November 1, 2007.*
- 10A NCAC 71R .0401 APPLICATION REQUIREMENT**
- All applicants for social services must initiate entry into the social services system via a written application except that no application shall be required for the following:

- (1) evaluation of the need for protective services for adults;
- (2) guardianship services for adults;
- (3) protective services for children;
- (4) foster care services for children;
- (5) employment program services.

*History Note: Authority G.S. 143B-153;*

*Eff. July 1, 1983;*

*Amended Eff. November 1, 2007; November 2, 1992; May 1, 1990, February 1, 1986.*

#### **10A NCAC 71R .0402 OPPORTUNITY TO APPLY**

An individual may apply for social services and have his/her application acted upon no more than 30 calendar days from the application date.

*History Note: Authority G.S. 143B-153;*

*Eff. July 1, 1983;*

*Amended Eff. November 1, 2007.*

#### **10A NCAC 71R .0403 WHO MAY APPLY**

Application for social services may be made by:

- (1) an adult or emancipated minor on his/her own behalf or on behalf of others in his/her family;
- (2) a parent, custodian or guardian acting on behalf of a minor;
- (3) someone for the applicant if the applicant is believed to be incompetent or incapacitated; or
- (4) agency staff on behalf of an individual in the event of an emergency, or when there is some urgency to provide services, or if arranging for the individual to make application would create a barrier to the receipt of services.

*History Note: Authority G.S. 143B-153;*

*Eff. July 1, 1983;*

*Amended Eff. November 1, 2007; May 1, 1990.*

#### **10A NCAC 71R .0404 RESIDENCY**

In order to apply for social services, individuals must be residents of North Carolina. The definition of residency is found in G.S. 108A-24(6).

*History Note: Authority G.S. 143B-153;*

*Eff. July 1, 1983;*

*Amended Eff. November 1, 2007; May 1, 1990.*

#### **10A NCAC 71R .0405 APPLICATION DOCUMENTATION REQUIREMENTS**

- (a) The application for services shall be made through a form provided by the Department of Health and Human Services or an equivalent form.
- (b) When the request is made through a mailed or electronically transmitted request for service(s), the agency shall transfer the information to the application form and maintain the written request in the service record.
- (c) The application form shall include:

- (1) identification of the individual for whom the service(s) is (are) requested;
- (2) identification of the specific service(s) requested for both initial requests and additional requests;
- (3) date of the request;
- (4) signature of the applicant or his/her representative, the date of the signature and for situations where the person making the application executes his/her signature by making a mark (X), the signature of a witness;
- (5) signature of the social worker determining eligibility and date that determination was made; and
- (6) documentation that the application is voluntary and that the individual has been informed of the following rights and responsibilities associated with applications for social services:
  - (A) The right to request and obtain a fair hearing if his/her application is not acted on as required by the rules of this Subchapter or if (s)he disagrees with the agency's action in response to his/her application for services;
  - (B) the right to confidentiality and that the information given to the agency will be confidential and not released without written consent except for information necessary to establish eligibility, information that may be revealed in the course of agency audits and monitoring and as otherwise required by law; and
  - (C) his/her responsibilities to provide accurate and complete information necessary to determine eligibility and, if requested, to provide documentation of such information; to notify the agency within five days of any change in address, employment, income, living arrangement or family size; and that failure to provide accurate and complete information may subject him/her to prosecution.
- (d) The date of the application is when the applicant signs the application, the date of request for guardianship for adults or the date of the report for Adult Protective Services or Children's Protective Services.
- (e) When a signature of the applicant or his/her representative is not obtained because obtaining the signature would create a barrier to the receipt of the service, the social worker shall document the request indicating the service(s) requested, the date of the request and the circumstances that prevented the worker from obtaining the signature.
- (f) In the case of applications for Health Support Services-Family Planning Component, the signature of the applicant must not be waived.

*History Note:* Authority G.S. 143B-153;  
Eff. November 1, 2007.

**10A NCAC 71R .0501 BASIC ELIGIBILITY CRITERIA**

In addition to the requirements of Section .0600 of this Subchapter, in order for an individual to be determined eligible to receive services funded under the Social Services Block Grant (Title XX), it must be established that (s)he is eligible on the basis of need as specified in the target population for the services requested as set forth in this Chapter except that for purposes of providing child care services, transportation services, or the federally funded sterilization resource item of health support services, eligibility must also be determined on the basis of his/her income maintenance or income eligible status.

*History Note:* Authority G.S. 143B-153;  
Eff. July 1, 1983;  
Amended Eff. May 1, 1990; July 1, 1989;  
Temporary Amendment Eff. October 21, 1996;  
Amended Eff. November 1, 2007; July 1, 1998.

**10A NCAC 71R .0502 INCOME MAINTENANCE STATUS**

(a) For an individual to be eligible on the basis of income maintenance status, it must be established that the individual is either:

- (1) a current recipient of Work First Family Assistance, Benefit Diversion; or Work First Services for Low Income Families (below 200% of the Federal poverty level) as defined in G.S. 108A-24; or a person whose needs were taken into account in determining the needs of Work First recipients;
- (2) a current recipient of Supplemental Security Income (SSI);
- (3) an individual who receives Optional State Supplementation payments from the State, known as State/County Special Assistance for Adults in North Carolina; or
- (4) a child with respect to whom foster care maintenance payments or adoption assistance payments are made under Public Law 96-272.

(b) An individual whose eligibility is based on income maintenance status is eligible for any service funded under the Social Services Block Grant (Title XX) that is available in the county in which (s)he lives.

*History Note:* Authority G.S. 143B-153;  
Eff. July 1, 1983;  
Amended Eff. November 1, 2007; May 1, 1990.

**10A NCAC 71R .0503 INCOME ELIGIBLE STATUS**

(a) Individuals other than those eligible on the basis of income maintenance status may be determined eligible on the basis of that individual's income unit's monthly gross income.

(b) To determine income eligibility, it is necessary to determine the number of individuals who reside in the same household who

are financially obligated to one another (the income unit) and the amount of the gross monthly income available to them.

(c) The following are defined as separate income units for purposes of determining eligibility and fees.

- (1) Biological or adoptive parents and their minor children;
- (2) A minor parent and his or her children;
- (3) Each adult, whether related or unrelated, other than spouses;
- (4) Children living with adults other than their biological or adoptive parents;
- (5) Minors who are emancipated through a court proceeding, marriage or participation in the armed services.

(d) Sources of income which shall be considered for purposes of computing family monthly gross income are:

- (1) Gross earned wages or salary (earnings received for work performed as an employee, including wages, salary, commissions, tips, piece-rate payments, and cash bonuses earned, before any deductions are made for taxes, bonds, pensions, union dues);
- (2) Adjusted gross income from taxable self-employment income;
- (3) Social Security benefits (includes Social Security pensions, survivors' benefits and permanent disability insurance payments);
- (4) Dividends; interest (on savings or bonds); income from estates or trusts; royalties; adjusted gross rental income on houses, stores or other property;
- (5) Pensions and annuities paid directly by an employer or union or through an insurance company;
- (6) Workers' compensation for injuries incurred at work;
- (7) Unemployment insurance benefits;
- (8) Alimony (includes direct and indirect payments, such as rent and utility payments);
- (9) Child support, direct or indirect;
- (10) Pensions paid to veterans or survivors of deceased veterans;
- (11) On-the-Job Training (OJT) payments;
- (12) Job Training Partnership Act (JTPA) payments made to an adult;
- (13) AmeriCorps stipend (living allowance);
- (14) Armed Forces pay (only the amounts taxable, such as base pay);
- (15) Work release payments;
- (16) Cherokee Tribal Per Capita Income paid to adult family members;
- (17) Work-study payments, if the income is from a program not administered under Title IV of the Higher Education Act or the Bureau of Indian Affairs; and
- (18) Recurring cash contributions paid directly to the parent.

(e) Sources of income that shall not be counted when computing family gross monthly are:

- (1) Work First Family Assistance;
- (2) Supplemental Security Income (SSI);
- (3) Lump sum payments (e.g. Social Security benefits, workers' compensation, alimony, veteran's benefits, HUD);
- (4) Foster care assistance payments;
- (5) Adoption Assistance payments;
- (6) Payments/trust funds under the Indian Claims Commission;
- (7) Payments from the Alaska Native Claims Settlement Act;
- (8) Income from sale of personal assets (stocks, bonds, house, car, and insurance);
- (9) Bank withdrawals;
- (10) Money borrowed;
- (11) Tax refunds;
- (12) Gifts or contributions;
- (13) In-kind contributions from non-legally responsible adults;
- (14) Emergency Assistance, Low Income Energy Assistance Program, Crisis Intervention Program, General Assistance, or Progress Energy Share Program payments;
- (15) Section VIII housing subsidy;
- (16) Capital gains;
- (17) Value of food stamp benefits allotted under the Food Stamp Act of 1977;
- (18) Free and reduced lunch program;
- (19) Food subsidy programs;
- (20) Relocation/Acquisition Act payments;
- (21) Earnings of a dependent child under 18 years of age, unless a minor parent of a child needing child care;
- (22) Loans, grants, scholarships, money received through job training, Pell or Carl Perkins grants;
- (23) Home produce utilized for household consumption;
- (24) Volunteers in Service to America (VISTA) earnings;
- (25) Payments received as Earned Income Tax Credits or Dependent Care Credits;
- (26) All subsidized housing and housing allotments, including military housing allotments. If rent is provided directly to the landlord, it shall not be counted. If, however, the rent monies are paid to the individual, it shall be counted as income;
- (27) Money received from an employer as an employee benefit for child care; and
- (28) Work-study payments, if the income is from the College Work-Study Program administered under Title IV of the Higher Education Act or the Bureau of Indian Affairs. (Likewise, if the income from college work-study goes directly to the college, it is not counted as income.)

*Eff. July 1, 1983;*

*Amended Eff. November 1, 2007; October 1, 1991; May 1, 1990.*

**10A NCAC 71R .0504 DEFINITION OF ESTABLISHED INCOME**

*History Note: Authority G.S. 143B-153;*

*Eff. July 1, 1983;*

*Amended Eff. March 1, 1994; July 1, 1991; May 1, 1990.*

*Repealed Eff. November 1, 2007.*

**10A NCAC 71R .0505 MAXIMUM INCOME LEVELS FOR SERVICES**

(a) Sixty Percent of the Federal Poverty Guidelines. An individual whose income unit's gross monthly income is less than 60 percent of the Federal Poverty Guidelines as published annually in the Federal Register by the U.S. Department of Health and Human Services (HHS) is eligible for transportation services or the federally funded sterilization resource item of health support services funded under the Social Services Block Grant (Title XX) if available in the county in which (s)he lives.

(b) Eighty Percent of the Federal Poverty Guidelines. An individual whose income unit's gross monthly income is less than 80 percent of the Federal Poverty Guidelines is eligible for the federally funded sterilization resource item of health support services if available in the county in which (s)he lives and if conditions for payment as set out in 10A NCAC 71J .0105 have been satisfied.

*History Note: Authority G.S. 143B-153(2a)b.;*

*Eff. July 1, 1983;*

*Amended Eff. March 1, 1994; July 1, 1989; October 1, 1987; July 1, 1984;*

*Temporary Amendment Eff. October 21, 1996;*

*Amended Eff. November 1, 2007; July 1, 1998.*

**10A NCAC 71R .0506 WITHOUT REGARD TO INCOME STATUS**

Individuals are eligible for the following services on the basis of need for the service and without regard to their income:

- (1) adjustment services for the blind and visually impaired;
- (2) adoption services;
- (3) adult placement services;
- (4) foster care services for children;
- (5) protective services for adults;
- (6) protective services for children;
- (7) child care services, when needed to support child protective services, child welfare services and for children receiving foster care services;
- (8) delinquency prevention services;
- (9) employment and training support services;
- (10) health support services (excluding the optional voluntary sterilization component);
- (11) individual and family adjustment services;
- (12) problem pregnancy services;
- (13) community living services;
- (14) day care services for adults;

*History Note: Authority G.S. 50-13.4; 110.129(2); 143B-153;*

- (15) housing and home improvement services;
- (16) in-home aide services;
- (17) personal and family counseling;
- (18) preparation and delivery of meals;
- (19) residential treatment for the emotionally disturbed;
- (20) respite care services;
- (21) transportation services provided by the North Carolina Commission of Indian Affairs;
- (22) youth services;
- (23) family planning services;
- (24) children and adults needing mental health, developmental disability or substance abuse services;
- (25) family preservation services;
- (26) family support services;
- (27) foster care services for adults;
- (28) home health services (includes skilled nursing, physical therapy, speech therapy, occupational therapy, medical social services, and nutrition care; and
- (29) intensive family preservation services.

*History Note:* Authority G.S. 143B-153(2a)b;  
*Eff. July 1, 1983;*  
*Amended Eff. March 1, 1994; December 1, 1991; May 1, 1990;*  
*July 1, 1989;*  
*Temporary Amendment Eff. October 21, 1996;*  
*Amended Eff. November 1, 2007; July 1, 1998.*

**10A NCAC 71R .0601 ELIGIBILITY DETERMINATION**

(a) For purposes of the rules in this Subchapter, an eligibility determination means a decision pursuant to an application for social services which is based on information necessary to determine whether an individual meets the conditions of eligibility for the services requested. Conditions of eligibility include basic eligibility criteria from Section .0500 of this Subchapter applicable to the program or funding source under which the service is made available and conditions of need specified in the target population for the service requested, as set forth in this Chapter.

(b) The individual making application shall provide information which will enable the agency to reach an eligibility decision. Failure on the part of the individual making application to provide such information or to cooperate with the agency in determining eligibility are grounds for delay in processing an application and reaching an eligibility decision or for denial of services.

*History Note:* Authority G.S. 143B-153;  
*Eff. July 1, 1983;*  
*Amended Eff. November 1, 2007; May 1, 1990; July 1, 1989;*  
*February 1, 1986.*

**10A NCAC 71R .0602 BASIS FOR ESTABLISHING ELIGIBILITY**

Eligibility for services is established on the basis of:

- (1) a signed, dated application, if required;

- (2) the agency's determination that the individual meets the conditions of eligibility;
- (3) availability of the service in the county in which the individual has legal residence; and
- (4) availability of the service to the individual's category of eligibility.

*History Note:* Authority G.S. 143B-153;  
*Eff. July 1, 1983;*  
*Amended Eff. November 1, 2007.*

**10A NCAC 71R .0603 BASIS FOR DENIAL OR TERMINATION OF SERVICES**

(a) Reasons for denial of an application for services and reasons for the termination of services include the following:

- (1) The individual has failed to cooperate with the agency in determining (or redetermining) eligibility;
- (2) The individual cannot be located to allow for determination (or redetermination) of eligibility;
- (3) The individual has been determined to be not eligible for the services requested on the basis that (s)he does not meet (or because of changing circumstances, no longer meets) the conditions of eligibility for the program funding sources under which the service is provided or the definition of the target population for receipt of the service;
- (4) The service is not available in the county in which the individual has legal residence;
- (5) The service will not be available in sufficient time to ensure its prompt provision, as set forth in Rules .0802 and .0803 of this Subchapter;
- (6) The agency has exhausted its funds for the provision of the service for that program year;
- (7) The individual has notified the agency that (s)he no longer wants or needs the service;
- (8) The agency has determined that the individual is no longer able to avail himself/herself of the service because (s)he has moved to another county or has been admitted to an institution;
- (9) The individual has failed to utilize the service or to cooperate in service delivery;
- (10) The individual is residing in a facility or institution and the funding source prohibits provision of the service to clients in facilities or institutions; and
- (11) The individual fails to meet any other conditions set forth in rules in Chapters 70 and 71 of this Title governing delivery of the service.

(b) The agency must document the basis for denial or termination of services on the notice to the client, except in cases where notice is not required as set forth in 10A NCAC 67A .0202.

*History Note:* Authority G.S. 143B-153;



*Eff. July 1, 1983;*

*Amended Eff. November 1, 2007; March 1, 1994; May 1, 1990;  
November 1, 1984.*

**10A NCAC 71R .0604 REDETERMINATION OF ELIGIBILITY**

(a) The agency shall make a redetermination of eligibility and need for the following services every 12 months:

- (1) child care services;
- (2) transportation; and
- (3) health support – abortion and sterilization components which are federally funded.

(b) Eligibility for services provided without regard to income is based on need, and services shall continue until determined no longer appropriate.

(c) The agency shall make a redetermination of eligibility and need when there is new information provided to the agency about changes in the client's circumstances that affect his/her eligibility.

(d) The agency shall make a redetermination of eligibility and need every 12 months for services available with regard to income.

(e) Requirements and procedures for a redetermination are the same as those for eligibility determination for services provided with regard to income.

*History Note: Authority G.S. 143B-153;*

*Eff. July 1, 1983;*

*Amended Eff. November 1, 2007; May 1, 1990; July 1, 1989.*

**10A NCAC 71R .0605 DOCUMENTATION OF ELIGIBILITY DECISION**

(a) The agency shall document information pertinent to meeting conditions of eligibility in the individual's service record.

(b) The agency shall document the eligibility decision, the date of the decision and the service worker/case manager making the decision on the application form.

(c) The agency shall document the beginning and ending date for all services provided with regard to income.

(d) For all services provided without regard to income, except for child care services, the agency shall document the beginning date, which is the eligibility date.

*History Note: Authority G.S. 143B-153;*

*Eff. November 1, 2007.*

**10A NCAC 71R .0606 QUARTERLY REVIEW**

(a) The agency shall review and document the client's situation and service plan at least quarterly from the date of application except for clients whose only service(s) is (are):

- (1) transportation;
- (2) child care;
- (3) foster care;
- (4) adoptions; and
- (5) housing and home improvement.

(b) The agency shall conduct the review in the month it is due. The month the quarterly review is due is determined by the month in which the application was made.

(c) The agency must label and date the quarterly review in the record.

*History Note: Authority G.S. 143B-153;*

*Eff. November 1, 2007.*

**10A NCAC 71R .0701 METHODS OF ELIGIBILITY DETERMINATION**

When the services being provided have income as a condition of eligibility, each county board of social services shall decide whether to use the verification method of eligibility as described in Rule .0702 of this Section, or the declaration method of determining eligibility as described in Rule .0703 of this Section.

*History Note: Authority G.S. 143B-153;*

*Eff. July 1, 1983;*

*Amended Eff. November 1, 2007; May 1, 1990.*

**10A NCAC 71R .0702 VERIFICATION METHOD**

(a) Under the verification method of eligibility determination, an agency shall verify an individual's statement as to eligibility status by obtaining evidence which supports the individual's statement. Evidence which supports the individual's statement includes a copy of a source document or the agency worker's written statement concerning the contents of a source document, the contents of a telephone conversation confirming the required information or the identification of any existing agency record confirming the required information.

(b) When an individual's eligibility for services is based on his/her status as an income maintenance recipient, an agency shall verify such status.

(c) When an individual's eligibility for services is based on family monthly gross income, an agency shall verify the individual's statement as to the source and amount of income except in the following circumstances:

- (1) If the individual is an authorized Medicaid recipient, the individual's statement as to both sources and amount of family income shall be accepted. The agency shall verify the individual's status as a recipient.
- (2) If the individual declares that his/her only source of family income is from Old Age, Survivors and Disability Insurance (OASDI) benefits, the agency shall accept his/her statement as to both the source and amount of income.
- (3) If the individual declares no income, the agency worker shall accept the statement and document it.

*History Note: Authority G.S. 143B-153;*

*Eff. July 1, 1983;*

*Amended Eff. November 1, 2007; June 1, 1990.*

**10A NCAC 71R .0703 DECLARATION METHOD**

Under the declaration method of eligibility determination, an agency shall accept an individual's statement as to his/her status as an income maintenance recipient or statement as to both the sources and amount of his/her family gross income. When an

agency has reason to believe that the individual's declaration may be inaccurate, an agency shall use the verification method as described in Rule .0702 of this Subchapter.

*History Note:* Authority G.S. 143B-153;  
Eff. July 1, 1983;  
Amended Eff. November 1, 2007.

**10A NCAC 71R .0704 METHOD OF DETERMINING NEED FOR SERVICES**

An agency shall make an assessment of need for services provided on the basis of need without regard to income and funded under the Social Services Block Grant (Title XX). The determination of need is met when the client's situation fits the criteria contained in the target population, described for each service in Section .0900 of this Subchapter.

*History Note:* Authority G.S. 143B-153;  
Eff. July 1, 1989;  
Amended Eff. November 1, 2007; May 1, 1990.

**10A NCAC 71R .0801 NOTIFICATION TIME FRAMES**

(a) The agency shall ensure that the notice of the eligibility decision on the applicant's request for service(s) is delivered to the client or mailed and postmarked no later than 15 calendar days after the eligibility decision is made or within 30 calendar days of the date of application, whichever comes first.

(b) For additional services requested after the initial application, but while the recipient is still receiving service(s), the agency shall deliver notice to the client or mail and postmark the notice no later than 15 calendar days after the date the mailed request is received in the agency.

(c) Time frames for termination or modification of services are provided in G.S. 108A-79.

(d) Notice of termination may be given or sent on the day of termination, in the following circumstances:

- (1) The agency receives a written statement, signed by the recipient or his/her representative requesting that the services be terminated because they are no longer needed or wanted;
- (2) The recipient has been admitted to an institution and is no longer able to avail himself/herself to the service(s); or
- (3) The recipient has moved to another county or state.

*History Note:* Authority G.S. 143B-153;  
Eff. July 1, 1983;  
Amended Eff. November 1, 2007.

**10A NCAC 71R .0803 REQUIREMENTS FOR PROMPT PROVISION**

(a) Where an individual's eligibility for a service is established in accordance with Rule .0602 of this Subchapter, the service must be provided as follows:

- (1) Initial service(s) must be provided within 15 calendar days of the date the notice of eligibility is given or sent to the client; and

- (2) For additional service(s) requested during an ongoing period of eligibility, the service must be provided within 30 calendar days of the date the request was received by the agency.

(b) Where a requested service cannot be provided within timeframes listed in paragraph (a), the application for the service must be denied unless, for services funded with Social Services Block Grant (Title XX) funds administered by the Division of Social Services, the agency has adopted a local waiting list policy that provides otherwise as follows:

- (1) Local waiting list policies must be in writing and must be approved by the county board of social services.
- (2) Local waiting list policies must designate whether the waiting list is used for purposes of meeting prompt provision requirements or to respond to inquiries about services or both.
- (3) Local waiting list policies must assure that all individuals are treated equitably in terms of the manner in which they are advised of the upcoming availability of services.
- (4) Local waiting list policies must ensure that an individual's name does not remain on the waiting list indefinitely without the individual being notified of the status of his/her request and the anticipated availability of the service. To this extent, the waiting list policy must designate a reasonable time period, not to exceed 90 days, that an individual's name can remain on the waiting list prior to providing the service or notifying the individual that the service cannot be provided.

*History Note:* Authority G.S. 143B-153;  
Eff. July 1, 1983;  
Amended Eff. November 1, 2007; May 1, 1990; November 1, 1984.

**10A NCAC 71R .0907 FOSTER CARE SERVICES FOR CHILDREN**

(a) Primary Service. Foster care services for children means social casework services through which a plan for substitute care appropriate to a child's needs is evaluated, arranged, maintained and supervised either in the home of a court approved relative or in a licensed or a court approved home or facility when neither of the child's parents are able to care for him/her in an environment free of neglect or abuse. Services include the following:

- (1) Diagnostic study and evaluation, and medical examinations when not otherwise available, to determine the appropriate plan for service and type of placement to meet the child's needs;
- (2) Preparation of the child and natural family for the separation and placement;
- (3) Supervision of the care of the child and of the foster care facility to assure that the child receives proper care during placement;
- (4) Provision of social casework and other treatment services to facilitate the child's

psychosocial adjustment and to assist the parents or other responsible relatives to improve conditions and enable the child to return to his/her own home;

- (5) Planning and providing services as necessary for the placement of the child in the home of other relatives, in an adoptive home or in continued foster care as appropriate;
- (6) Provision of casework services and supervision to a child and his/her family from the time the child is returned to the home of his/her parents to the time court action is completed returning legal custody of the child to the parents;
- (7) Foster care services includes identifying children who require placement across state lines, ensuring that such placements are in environments with persons or caretaking facilities having licenses and effecting such placements pursuant to the interstate compact on the placement of children; and
- (8) At county option, the provision of legal services to facilitate permanent planning for a child.

(b) "Placement" pursuant to the interstate laws means the arrangement for the care of a child in either a family or foster care facility but does not include any medical facility or facility licensed under standards adopted by the North Carolina Division of Mental Health, Developmental Disabilities, and Substance Abuse Services. Services include the following:

- (1) Ongoing supervision;
- (2) Recruitment study and development of foster families and child care facilities, assessment and periodic reassessment to determine if the home or facility meets the needs of children it serves; and
- (3) Consultation, technical assistance, and training to assist foster families and care facilities to expand and improve the quality of care provided.

(c) Components. Counties may choose between:

- (1) The provision by a foster family home of services which meet the special needs of children in that home; and
- (2) Basic foster care.

(d) Resource Items. At county option, the agency may pay for resource items to support the child's participation in school. Resource items include supplies, special clothes, and fees for membership in school sponsored extracurricular activities.

(e) Target Population. The target population is children in need of a supervised plan of substitute care.

*History Note: Authority G.S. 143B-153;*

*Eff. February 8, 1977;*

*Amended Eff. October 1, 1981; October 1, 1979; July 1, 1979; October 1, 1978;*

*Transferred from T10.43D .0211 Eff. July 1, 1983;*

*Amended Eff. November 1, 2007; May 1, 1990; July 1, 1984.*

## **10A NCAC 71R .0908 HEALTH SUPPORT SERVICES**

(a) Primary Service. Health support services means helping individuals and families to:

- (1) Recognize health needs including those related to alcohol and drug abuse;
- (2) Cope with incapacities and limited functioning resulting from aging or disability; and
- (3) Choose, obtain and use resources and mechanisms of support under Medicaid (including the early and periodic screening, diagnosis and treatment program), medicare, maternal and child health programs and from other public or private agencies or providers of health services;
- (4) Receive counseling and planning for the individuals, families and health providers to help assure continuity of treatment and the carrying out of health recommendations;
- (5) Secure admission to medical institutions and children to secure admission to other health-related facilities as needed; and family planning services as described in Paragraph (b) of this Rule; and
- (6) At county option, receive transportation, when not otherwise available as necessary to access needed medical and health care resources.

(b) Components. There are two components to Health Support Services:

- (1) The Primary Service as described in Paragraph (a) of this Rule; and
- (2) Family planning services to enable individuals and families to voluntarily limit the family size or to space the children, and to prevent or reduce the incidence of births out of wedlock. Such services include educational activities, the provision of printed materials, counseling about family planning and genetics, help in utilizing medical and educational services available in the community, and educational services in human sexuality appropriate to an individual's emotional and social adjustment and physical development.

(c) Optional Resource Items.

- (1) Medical Services. An agency may pay for medical services for nontherapeutic sterilization for individuals who are recipients of, Work First Family Assistance, SSI, or protective services or whose family income is less than 80 percent of the Federal Poverty Guidelines as provided annually in the Federal Register by the U.S. Department of Health and Human Services (HHS).
- (2) Resources for the Aging or Persons with Disabilities. At county option the agency may provide any combination of the following resource items to enable the aging or persons with disabilities to attain or maintain the highest level of functioning possible, to

promote their well-being and to prevent or reduce inappropriate institutional care:

- (A) Assistance with communication to enable individuals to utilize needed health and medical resources and other community services and resources through the provision of interpreters for the deaf and the provision of telephones when not otherwise available for the aging, disabled, or handicapped who are alone and homebound, or who have a health or medical condition which necessitates ready access to or frequent use of a telephone in their home.
- (B) Mobility assistance for aging and disabled persons, through the installation of ramps, rails and other safety measures at the individual's home and the provision of escort service to health facilities and other needed resources for individuals unable to travel or wait alone.
- (C) Arranging for or providing friendly visitors or companions for part of a day to assist individuals who, because of frailty, physical or mental disability or social isolation, have limited contacts with other people.
- (D) Provision of special health needs and supplies such as ostomy supplies, oxygen, bandages, orthopedic and other appliances needed by aging and disabled individuals in their own homes and not available through Medicaid, Medicare or resources without cost.

(d) Target Population: The target population includes:

- (1) individuals or families experiencing health related problems;
- (2) for the family planning component, individuals (male or female) who are of age to produce children.

*History Note: Authority G.S. 143B-153;*

*Eff. February 8, 1977;*

*Amended Eff. March 1, 1983; September 1, 1982; March 1, 1982; October 1, 1979;*

*Transferred from T10.43D .0212 Eff. July 1, 1983;*

*Amended Eff. March 1, 1994; July 1, 1984;*

*Temporary Amendment Eff. October 21, 1996;*

*Amended Eff. November 1, 2007; July 1, 1998.*

#### **10A NCAC 71R .0916 PROTECTIVE SERVICES FOR CHILDREN**

(a) Primary Service. Protective services for children are social services provided to children and their parents or other caretakers in response to instances of actual or suspected child

neglect, abuse or dependency. The primary elements of protective services consist of:

- (1) Identifying children at risk;
- (2) Receiving and assessing reports of neglect, abuse or dependency;
- (3) Evaluating the degree of damage or risk to the child;
- (4) Cooperating with law enforcement agencies as required to obtain suitable care and services for children in or out of their own homes and initiation of court action where necessary;
- (5) Counseling and planning with the child's family toward the solution and prevention of problems causing neglect, abuse or dependency; and
- (6) Arranging for the provision of, and assisting families in utilizing appropriate services and community resources such as foster care, child care, health and mental health services, and homemaker services as needed. These services are included for runaways, harmed or threatened with harm by virtue of their status as runaways. Included also are service activities necessary to carry out statutory responsibility to approve or disapprove the separation of a child under six months of age from its parent. The county may provide counseling and therapy for children and their parents or guardians, training courses for parents or guardians of the individual child, and services of lawyers to represent the agency where court action is necessary to protect children.

(b) Components:

- (1) A component of protective services for children is the provision of medical, psychological and medicolegal diagnostic studies and evaluations where needed to substantiate, find services needed and assess the circumstances of abuse or neglect are included;
- (2) A component of protective services for children may be the provision of emergency shelter, at county option.

(c) Resource Items. There are no resource items.

(d) Target Population. The target population is children (birth through 17 years) in actual or suspected danger of child neglect, abuse, or dependency.

*History Note: Authority G.S. 143B-153;*

*Eff. February 8, 1977;*

*Amended Eff. October 1, 1979; October 1, 1977;*

*Transferred from T10.43D .0223 Eff. July 1, 1983;*

*Amended Eff. November 1, 2007; July 1, 1984; December 1, 1983.*

#### **10A NCAC 71V .0202 BENEFIT LEVELS**

Payments to a household shall not exceed six hundred dollars (\$600.00) in a state fiscal year. Counties may set lower

maximums in their annual business plans for operating Low Income Home Energy Assistance Programs. Assistance shall be based upon the needs of the community, the severity of the crisis and the services needed.

*History Note: Authority G.S. 108A-25; 143B-153;  
Temporary Regulation Eff. November 24, 1981, for a period of 38 Days to Expire on January 1, 1982;  
Eff. January 1, 1982;  
Amended Eff. March 1, 1992; August 1, 1985;  
Temporary Amendment Eff. March 13, 2000; August 24, 1998;  
Amended Eff. November 1, 2007; April 1, 2001; July 1, 2000.*

## **TITLE 12 – DEPARTMENT OF JUSTICE**

### **12 NCAC 07D .0203 RENEWAL OR RE-ISSUE OF LICENSES AND TRAINEE PERMITS**

(a) Each applicant for a license or trainee permit renewal shall submit an original and one copy of a renewal form. This form shall be submitted to the administrator not less than 30 days prior to expiration of the applicant's current license or trainee permit and shall be accompanied by:

- (1) a head and shoulders color photograph of the applicant of a quality sufficient for identification, one inch by one inch in size and taken within six months of the application;
- (2) statements of the result of a local criminal history records search by the city-county identification bureau or clerk of superior court in each county where the applicant has resided within the immediate preceding 12 months; and
- (3) the applicant's renewal fee; and
- (4) proof of liability insurance as set out in G.S. 74C-10(e).

(b) If a licensee in good standing with the Board has maintained a license at least two years and then allows the license to expire, the license may be re-issued if application is made within three years of the expiration date and the following documentation is submitted to the Board:

- (1) an Application For Reinstatement of an Expired License;
- (2) one set of classifiable fingerprints on an applicant fingerprint card;
- (3) one head and shoulders photograph(s) of the applicant of a quality sufficient for identification, one inch by one inch in size and taken within six months of the application;
- (4) statements of the result of a local criminal history records search by the city-county identification bureau or clerk of superior court in each county where the applicant has resided within the immediate preceding 60 months;
- (5) the applicant's non-refundable application fee;
- (6) proof of liability insurance as set out in G.S. 74C-10(e); and

- (7) a separate check or money order made payable to the State Bureau of Investigations to cover criminal record checks performed by the State Bureau of Investigations.

*History Note: Authority G.S. 74C-5; 74C-8; 74C-9;  
Eff. June 1, 1984;  
Amended Eff. November 1, 2007; January 4, 1994; July 1, 1987;  
December 1, 1985.*

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### **12 NCAC 09B .0202 RESPONSIBILITIES OF THE SCHOOL DIRECTOR**

(a) In planning, developing, coordinating, and delivering each Commission-certified criminal justice training course, the School Director shall:

- (1) Formalize and schedule the course curriculum in accordance with the curriculum standards established in this Subchapter. The "Criminal Justice Instructor Training Course" shall be presented with 40 hours of instruction each week during consecutive calendar weeks until course requirements are completed;
- (2) Select and schedule instructors who are certified by the Commission;
- (3) Provide each instructor with a current Commission course outline and all necessary additional information concerning the instructor's duties and responsibilities;
- (4) Review each instructor's lesson plans and other instructional materials for conformance to Commission standards and to minimize repetition and duplication of subject matter;
- (5) Arrange for the timely availability of appropriate audiovisual aids and materials, publications, facilities, and equipment for training in all topic areas;
- (6) Develop, adopt, reproduce, and distribute any supplemental rules, regulations, and requirements determined by the school to be necessary or appropriate for:
  - (A) effective course delivery;
  - (B) establishing responsibilities and obligations of agencies or departments employing or sponsoring course trainees; and
  - (C) regulating trainee participation and demeanor and ensuring trainee attendance and maintaining performance records.
- (7) If appropriate, recommend housing and dining facilities for trainees;
- (8) Administer the course delivery in accordance with Commission rules, give consideration to advisory guidelines issued by the Commission, and ensure that the training offered is safe and effective;

- (9) Maintain direct supervision, direction, and control over the performance of all persons to whom any portion of the planning, development, presentation, or administration of a course has been delegated; and
- (10) Report the completion of each presentation of a Commission-certified criminal justice training course to the Commission.

(b) In addition to Paragraph (a) of this Rule, in planning developing, coordinating and delivering each Commission-certified Basic Law Enforcement Training Course, the School Director shall:

- (1) Schedule course presentation to include 12 hours of instruction each week during consecutive calendar weeks except that there may be as many as three one-week breaks until course requirements are completed;
- (2) Schedule only those instructors certified by the Commission to teach those high liability areas as specified in 12 NCAC 09B .0304(a) as either the lead instructor or in any other capacity;
- (3) With the exception of the First Responder, Physical Fitness, Electrical and Hazardous Materials, and topical areas as outlined in 12 NCAC 09B .0304(a) of this Subchapter, schedule one specialized certified instructor for each six trainees while actively engaged in a practical performance exercise;
- (4) Schedule one specialized certified instructor for each eight trainees while actively engaged in a practical performance exercise in the topical area "Subject Control Arrest Techniques;"
- (5) Not schedule any single individual to instruct more than 35 percent of the total hours of the curriculum during any one delivery of the Basic Law Enforcement Training Course presentation;
- (6) Not less than 15 days before commencing delivery of the Basic Law Enforcement Training Course, submit to the Commission a Pre-Delivery Report of Training Course Presentation as set out in 12 NCAC 09C .0211 along with the following attachments:

- (A) a course schedule showing arrangement of topical presentations and proposed instructional assignments.
- (B) a copy of any rules, regulations, and requirements for the school. A copy of such rules shall also be given to each trainee and to the executive officer of each trainee's employing or sponsoring agency or department at the time the trainee enrolls in the course.

The Director of the Standards Division shall review the submitted Pre-Delivery Report

- (7) together with all attachments and notify the School Director of any apparent deficiency; Monitor, or designate a certified instructor to monitor, the presentations of all instructors once during each three year certification period in each topic taught by the instructor and prepare written evaluations on their performance and suitability for subsequent instructional assignments. The observations shall be of sufficient duration to ensure the instructor is using the Instructional System Design model, and that the delivery is objective based, documented by and consistent with a Commission-approved lesson plan. For each topic area, the School Director's evaluation shall be based upon the course delivery observations, the instructor's use of the approved lesson plan, and the results of the student evaluation of the instructor. For probationary instructors, these evaluations shall be prepared on Commission forms and forwarded to the Commission. Based on this evaluation, the School Director shall recommend approval or denial of requests for General Instructor Certification. For all other instructors, these evaluations shall be prepared on Commission forms in accordance with Commission standards as set out in this Chapter. These evaluations shall be kept on file by the school for a period of three years and shall be made available for inspection by a representative of the Commission upon request. In the event the evaluation of an instructor indicates that his or her performance was less than acceptable, the School Director shall forward a copy of the evaluation to the Commission. Any designated certified instructor who is evaluating the instructional presentation of another instructor shall hold certification in the same instructional topic area as that for which the instructor is being evaluated;
- (8) Administer or designate a staff person to administer appropriate tests as determined necessary at various intervals during course delivery:
  - (A) to determine and record the level of trainee comprehension and retention of instructional subject- matter;
  - (B) to provide a basis for a final determination or recommendation regarding the minimum degree of knowledge and skill of each trainee to function as an inexperienced law enforcement officer; and
  - (C) to determine subject or topic areas of deficiency for the application of 12 NCAC 09B .0405(a)(3);

- (9) During a delivery of Basic Law Enforcement Training, make available to the Commission four hours of scheduled class time and classroom facilities for the administration of a written examination to those trainees who have satisfactorily completed all course work; and
  - (10) Not more than 10 days after receiving from the Commission's representative the Report of Examination Scores, submit to the Commission a Post-Delivery Report of Training Course Presentation (Form F-10B) which includes:
    - (A) a "Student Course Completion" form for each individual enrolled on the day of orientation.
    - (B) a "Certification and Test Score Release" form.
- (c) In addition to Paragraph (a) of this Rule, in planning, developing, coordinating and delivering each Commission-certified "Criminal Justice Instructor Training Course" the School Director shall:
- (1) Schedule course presentation to include 40 hours of instruction each week during consecutive calendar weeks until course requirements are completed;
  - (2) Schedule at least one evaluator for each six trainees, and ensure that each evaluator meets the following requirements:
    - (A) no evaluator shall be assigned more than six trainees during a course delivery.
    - (B) each evaluator, as well as the instructors, must have successfully completed a Commission-certified instructor training course or an equivalent instructor training course utilizing the Instructional Systems Design model, an international model with applications in education, military training, and private enterprise; and
    - (C) each instructor and evaluator must document successful participation in a program presented by the Justice Academy for purposes of familiarization and supplementation relevant to delivery of the instructor training course and trainee evaluation.
  - (3) Not less than 30 days before commencing delivery of the course, submit to the Commission a Pre-Delivery Report of Training Course Presentation [Form F-10A(ITC)] with the following attachments:
    - (A) a course schedule showing arrangement of topical presentations and proposed instructional assignments;
    - (B) the names and social security numbers of all instructors and evaluators; and
    - (C) a copy of any rules, regulations, and requirements for the school.
- The Director of the Standards Division shall review the submitted Pre-Delivery Report together with all attachments and notify the School Director of any apparent deficiency.
- (4) Not more than 10 days after course completion, submit to the Commission a Post-Delivery Report [Form F-10B(ITC)] containing the following:
    - (A) class enrollment roster;
    - (B) a course schedule with designation of instructors and evaluators utilized in delivery;
    - (C) scores recorded for each trainee on both the 80 minute skill presentation and the final written examination; and
    - (D) designation of trainees who successfully completed the course in its entirety and whom the School Director finds to be competent to instruct.
- (d) In addition to Paragraph (a) of this Rule, in planning, developing, coordinating and delivering each Commission-certified radar, radar and time-distance, time-distance, or lidar speed measurement operator training course or re-certification course, the School Director shall:
- (1) select and schedule radar, time-distance, or lidar speed measurement instrument instructors who are certified by the Commission as instructors for the specific speed measurement instruments in which the trainees are to receive instruction. The School Director shall:
    - (A) provide to the instructor the Commission form(s) for motor-skill examination on each trainee;
    - (B) require the instructor to complete the motor-skill examination form on each trainee indicating the level of proficiency obtained on each specific instrument; and
    - (C) require each instructor to sign each individual form and submit the original to the School Director.
  - (2) not less than 30 days before the scheduled starting date submit to the Director of the Standards Division a Request for Training Course Presentation. The request shall contain a period of course delivery including the proposed starting date, course location and the number of trainees to be trained in each type of approved speed-measurement instrument. The Director of the Standards Division shall review the request and notify the School Director of the accepted delivery period unless

- a conflict exists with previously scheduled programs.
- (3) during the delivery of the training course, make available to the Commission two hours of scheduled class time and classroom facilities for the administration of a written examination to the trainee; and
  - (4) upon completing delivery of the Commission-certified course, and not more than 10 days after receiving from the Commission's representative the Report of Examination Scores, notify the Commission regarding the progress and achievements of each trainee by submitting a Post-Delivery Report of Training Course Presentation. This report shall include the original motor-skill examination form(s) completed and signed by the certified instructor responsible for administering the motor-skill examination to the respective trainee.

*History Note: Authority G.S. 17C-6;  
Eff. January 1, 1981;  
Amended Eff. November 1, 1981;  
Readopted w/change Eff. July 1, 1982;  
Amended Eff. November 1, 2007; January 1, 2006; May 1, 2004;  
August 1, 2000; January 1, 1996; November 1, 1993; December 1, 1987; January 1, 1985.*

**12 NCAC 09B .0211 TIME-DISTANCE INSTRUCTOR TRAINING COURSE**

- (a) The time-distance instructor training course shall be designed to provide the trainee with the skills and knowledge to proficiently perform the function of a time-distance instructor. This course shall be for a period not to exceed eight consecutive weeks.
- (b) Each applicant for the time-distance speed measurement instrument instructor training course shall meet the requirements of 12 NCAC 09B .0210(c)(1) and (2) and 12 NCAC 09B .0309. The time-distance instructor training course required for time-distance instructor certification shall include the topic areas and minimum number of hours as outlined in the Time-Distance Instructor Training Course. To qualify for time-distance instructor certification, an applicant shall meet the requirements as outlined in the Time-Distance Instructor Training Course and meet the requirement of 12 NCAC 09B .0408 and .0409.
- (c) The "Time-Distance Instructor Training Course" as published by the North Carolina Justice Academy shall be applied as basic curriculum for the criminal justice time-distance speed measurement instrument instructor training course for time-distance speed measurement instructors as administered by the Commission. Copies of this publication may be inspected at the office of the agency:

Criminal Justice Standards Division  
North Carolina Department of Justice  
114 West Edenton Street  
Old Education Building  
Post Office Drawer 149  
Raleigh, North Carolina 27602

and may be obtained at cost from the Academy at the following address:

North Carolina Justice Academy  
Post Office Box 99  
Salemberg, North Carolina 28385

- (d) Commission-certified schools that are certified to offer the "Time Distance Instructor Training Course" are: The North Carolina Justice Academy.

*History Note: Authority G.S. 17C-6;  
Eff. November 1, 1981;  
Readopted w/change Eff. July 1, 1982;  
Amended Eff. November 1, 2007; April 1, 1999; November 1, 1998; November 1, 1993; July 1, 1989; February 1, 1987;  
August 1, 1984.*

**12 NCAC 09B .0215 SUPPLEMENTAL SMI TRAINING**

- (a) The supplemental speed measuring instrument (SMI) training course for law enforcement officers shall be designed to allow officers an opportunity to be certified on additional speed measurement instruments not included on the officers' initial speed measurement instrument certification. The course shall be designed to provide the trainee with the skills and knowledge to proficiently perform those tasks essential to function as an instructor or operator using the additional speed measuring instrument(s).
- (b) Each applicant for supplemental speed measuring instrument training shall:

- (1) possess a valid radar, time-distance, or lidar speed measuring instrument instructor or operator certification as a result of successful completion of 12 NCAC 09B .0210, .0211, .0212, .0213, .0214, .0237, .0238, .0242, or .0244;
- (2) present the endorsement of a Commission-recognized school director or agency executive officer or his designee.

- (c) The supplemental SMI training course required for certification on the additional instrument(s) shall include the topic areas and number of hours as outlined in the Supplemental SMI Training Course. To qualify for certification on the additional instrument(s) an applicant shall meet the requirements as outlined in the Supplemental SMI Training Course and meet the requirements of 12 NCAC 09B .0409.
- (d) Certification as instructor or operator of the additional speed measuring instruments shall expire on midnight of the date of expiration of the instructor or operator certification referred to in 12 NCAC 09B .0215(b) and .0310(a).

- (e) The "Supplemental SMI Training Course" as published by the North Carolina Justice Academy shall be applied as basic curriculum for the supplemental SMI training course for SMI instructors or operators as administered by the Commission. Copies of this publication may be inspected at the office of the agency:

Criminal Justice Standards Division  
North Carolina Department of Justice  
114 West Edenton Street  
Post Office Drawer 149



Raleigh, North Carolina 27602  
and may be obtained at cost from the Academy at the following address:

North Carolina Justice Academy  
Post Office Box 99  
Salemberg, North Carolina 28385

(f) Commission-certified schools that are certified to offer the "Supplemental SMI Training Course" for Instructors are: The North Carolina Justice Academy.

*History Note: Authority G.S. 17C-6;  
Eff. November 1, 1981;  
Readopted Eff. July 1, 1982;  
Amended Eff. November 1, 2007; May 1, 2004; August 1, 2002;  
April 1, 1999.*

**12 NCAC 09B .0218 RE-CERTIFICATION TRAINING FOR RADAR INSTRUCTORS**

(a) The radar instructor re-certification training course shall be designed to provide the instructor with the skills and knowledge to continue to proficiently perform the function of a criminal justice radar instructor. This course shall be presented within a period not to exceed one week.

(b) Each applicant for a radar instructor re-certification course shall:

- (1) possess criminal justice general instructor certification as required in 12 NCAC 09B .0302;
- (2) have been certified as a radar instructor within the three years preceding the completion date of the re-certification course.

(c) The radar instructor re-certification training course required for radar instructor re-certification shall include the topic areas and minimum number of hours as outlined in the Radar Instructor Training Course. To qualify for radar instructor re-certification, an applicant shall meet the requirements as outlined in the Radar Instructor Training Course and meet the requirements of 12 NCAC 09B .0408 and .0409.

(d) The "Radar Instructor Training Course" as published by the North Carolina Justice Academy is to be applied as basic curriculum for the radar instructor re-certification training course for radar instructors as administered by the Commission. Copies of this publication may be inspected at the office of the agency:

Criminal Justice Standards Division  
North Carolina Department of Justice  
114 West Edenton Street  
Post Office Drawer 149

Raleigh, North Carolina 27602

and may be obtained at cost from the Academy at the following address:

North Carolina Justice Academy  
Post Office Box 99  
Salemberg, North Carolina 28385

(e) Commission-accredited schools that are accredited to offer the "Radar Instructor Re-Certification Training Course" are: The North Carolina Justice Academy.

*History Note: Authority G.S. 17C-6;  
Eff. July 1, 1983;*

*Amended Eff. November 1, 2007; April 1, 1999; July 1, 1989;  
February 1, 1987.*

**12 NCAC 09B .0219 RE-CERTIFICATION TRAINING FOR TIME-DISTANCE INSTRUCTORS**

(a) The time-distance instructor re-certification training course shall be designed to provide the instructor with the skills and knowledge to continue to proficiently perform the function of a criminal justice time-distance instructor. This course shall be presented within a period not to exceed one week.

(b) Each applicant for the time-distance instructor re-certification course shall:

- (1) Meet the requirements of 12 NCAC 09B .0218(b) and shall have successfully completed the re-certification courses of 12 NCAC 09B .0218(c).
- (2) Have been certified as a time-distance instructor within the three years preceding the completion date of the re-certification course.

(c) The time-distance instructor re-certification training course required for time-distance instructor re-certification shall include the topic areas and minimum number of hours as outlined in the Time-Distance Instructor Training Course. To qualify for time-distance instructor re-certification, an applicant shall meet the requirements as outlined in the Time-Distance Instructor Training Course and meet the requirements of 12 NCAC 09B .0408 and .0409.

(d) The "Time-Distance Instructor Training Course" as published by the North Carolina Justice Academy shall be applied as basic curriculum for the time-distance instructor re-certification training course for time-distance instructors as administered by the Commission. Copies of this publication may be inspected at the office of the agency:

Criminal Justice Standards Division  
North Carolina Department of Justice  
114 West Edenton Street  
Post Office Drawer 149  
Raleigh, North Carolina 27602

and may be obtained at cost from the Academy at the following address:

North Carolina Justice Academy  
Post Office Box 99  
Salemberg, North Carolina 28385

(e) Commission-certified schools that are certified to offer the "Time-Distance Instructor Re-Certification Training Course" are: The North Carolina Justice Academy.

*History Note: Authority G.S. 17C-6;  
Eff. July 1, 1983;  
Amended Eff. November 1, 2007; April 1, 1999; July 1, 1989;  
February 1, 1987.*

**12 NCAC 09B .0220 RE-CERTIFICATION COURSE FOR RADAR OPERATORS**

(a) The radar operator re-certification training course shall be designed to provide the law enforcement officer with the skills and knowledge to continue to proficiently perform the function of a radar operator. This course shall be presented within a period not to exceed one week.

(b) Each applicant for a radar operator re-certification course shall meet the requirements of 12 NCAC 09C .0308(c) and (d).

(c) Federal law enforcement personnel shall be allowed to participate in radar operator re-certification courses at the discretion of the school director without meeting the requirements specified in 12 NCAC 09B .0220(b), but such personnel must have successfully completed one introductory level speed measurement instrument course that included instruction on operation of radar instruments. Courses that meet this requirement are described in 09B .0212, .0213, .0242, and .0244.

(d) The radar operator re-certification training course required for radar operator re-certification shall include the topic areas and number of hours as outlined in the Radar Operator Training Course. To qualify for radar operator re-certification, an applicant shall meet the requirements as outlined in the Radar Operator Training Course and meet the requirements of 12 NCAC 09B .0408 and .0409.

(e) The "Radar Operator Training Course" as published by the North Carolina Justice Academy shall be applied as basic curriculum for the radar operator re-certification training course for radar operators as administered by the Commission. Copies of this publication may be inspected at the office of the agency:

Criminal Justice Standards Division  
North Carolina Department of Justice  
114 West Edenton Street  
Post Office Drawer 149  
Raleigh, North Carolina 27602

and may be obtained at cost from the Academy at the following address:

North Carolina Justice Academy  
Post Office Box 99  
Salemberg, North Carolina 28385

*History Note: Authority G.S. 17C-6;*

*Eff. October 1, 1983;*

*Temporary Amendment Eff. February 24, 1984 for a period of 120 days to expire on June 22, 1984;*

*Amended Eff. November 1, 2007; April 1, 1999; November 1, 1993; August 1, 1984.*

#### **12 NCAC 09B .0221 RE-CERTIFICATION COURSE FOR RADAR/TIME-DISTANCE OPERATORS**

(a) The radar/time-distance operator re-certification training course shall be designed to provide the law enforcement officer with the skills and knowledge to continue to proficiently perform the function of a radar/time-distance operator. This course shall be presented within a period not to exceed one week.

(b) Each applicant for a radar and time-distance operator re-certification course shall meet the requirements of 12 NCAC 09C .0308(c) and (d).

(c) Federal law enforcement personnel shall be allowed to participate in radar and time-distance operator re-certification courses at the discretion of the school director without meeting the requirements specified in 12 NCAC 09B .0221(b), but such personnel must have successfully completed one or more introductory level speed measurement instrument courses that included instruction on operation of radar instruments and time-distance instruments. Courses that meet this requirement are

described in 12 NCAC 09B .0212, .0213, .0214, .0242, and .0244.

(d) The radar/time-distance operator re-certification training course required for radar/time-distance operator re-certification shall include the topic areas and number of hours as outlined in the Radar/Time-Distance Operator Training Course. To qualify for radar/time-distance operator re-certification, an applicant shall meet the requirements as outlined in the Radar/Time-Distance Operator Training Course and meet the requirements of 12 NCAC 09B .0408 and .0409.

(e) The "Radar/Time-Distance Operator Training Course" as published by the North Carolina Justice Academy shall be applied as basic curriculum for the radar/time-distance operator re-certification training course for radar/time-distance operators as administered by the Commission. Copies of this publication may be inspected at the office of the agency:

Criminal Justice Standards Division  
North Carolina Department of Justice  
114 West Edenton Street  
Post Office Drawer 149  
Raleigh, North Carolina 27602

and may be obtained at cost from the Academy at the following address:

North Carolina Justice Academy  
Post Office Box 99  
Salemberg, North Carolina 28385

*History Note: Authority G.S. 17C-6;*

*Eff. October 1, 1983;*

*Amended Eff. November 1, 2007; April 1, 1999; November 1, 1993; August 1, 1984.*

#### **12 NCAC 09B .0222 RE-CERTIFICATION COURSE FOR TIME-DISTANCE OPERATORS**

(a) The time-distance operator re-certification training course shall be designed to provide the trainee with the skills and knowledge to continue to proficiently perform the function of a time-distance operator. This course shall be presented within a period not to exceed one week.

(b) Each applicant for a time-distance operator re-certification course shall meet the requirements of 12 NCAC 09C .0308(c) and (d).

(c) Federal law enforcement personnel shall be allowed to participate in time-distance operator re-certification courses at the discretion of the school director without meeting the requirements specified in 12 NCAC 09B .0222(b), but such personnel must have successfully completed one introductory level speed measurement instrument course that included instruction on operation of time-distance instruments. Courses that meet this requirement are described in 12 NCAC 09B .0213, .0214, .0242, and .0244.

(d) The time-distance operator re-certification training course required for time-distance operator re-certification shall include the topic areas and number of hours as outlined in the Time-Distance Operator Training Course. To qualify for time-distance operator re-certification, an applicant shall meet the requirements as outlined in the Time-Distance Operator Training Course and meet the requirements of 12 NCAC 09B .0408 and .0409.

(e) The "Time-Distance Operator Training Course" as published by the North Carolina Justice Academy shall be applied as basic curriculum for the time-distance operator re-certification training course for time-distance operators as administered by the Commission. Copies of this publication may be inspected at the office of the agency:

Criminal Justice Standards Division  
North Carolina Department of Justice  
114 West Edenton Street  
Post Office Drawer 149  
Raleigh, North Carolina 27602

and may be obtained at cost from the Academy at the following address:

North Carolina Justice Academy  
Post Office Box 99  
Salemberg, North Carolina 28385

*History Note: Authority G.S. 17C-6;*

*Eff. October 1, 1983;*

*Amended Eff. November 1, 2007; April 1, 1999; November 1, 1993; July 1, 1989; August 1, 1984.*

## **12 NCAC 09B .0237 LIDAR INSTRUCTOR TRAINING COURSE**

(a) The Lidar Instructor Training Course shall be designed to provide the trainee with the skills and knowledge to proficiently perform the function of a lidar instructor. This course shall be for a period not to exceed six consecutive weeks.

(b) The Lidar Instructor Training Course required for lidar instructor certification shall include the topic areas and number of hours as outlined in the Lidar Instructor Training Course. To qualify for lidar instructor certification, an applicant shall meet the requirements as outlined in The Lidar Instructor Training Course and meet the requirements of 12 NCAC 09B .0408 and .0409.

(c) Each applicant for lidar instructor training shall:

- (1) Present the endorsement of a Commission-recognized school director or agency executive officer or his designee.
- (2) Possess full criminal justice General Instructor Certification as required in 12 NCAC 09B .0302.
- (3) Possess a current and valid lidar operator certification.

(d) The "Lidar Instructor Training Course" as published by the North Carolina Justice Academy shall be applied as basic curriculum for the lidar instructor training course for lidar instructors as administered by the Commission. Copies of this publication may be inspected at the office of the agency:

Criminal Justice Standards Division  
North Carolina Department of Justice  
114 West Edenton Street  
Old Education Building  
Post Office Drawer 149  
Raleigh, North Carolina 27602

and may be obtained at cost from the Academy at the following address:

North Carolina Justice Academy  
Post Office Box 99

Salemberg, North Carolina 28385

(e) Commission-certified schools that are certified to offer the Lidar Instructor Training Course are: The North Carolina Justice Academy.

*History Note: Authority G.S. 17C-6;*

*Eff. May 1, 2004;*

*Amended Eff. November 1, 2007.*

## **12 NCAC 09B .0238 CERTIFICATION TRAINING FOR LIDAR OPERATORS**

(a) The Lidar Operator Training Course for law enforcement officers shall be designed to provide the trainee with the skills and knowledge to proficiently perform the function of a law enforcement lidar operator. This course shall be for a period not to exceed four consecutive weeks.

(b) Only employed or appointed personnel of a law enforcement agency shall be enrolled in the Lidar Operator Training Course. Such a trainee shall not be certified as a lidar operator until the Basic Law Enforcement Training Course has been successfully completed and probationary or general law enforcement certification has been granted. Sheriffs, deputy sheriffs and federal law enforcement personnel, including armed forces personnel, shall be allowed to participate in lidar operator training courses on a space available basis at the discretion of the school director without having enrolled in or having successfully completed the Basic Law Enforcement Training Course and without being currently certified in a probationary status or holding general law enforcement certification. The Lidar Operator Training Course required for lidar operator certification shall include the topic areas and number of hours as outlined in the Lidar Operator Training Course. To qualify for lidar operator certification, an applicant shall meet the requirements as outlined in the Lidar Operator Training Course and meet the requirements of 12 NCAC 09B .0408 and .0409.

(c) The "Lidar Operator Training Course" as published by the North Carolina Justice Academy shall be applied as basic curriculum for the Lidar Operator Training Course for lidar operators as administered by the Commission. Copies of this publication may be inspected at the office of the agency:

Criminal Justice Standards Division  
North Carolina Department of Justice  
114 West Edenton Street  
Old Education Building  
Post Office Drawer 149  
Raleigh, North Carolina 27602

and may be obtained at cost from the Academy at the following address:

North Carolina Justice Academy  
Post Office Box 99  
Salemberg, North Carolina 28385

*History Note: Authority G.S. 17C-6;*

*Eff. May 1, 2004;*

*Amended Eff. November 1, 2007.*

**12 NCAC 09B .0239 RE-CERTIFICATION TRAINING FOR LIDAR INSTRUCTORS**

(a) The Lidar Instructor Re-Certification Training Course shall be designed to provide the instructor with the skills and knowledge to continue to proficiently perform the function of a lidar instructor. This course shall be presented within a period not to exceed one week.

(b) Each applicant for a Lidar Instructor Re-Certification Training Course shall:

- (1) possess criminal justice General Instructor Certification as required in 12 NCAC 09B .0302; and
- (2) have been certified as a lidar instructor within the three years preceding the completion date of the re-certification training course.

(c) The Lidar Instructor Re-Certification Training Course required for lidar instructor re-certification shall include the topic areas and number of hours as outlined in the Lidar Instructor Training Course. To qualify for lidar instructor re-certification, an applicant shall meet the requirements as outlined in the Lidar Instructor Training Course and meet the requirements of 12 NCAC 09B .0408 and .0409.

(d) The "Lidar Instructor Training Course" as published by the North Carolina Justice Academy shall be applied as basic curriculum for the Lidar Instructor Re-Certification Training Course for lidar instructors as administered by the Commission. Copies of this publication may be inspected at the office of the agency:

Criminal Justice Standards Division  
North Carolina Department of Justice  
114 West Edenton Street  
Post Office Drawer 149  
Raleigh, North Carolina 27602

and may be obtained at cost from the Academy at the following address:

North Carolina Justice Academy  
Post Office Box 99  
Salemberg, North Carolina 28385

(e) Commission-certified schools that are certified to offer the Lidar Instructor Re-Certification Training Course are: The North Carolina Justice Academy.

*History Note: Authority G.S. 17C-6;  
Eff. May 1, 2004;  
Amended Eff. November 1, 2007.*

**12 NCAC 09B .0240 RE-CERTIFICATION TRAINING COURSE FOR LIDAR OPERATORS**

(a) The Lidar Operator Re-Certification Training Course shall be designed to provide the law enforcement officer with the skills and knowledge to continue to proficiently perform the function of a lidar operator. This course shall be presented within a period not to exceed one week.

(b) Each applicant for a Lidar Operator Re-Certification Training Course shall meet the requirements of 12 NCAC 09C .0308(c) and (d).

(c) Federal law enforcement personnel shall be allowed to participate in Lidar Operator Re-Certification Training Courses at the discretion of the school director without meeting the

requirements specified in 12 NCAC 09B .0238(b), but such personnel must have successfully completed one introductory level speed measurement instrument course that included instruction on operation of lidar instruments. Courses that meet this requirement are described in 09B.0238, .0242, and .0244.

(d) The Lidar Operator Re-Certification Training Course required for lidar operator re-certification shall include the topic areas and number of hours as outlined in the Lidar Operator Training Course. To qualify for lidar operator re-certification, an applicant shall meet the requirements as outlined in the Lidar Operator Training Course and meet the requirements of 12 NCAC 09B .0408 and .0409.

(e) The "Lidar Operator Training Course" as published by the North Carolina Justice Academy shall be applied as basic curriculum for the Lidar Operator Re-Certification Training Course for lidar operators as administered by the Commission. Copies of this publication may be inspected at the office of the agency:

Criminal Justice Standards Division  
North Carolina Department of Justice  
114 West Edenton Street  
Post Office Drawer 149  
Raleigh, North Carolina 27602

and may be obtained at cost from the Academy at the following address:

North Carolina Justice Academy  
Post Office Box 99  
Salemberg, North Carolina 28385

*History Note: Authority G.S. 17C-6;  
Eff. May 1, 2004;  
Amended Eff. November 1, 2007.*

**12 NCAC 09B .0242 CERTIFICATION TRAINING FOR RADAR/LIDAR OPERATORS**

(a) The radar/lidar operator training course for law enforcement officers shall be designed to provide the trainee with the skills and knowledge to proficiently perform the function of a radar and lidar operator. This course shall be for a period not to exceed four consecutive weeks.

(b) Only employed or appointed personnel of a law enforcement agency may be enrolled in the radar/lidar speed measurement instrument operator training course. Such a trainee shall not be certified as a radar and lidar speed measurement instrument operator until the basic law enforcement training course has been successfully completed and probationary or general law enforcement certification has been granted. Sheriffs, deputy sheriffs, and federal law enforcement personnel, including armed forces personnel, shall be allowed to participate in a radar/lidar speed measurement instrument operator training courses on a space available basis at the discretion of the school director without having enrolled in or having successfully completed the basic law enforcement training course and without being currently certified in a probationary status or holding general law enforcement certification. The radar/lidar operator training course required for radar and lidar operator certification shall include the topic areas and number of hours as outlined in the Radar/Lidar Operator Training Course. To qualify for radar and lidar operator certification, an applicant shall meet the

requirements as outlined in the Radar/Lidar Operator Training Course and meet the requirements of 12 NCAC 09B .0408 and .0409.

(c) The "Radar/Lidar Operator Training Course" as published by the North Carolina Justice Academy shall be applied as basic curriculum for the radar/lidar operator training course for radar and lidar instrument operators as administered by the Commission. Copies of this publication may be inspected at the office of the agency:

Criminal Justice Standards Division  
North Carolina Department of Justice  
114 West Edenton Street  
Old Education Building  
Post Office Drawer 149  
Raleigh, North Carolina 27602

and may be obtained at cost from the Academy at the following address:

North Carolina Justice Academy  
Post Office Box 99  
Salemberg, North Carolina 28385

*History Note: Authority G.S. 17C-6;  
Eff. November 1, 2007.*

#### **12 NCAC 09B .0243 RE-CERTIFICATION TRAINING COURSE FOR RADAR/LIDAR OPERATORS**

(a) The Radar/Lidar Operator Re-Certification Training Course shall be designed to provide the law enforcement officer with the skills and knowledge to continue to proficiently perform the function of a radar and lidar operator. This course shall be presented within a period not to exceed one week.

(b) Each applicant for a Radar/Lidar Operator Re-Certification Training Course shall meet the requirements of 12 NCAC 09C .0308(c) and (d).

(c) Federal law enforcement personnel shall be allowed to participate in Radar/Lidar Operator Re-Certification Training Courses at the discretion of the school director without meeting the requirements specified in 12 NCAC 09B .0242(b), but such personnel must have successfully completed one or more introductory level speed measurement instrument courses that included instruction on operation of radar instruments and lidar instruments. Courses that meet this requirement are described in 12 NCAC 09B .0212, .0213, .0237, .0242, and .0244.

(d) The Radar/Lidar Operator Re-Certification Training Course required for radar and lidar operator re-certification shall include the topic areas and number of hours as outlined in the Radar/Lidar Operator Training Course. To qualify for radar and lidar operator re-certification, an applicant shall meet the requirements as outlined in the Radar/Lidar Operator Training Course and meet the requirements of 12 NCAC 09B .0408 and .0409.

(e) The "Radar/Lidar Operator Training Course" as published by the North Carolina Justice Academy shall be applied as basic curriculum for the Radar/Lidar Operator Re-Certification Training Course for radar and lidar operators as administered by the Commission. Copies of this publication may be inspected at the office of the agency:

Criminal Justice Standards Division  
North Carolina Department of Justice

114 West Edenton Street  
Post Office Drawer 149  
Raleigh, North Carolina 27602

and may be obtained at cost from the Academy at the following address:

North Carolina Justice Academy  
Post Office Box 99  
Salemberg, North Carolina 28385

*History Note: Authority G.S. 17C-6;  
Eff. November 1, 2007.*

#### **12 NCAC 09B .0244 CERTIFICATION TRAINING FOR RADAR/TIME-DISTANCE/LIDAR OPERATORS**

(a) The radar/time-distance/lidar operator training course for law enforcement officers shall be designed to provide the trainee with the skills and knowledge to proficiently perform the function of a radar, time-distance, and lidar operator. This course shall be for a period not to exceed four consecutive weeks.

(b) Only employed or appointed personnel of a law enforcement agency may be enrolled in the radar/time-distance/lidar speed measurement instrument operator training course. Such a trainee shall not be certified as a radar, time-distance, and lidar speed measurement instrument operator until the basic law enforcement training course has been successfully completed and probationary or general law enforcement certification has been granted. Sheriffs, deputy sheriffs, and federal law enforcement personnel, including armed forces personnel, shall be allowed to participate in radar, time-distance, and lidar speed measurement instrument operator training courses on a space available basis at the discretion of the school director without having enrolled in or having successfully completed the basic law enforcement training course and without being currently certified in a probationary status or holding general law enforcement certification. The radar/time-distance/lidar operator training course required for radar, time-distance, and lidar operator certification shall include the topic areas and number of hours as outlined in The Radar/Time-Distance/Lidar Operator Training Course. To qualify for radar, time-distance, and lidar operator certification, an applicant shall meet the requirements as outlined in The Radar/Time-Distance/Lidar Operator Training Course and meet the requirements of 12 NCAC 09B .0408 and .0409.

(c) The "Radar/Time-Distance/Lidar Operator Training Course" as published by the North Carolina Justice Academy shall be applied as basic curriculum for the radar/time-distance/lidar operator training course for radar, time-distance, and lidar instrument operators as administered by the Commission. Copies of this publication may be inspected at the office of the agency:

Criminal Justice Standards Division  
North Carolina Department of Justice  
114 West Edenton Street  
Old Education Building  
Post Office Drawer 149  
Raleigh, North Carolina 27602

and may be obtained at cost from the Academy at the following address:

North Carolina Justice Academy  
Post Office Box 99  
Salemberg, North Carolina 28385

*History Note:* Authority G.S. 17C-6;  
*Eff. November 1, 2007.*

**12 NCAC 09B .0245 RE-CERTIFICATION TRAINING  
COURSE FOR RADAR/TIME-DISTANCE/LIDAR  
OPERATORS**

(a) The Radar/Time-Distance/Lidar Operator Re-Certification Training Course shall be designed to provide the law enforcement officer with the skills and knowledge to continue to proficiently perform the function of a radar, time-distance, and lidar operator. This course shall be presented within a period not to exceed one week.

(b) Each applicant for a Radar/Time-Distance/Lidar Operator Re-Certification Training Course shall meet the requirements of 12 NCAC 09C .0308(c) and (d).

(c) Federal law enforcement personnel shall be allowed to participate in Radar/Time-Distance/Lidar Operator Re-Certification Training Courses at the discretion of the school director without meeting the requirements specified in 12 NCAC 09B .0243(b), but such personnel must have successfully completed one or more introductory level speed measurement instrument courses that included instruction on operation of radar instruments, time-distance instruments and lidar instruments. Courses that meet this requirement are described in 09B .0212, .0213, .0214, .0238, .0242, and .0244.

(d) The Radar/Time-Distance/Lidar Operator Re-Certification Training Course required for radar, time-distance, and lidar operator re-certification shall include the topic areas and number of hours as outlined in the Radar/Time-Distance/Lidar Operator Training Course. To qualify for radar, time-distance, and lidar operator re-certification, an applicant shall meet the requirements as outlined in the Radar/Time-Distance/Lidar Operator Training Course and meet the requirements of 12 NCAC 09B .0408 and .0409.

(e) The "Radar/Time-Distance/Lidar Operator Training Course" as published by the North Carolina Justice Academy shall be applied as basic curriculum for the Radar/Time-Distance/Lidar Operator Re-Certification Training Course for radar, time-distance, and lidar operators as administered by the Commission. Copies of this publication may be inspected at the office of the agency:

Criminal Justice Standards Division  
North Carolina Department of Justice  
114 West Edenton Street  
Post Office Drawer 149  
Raleigh, North Carolina 27602

and may be obtained at cost from the Academy at the following address:

North Carolina Justice Academy  
Post Office Box 99  
Salemberg, North Carolina 28385

*History Note:* Authority G.S. 17C-6;  
*Eff. November 1, 2007.*

**12 NCAC 09B .0303 TERMS AND CONDITIONS OF  
GENERAL INSTRUCTOR CERTIFICATION**

(a) An applicant meeting the requirements for certification as a general instructor shall, for the first 12 months of certification, be in a probationary status. The General Instructor Certification, Probationary Status, shall automatically expire 12 months from the date of issuance.

(b) The probationary instructor shall be eligible for full general instructor status, if the instructor through application at the end of the probationary period, submits to the Commission:

- (1) a favorable recommendation from a school director or in-service training coordinator accompanied by certification on a Commission Instructor Evaluation Form that the instructor successfully taught a minimum of 12 hours in a Commission-certified course or a Commission-recognized in-service training course during the probationary year. The results of the student evaluation of the instructor must be considered by the school director or in-service training coordinator when determining recommendation; or
- (2) a favorable written evaluation by a Commission or staff member, based on an on-site classroom evaluation of the probationary instructor in a Commission-certified course or a Commission-recognized in-service training course. Such evaluation shall be certified on a Commission Instructor Evaluation Form. In addition, instructors evaluated by a Commission or staff member must also teach a minimum of 12 hours in a Commission-certified training course or a Commission-recognized in-service training course.

(c) The term of certification as a general instructor is three years from the date the Commission issues the certification. The certification may subsequently be renewed by the Commission for three year periods. The application for renewal shall contain, in addition to the requirements listed in Rule .0302 of this Section, documentary evidence indicating that the applicant has remained active in the instructional process during the previous three year period. Such documentary evidence shall include proof that the applicant has, within the three year period preceding application for renewal, instructed a minimum of 12 hours in a Commission-certified training course or a Commission-recognized in-service training course; and either

- (1) a favorable written recommendation from a school director or in-service training coordinator completed on a Commission Renewal of Instructor and Professional Lecturer Certification Form that the instructor successfully taught a minimum of 12 hours in a Commission-certified training course or a Commission-recognized in-service training course during the three year period of general certification; or
- (2) a favorable evaluation by a Commission or staff member, based on an on-site classroom

evaluation of a presentation by the instructor in a Commission-certified training course or a Commission-recognized in-service training course, during the three year period of General Instructor Certification. In addition, instructors evaluated by a Commission or staff member must also teach a minimum of 12 hours in a Commission-certified training course or a Commission-recognized in-service training course.

(d) For Speed Measuring Instrument Instructors, the General Instructor Certification shall run concurrent with the Speed Measuring Instrument Instructor's certification. For the initial issuance of Speed Measuring Instrument Instructor certifications, the terms for the instructor's General Instructor certification shall automatically be reissued for a three year period determined by the certification period of the Speed Measuring Instrument Instructor certification. The general instructors are not required to submit documentation of having taught the minimum 12 hours during the period preceding the initial certification as specified in Paragraph (c) of this Rule. For the first renewal of Speed Measuring Instrument instructor certifications occurring after January 2006, the terms for the instructor's General Instructor certification shall automatically be reissued for a three year period determined by the certification period of the Speed Measuring Instrument Instructor certification. The general instructors are not required to submit documentation of having taught the minimum 12 hours during the period preceding the initial certification as specified in Paragraph (c) of this Rule. Once the General Instructor's certification becomes concurrent with the Speed Measuring Instrument certification, all instructors must meet the requirements in Subparagraph (c)(1) or (c)(2) of this Rule to be eligible for re-certification.

(e) All instructors shall remain active during their period of certification. If an instructor does not teach a minimum of 12 hours during the period of certification, the certification shall not be renewed, and the instructor shall file application for General Instructor Certification, Probationary Status. Such applicants shall meet the minimum requirements of Rule .0302 of this Section.

(f) The use of guest participants in a delivery of the Basic Law Enforcement Training Course is permissible. However, such guest participants are subject to the direct on-site supervision of a Commission-certified instructor and must be authorized by the school director. A guest participant shall only be used to complement the primary certified instructor of the block of instruction and shall in no way replace the primary instructor.

(g) For purposes of this Section, "Commission-recognized in-service training" shall mean any training for which the instructor is evaluated by a certified school director or in-service training coordinator on a Commission Instructor Evaluation Form. Such training shall be objective based and documented by lesson plans designed consistent with the Basic Law Enforcement Training format and documented by departmental training records to include required post-test and testing methodology. The signature of the school director on the Commission Instructor Evaluation Form shall verify compliance with this Rule.

*History Note: Authority G.S. 17C-6;*

*Eff. January 1, 1981;*

*Amended Eff. November 1, 2007; August 1, 2006; January 1, 2006; August 1, 2000; July 1, 1991; October 1, 1985; January 1, 1985; January 1, 1983.*

## **12 NCAC 09B .0305 TERMS AND CONDITIONS OF SPECIALIZED INSTRUCTOR CERTIFICATION**

(a) An applicant meeting the requirements for Specialized Instructor Certification shall be issued a certification to run concurrently with the existing General Instructor Certification, except as set out in (d). The applicant must apply for certification as a specialized instructor within 60 days from the date of completion of a specialized instructor course.

(b) The terms of certification as a specialized instructor is determined by the expiration date of the existing General Instructor Certification. The following requirements apply during the initial period of certification:

- (1) where certification for both general probationary instructor and Specialized Instructor Certification is issued on the same date, the instructor is required to satisfy the teaching requirement for only the general probationary instructor certification. The instructor may satisfy the teaching requirement for the general probationary instructor certification by teaching any specialized topic for which certification has been issued;
- (2) when Specialized Instructor Certification is issued during an existing period of General Instructor Certification, either probationary status or full general status, the specialized instructor may satisfy the teaching requirement for the general certification by teaching the specialized subject for which certification has been issued;
- (3) where Specialized Instructor Certification becomes concurrent with an existing 36 month period of General Instructor Certification, the instructor must teach 12 hours for each specialized topic for which certification has been issued.

(c) The term of certification as a specialized instructor shall not exceed the 36 month period of full General Instructor Certification. The application for renewal shall contain, in addition to the requirements listed in Rule .0304 of this Section, documentary evidence that the applicant has remained active in the instructional process during the previous three-year period. Such documentary evidence shall include the following:

- (1) proof that the applicant has, within the three year period preceding application for renewal, instructed at least 12 hours in each of the topics for which Specialized Instructor Certification was granted and such instruction must be in a Commission-accredited training course or a Commission-recognized in-service training course. Acceptable documentary evidence shall include official Commission

records submitted by School Directors or in-service training coordinators and written certification from a School Director or in-service training coordinator; and

- (2) proof that the applicant has, within the three year period preceding application for renewal, attended and successfully completed any instructor updates that have been issued by the Commission. Acceptable documentary evidence shall include official Commission records submitted by School Directors or In-Service Training Coordinators, or copies of certificates of completion issued by the institution which provided the instructor updates; and

- (3) either:
- (A) a favorable written recommendation from a School Director or In-Service Training Coordinator completed on a Commission Renewal of Instructor and Professional Lecturer Certification Form that the instructor successfully taught at least 12 hours in each of the topics for which Specialized Instructor Certification was granted. Such teaching must have occurred in a Commission-certified training course or a Commission-recognized in-service training course during the three year period of Specialized Instructor Certification; or
  - (B) a favorable evaluation by a Commission or staff member, based on an on-site classroom evaluation of a presentation by the instructor in a Commission-certified training course or a Commission-recognized in-service training course, during the three-year period of Specialized Instructor Certification. Such evaluation shall be certified on a Commission Instructor Evaluation Form. In addition, instructors evaluated by a Commission or staff member must also teach at least 12 hours in each of the topics for which Specialized Instructor Certification was granted.

Upon submission of the required documentation for renewal the Commission staff shall renew the certification as a Specialized Instructor. Such renewal shall occur at the time of renewal of the General Instructor certification.

- (d) Certification as a specialized instructor in the First Responder, Physical Fitness, Explosive and Hazardous Materials, and Juvenile Justice Medical Emergencies topical areas as outlined in Rule .0304(d)(1), (g)(2), (i)(1), and (j)(1) of

this Section, specifically those certifications not based upon General Instructor Certification, shall remain in effect for 36 months from the date of issuance. During the 36 month term all non-Commission certificates required in Rule .0304(d)(1), (g)(2), (i)(1), and (j)(1) for specialized instructor certification in the First Responder, Physical Fitness, Explosive and Hazardous Materials, and Juvenile Justice Medical Emergencies topical areas must be maintained.

(e) All instructors shall remain active during their period of certification. If an instructor does not teach at least 12 hours in each of the topic areas for which certification is granted, the certification shall not be renewed for those topics in which the instructor failed to teach. Any specialized instructor training courses previously accepted by the Commission for purposes of certification shall no longer be recognized if the instructor does not teach at least 12 hours in each of the specialized topics during the three year period for which certification was granted. Upon application for re-certification, such applicants shall meet the requirements of Rule .0304 of this Section.

(f) The use of guest participants in a delivery of the "Basic Law Enforcement Training Course" is permissible. However, such guest participants are subject to the direct on-site supervision of a Commission-certified instructor and must be authorized by the School Director. A guest participant shall only be used to complement the primary certified instructor of the block of instruction and shall in no way replace the primary instructor.

*History Note: Authority G.S. 17C-6;*

*Eff. January 1, 1981;*

*Amended Eff. November 1, 2007; January 1, 2006; December 1, 2004; August 1, 2004; August 1, 2000; July 1, 1991; July 1, 1989; December 1, 1987; February 1, 1987.*

## **12 NCAC 09B .0310 TERMS AND CONDITIONS – SMI INSTRUCTORS**

(a) The term of a Speed Measurement Instrument (SMI) instructor, which includes radar, time-distance, and lidar instructors, is three years from the date the Commission issues the certificate, unless sooner terminated by the Commission. The certificate may be renewed for subsequent three year periods. The SMI instructor desiring renewal shall:

- (1) Hold general instructor certification as required in 12 NCAC 09B .0303.
- (2) Have been active in the SMI classroom instructional process during the previous certification period.
- (3) Successfully complete a Commission-approved SMI instructor re-certification course as required in 12 NCAC 09B .0218, .0219, or .0239.

(b) All SMI instructors seeking re-certification shall successfully complete the re-certification course within 12 months from expiration of the initial certification period or re-certification period. If re-certification training is not obtained within the 12-month period, successful completion of the appropriate instructor training program as required in 12 NCAC 09B .0308 is required to obtain instructor certification. This prescribed 12-month period does not extend the instructor certification period.



*History Note: Authority G.S. 17C-6;*

*Eff. November 1, 1981;*

*Readopted Eff. July 1, 1982;*

*Amended Eff. November 1, 2007; April 1, 1999; November 1, 1993; February 1, 1991; July 1, 1989; December 1, 1987.*

**12 NCAC 09B .0408 COMPREHENSIVE WRITTEN EXAMINATION -- BASIC SMI CERTIFICATION**

(a) At the conclusion of the classroom instruction portion of a school's offering of any speed measurement instrument operator course or re-certification course, an authorized representative of the Commission shall administer to all candidates for certification as operators a comprehensive written examination.

(b) The examination shall be an objective test covering the topic areas contained in the certified course curriculum.

(c) The Commission's representative shall submit to the school director within five days of the administration of the examination a report of the results of the test for each candidate for certification.

(d) A trainee shall pass the operator training course as required in 12 NCAC 09B .0212, .0213, .0214, .0238, .0242, or .0244 by achieving 70 percent correct answers.

(e) An operator seeking recertification shall pass the operator training recertification course as specified in 12 NCAC 09B .0220, .0221, .0222, .0240, .0243, or .0245 by achieving 75 percent correct answers.

(f) A trainee who has fully participated in a scheduled delivery of a certified training course and has demonstrated 100 percent competence in each motor-skill or performance area of the course curriculum but has failed to achieve the prescribed score, as specified in Paragraph (d) of this Rule, on the Commission's comprehensive written examination may request the Director of the Standards Division to authorize a re-examination of the trainee.

(g) The trainee's request for re-examination shall be made in writing on the Commission's form and shall be received by the Standards Division within 30 days of the examination.

(h) The trainee's request for re-examination shall include the favorable recommendation of the school director who administered the course.

(i) A trainee shall have, within 90 days of the original examination, only one opportunity for re-examination and shall satisfactorily complete the subsequent examination in its entirety.

(j) The trainee shall be notified by the Standards Division staff of a place, time, and date for re-examination.

(k) If the trainee fails to achieve the prescribed minimum score on the re-examination, the trainee may not be recommended for certification and shall enroll and complete a subsequent course offering in its entirety before further examination may be permitted.

*History Note: Authority G.S. 17C-6;*

*Eff. November 1, 1981;*

*Readopted Eff. July 1, 1982;*

*Amended Eff. November 1, 2007; May 1, 2004; April 1, 1999; December 1, 1987; October 1, 1983; April 1, 1983.*

**12 NCAC 09B .0409 SATISFACTION OF TRAINING -- SMI OPERATORS**

(a) To satisfy the training requirements for operator certification, a trainee shall complete all of the following:

- (1) achieve a score of 70 percent correct answers on the comprehensive written examination, provided for in 12 NCAC 09B .0408(d).
- (2) demonstrate successful completion of a certified offering of courses as prescribed under 12 NCAC 09B .0212, .0213, .0214, .0215, .0238, .0242, or .0244 as shown by the certification of the school director.
- (3) demonstrate 100 percent proficiency in the motor-skill and performance subject areas as demonstrated to a certified Speed Measurement Instrument (SMI) instructor and further evidenced through documentation on the Commission's SMI forms and by the subscribing instructor's certification of trainee competence.
- (4) present evidence showing prior North Carolina certification in a Commission-certified operator training course as prescribed in 12 NCAC 09B .0212, .0213, .0214, .0238, .0242, .0244 or present evidence showing prior certification which meets or exceeds North Carolina certification, or present evidence showing completion of 16 hours of supervised field practice within 90 days after completing a Commission-certified radar operator training course as prescribed in 12 NCAC 09B .0212, .0213, .0242, .0244.

(b) Any trainee failing to achieve 100 percent proficiency in the motor-skill area may request written permission from the Director of the Standards Division for re-examination. The trainee's request for re-examination shall be made in writing and must be received by the Standards Division within 30 days of the original examination. The trainee's request for re-examination shall include the favorable recommendation of the school director who administered the course. A trainee shall have, within 90 days of the original examination, only one opportunity for motor-skill re-examination and must satisfactorily complete each identified area of deficiency on the original motor-skill examination. The trainee shall be notified by the Standards Division staff of a place, time and date for re-examination. If the trainee fails to achieve the prescribed score on the examination, the trainee shall not be recommended for certification and shall enroll and complete a subsequent course offering in its entirety before further examination may be permitted.

(c) To satisfy the training requirements for operator re-certification, an operator seeking re-certification shall:

- (1) Achieve a score of 75 percent correct answers on the comprehensive written examination provided for in 12 NCAC 09B .0408(e).
- (2) Demonstrate successful completion of a certified offering of courses as prescribed under 12 NCAC 09B .0218, .0219, .0220, .0221, .0222, .0239, .0240, .0243, or .0245 as

shown by the certification of the school director.

- (3) Satisfy all motor-skill requirements as required in Subparagraph (a)(3) of this Rule.

(d) At the time a trainee seeking operator re-certification fails to achieve the prescribed requirements on the comprehensive written examination as specified in 12 NCAC 09B .0409(c)(1), certification of the officer automatically and immediately terminates and that officer shall not be re-certified until successful completion of a subsequent course offering as prescribed under either 12 NCAC 09B .0212, .0213, .0214, .0238, .0242, or .0244 before further examination is permitted.

(e) At the time a trainee seeking operator re-certification fails to achieve the prescribed motor-skill requirements as specified in 12 NCAC 09B .0409(c)(3), certification of the officer automatically and immediately terminates and that officer shall not be re-certified until successful completion of the required motor-skill testing. Provided, however, such an officer may request re-examination as prescribed in Paragraph (b) of this Rule.

*History Note: Authority G.S. 17C-6;*

*Eff. November 1, 1981;*

*Readopted w/change Eff. July 1, 1982;*

*Amended Eff. November 1, 2007; May 1, 2004; April 1, 1999; December 1, 1987; August 1, 1984; October 1, 1983; April 1, 1983.*

#### **12 NCAC 09B .0416 SATISFACTION OF MINIMUM TRAINING -- SMI INSTRUCTOR**

(a) To acquire successful completion of the "Speed Measurement Instrument (SMI) Instructor Training Courses," and the "SMI Instructor Re-Certification Courses", the trainee shall:

- (1) satisfactorily complete all required course work as specified in Rules .0210, .0211, .0218, .0219, .0237, or .0239 of this Subchapter for the specific course in attendance; and
- (2) achieve a score of 75 percent correct answers on a Commission-administered comprehensive written examination.

(b) If the trainee passes the written examination but fails to meet the minimum criteria on an area of motor-skills testing, he/she shall be authorized one opportunity for a re-test. Such re-test must be at the recommendation of the school director and a request must be made to the Standards Division within 30 days of the original testing. Re-examination must be completed within 90 days of the original testing. Failure on the re-test requires enrollment in a subsequent SMI operator course and an SMI instructor course.

*History Note: Authority G.S. 17C-6; 17C-10;*

*Eff. February 1, 1987;*

*Amended Eff. November 1, 2007; April 1, 1999.*

#### **12 NCAC 09C .0308 SPEED MEASUREMENT INSTRUMENT (SMI) OPERATORS CERTIFICATION PROGRAM**

(a) Every person employed or appointed by the state or any political subdivision thereof as a law enforcement officer who uses a Speed Measuring Instrument for enforcement purposes shall hold certification from the Commission authorizing the officer to operate the speed measuring instrument.

(b) Standards Division staff shall issue certification in one of the following categories:

- (1) radar operator speed measurement instrument (SMI) certification or re-certification requiring successful completion of the training program as required in 12 NCAC 09B .0210, .0212, .0213, .0218, .0220, .0221, .0242, .0243, .0244, or .0245;
- (2) time-distance speed measurement instrument operator certification or re-certification requiring successful completion of the training program as required in 12 NCAC 09B .0211, .0213, .0214, .0219, .0221, .0222, .0244, or .0245;
- (3) lidar speed measurement instrument operator certification or re-certification requiring successful completion of the training program as required in 12 NCAC 09B .0237, .0238, .0239, .0240, .0242, .0243, .0244, or .0245.

(c) Certification in one or more categories reflects operational proficiency in the designated type(s) of approved equipment for which the trainee has been examined and tested. Such certification is for a three year period from the date of issue and re-certifications is for a three year period from the date of issue, unless sooner terminated by the Commission. The applicant shall meet the following requirements for operator certification or re-certification within 90 days of course completion and upon the presentation of documentary evidence showing that the applicant:

- (1) has successfully completed the training program as required in 12 NCAC 09B .0210, .0211, .0212, .0213, .0214, .0218, .0219, .0220, .0221, .0222, .0237, .0238, .0239, .0240, .0242, .0243, .0244, or .0245; and
- (2) has successfully completed a Commission-certified basic law enforcement training course as required in 12 NCAC 09B .0400 and is currently certified in a probationary status or holds general law enforcement certification; or
- (3) if the applicant is a sheriff, deputy sheriff, or other sworn appointee with arrest authority governed by the provisions of G.S. 17E has met and is in compliance with the employment and training standards as established and made effective for such position by the North Carolina Sheriffs' Education and Training Standards Commission.

(d) Certified operators shall be notified by the Commission not less than 90 days prior to expiration of certification. All applicants for re-certification shall successfully complete a Commission-approved re-certification course within 12 months from the expiration of the previous certification. If re-certification is not obtained within the 12 month period,

successful completion of the appropriate operator training programs as required by 12 NCAC 09B .0409(a) shall be required to obtain operator certification. This prescribed 12 month period shall not extend the operator certification period beyond its specified expiration date. When a re-certification course is successfully completed prior to the expiration of the previous certification, the new certification shall be issued by the Criminal Justice Standards Division effective upon the receipt of the Post-Delivery Report of Training Course Presentation.

(e) Operator re-certification shall be issued only to officers with current law enforcement certification.

(f) All certifications issued pursuant to this Rule and the standards in effect between November 1, 1981 and July 1, 1982 shall continue with full force and effect; however, said certifications are subject to the provisions of 12 NCAC 09C .0308(d) and (e).

*History Note: Authority G.S. 17C-6;*

*Eff. November 1, 1981;*

*Readopted w/change Eff. July 1, 1982;*

*Temporary Amendment Eff. February 24, 1984, for a period of 120 days to expire on June 22, 1984;*

*Amended Eff. November 1, 2007; February 1, 2006; May 1, 2004; April 1, 1999; November 1, 1993; March 1, 1992; February 1, 1991; December 1, 1987.*

## **12 NCAC 09C .0601 APPROVED SPEED-MEASURING INSTRUMENTS**

The following procedures shall be adhered to for approval of speed-measuring instruments:

- (1) Prior to the inclusion as an approved speed-measuring instrument, the manufacturer of said instrument shall certify in writing to the Criminal Justice Standards Division that said instrument meets or exceeds the applicable standards set out in the "Model Performance Specifications for Police Traffic Radar Devices" as published by the National Highway Traffic Safety Administration, United States Department of Transportation (as in effect July 1, 1982) which is hereby incorporated by reference, and shall automatically include any later amendments and editions of the incorporated material as provided by G.S. 150B-21.6. Copies of this publication may be inspected at the office of the agency:

Criminal Justice Standards Division  
North Carolina Department of Justice  
114 West Edenton Street  
Old Education Building  
Post Office Drawer 149  
Raleigh, North Carolina 27602

and may be obtained at no cost from the National Highway Traffic Safety Administration at the following address:

National Highway Traffic Safety Administration  
400 Seventh Street, SW  
Washington, DC 20590

The manufacturer shall provide evidence that the instrument meets or exceeds the applicable standards published by the National Highway Traffic Safety Administration, United States Department of Transportation.

- (2) All speed-measuring instruments shall be evaluated by representatives from the North Carolina Criminal Justice Education and Training Standards Commission and the North Carolina Department of Crime Control and Public Safety. A summary of the findings shall be submitted in writing to the Criminal Justice Standards Division's Speed Measurement Instrument Program Administrator.

- (3) A current list of all approved speed-measuring instruments shall be included in Appendix "A" of the Supplement for Speed Measurement Instrument Training Courses published by the North Carolina Justice Academy.

- (4) The "Speed-Measurement Instrument Operator Training Course Manuals" as published by the North Carolina Justice Academy shall be applied as the basic curriculum for the speed-measuring instrument operator training courses for speed-measuring instrument operators as administered by the North Carolina Criminal Justice Education and Training Standards Commission. Copies of these publications may be inspected at the office of the agency:

Criminal Justice Standards Division  
North Carolina Department of Justice  
114 West Edenton Street  
Old Education Building  
Post Office Drawer 149  
Raleigh, North Carolina 27602

and may be obtained at cost from the Academy at the following address:

North Carolina Justice Academy  
Post Office Box 99  
Salemberg, North Carolina 28385

*History Note: Authority G.S. 17C-6;*

*Eff. November 1, 1981;*

*Readopted w/change Eff. July 1, 1982;*

*Amended Eff. November 1, 2007; May 1, 2004; November 1, 1998; August 1, 1998; August 1, 1995; January 1, 1995; November 1, 1993; February 1, 1991.*

## **12 NCAC 09C .0608 SPEED-MEASURING INSTRUMENT OPERATING PROCEDURES**

The purpose of this Rule is to establish the requirements for operating speed-measuring instruments used by law enforcement officers to measure the speed of vehicles for enforcement of speed laws and regulations. All operating procedures shall conform with G.S. 8-50.2. The operating procedures for each specific Radar, Time-Distance, and Lidar speed-measuring instrument, as outlined in Appendix "C" of the Supplement for Speed Measurement Instrument Training Courses published by

the North Carolina Justice Academy, are hereby incorporated by reference, and shall automatically include any later amendments and editions of the incorporated material as provided by G.S. 150B-21.6. Copies of this publication may be inspected at the office of the agency:

Criminal Justice Standards Division  
North Carolina Department of Justice  
114 West Edenton Street  
Old Education Building  
Post Office Drawer 149  
Raleigh, North Carolina 27602

and may be obtained at cost from the Academy at the following address:

North Carolina Justice Academy  
Post Office Box 99  
Salemberg, North Carolina 28385

*History Note:* Authority G.S. 8-50.2; 17C-6;  
*Eff. August 1, 1998;*  
*Amended Eff: November 1, 2007; May 1, 2004.*

## TITLE 15A – DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

### 15A NCAC 02B .0303 LITTLE TENN RIVER BASIN AND SAVANNAH RIVER DRAINAGE AREA

(a) The Little Tenn River Basin and Savannah River Drainage Area Schedule of Classifications and Water Quality Standards may be inspected at the following places:

- (1) the Internet at <http://h2o.enr.state.nc.us/csu/>; and
- (2) the North Carolina Department of Environment and Natural Resources:
  - (A) Asheville Regional Office  
2090 US Highway 70  
Swannanoa, North Carolina
  - (B) Division of Water Quality  
Central Office  
512 North Salisbury Street  
Raleigh, North Carolina.

(b) Unnamed Streams. Such streams entering Georgia or Tennessee shall be classified "C Tr." Such streams in the Savannah River drainage area entering South Carolina shall be classified "B Tr."

(c) The Little Tennessee River Basin and Savannah River Drainage Area Schedule of Classifications and Water Quality Standards was amended effective:

- (1) February 16, 1977;
- (2) March 1, 1977;
- (3) July 13, 1980;
- (4) February 1, 1986;
- (5) October 1, 1987;
- (6) March 1, 1989;
- (7) January 1, 1990;
- (8) July 1, 1990;
- (9) August 1, 1990;
- (10) March 1, 1991;

- (11) August 3, 1992;
- (12) February 1, 1993;
- (13) August 1, 1994;
- (14) September 1, 1996;
- (15) August 1, 1998;
- (16) August 1, 2000;
- (17) April 1, 2003;
- (18) January 1, 2007;
- (19) November 1, 2007.

(d) The Schedule of Classifications of Water Quality Standards for the Little Tennessee Basin and Savannah River Drainage Area was amended effective March 1, 1989 as follows:

- (1) Nantahala River (Index No. 2-57) from source to the backwaters of Nantahala Lake and all tributary waters were reclassified from Class B-trout, Class C-trout and Class C to Class B-trout ORW, Class C-trout ORW and Class C ORW.
- (2) Chattooga River (Index No. 3) including Scotsman Creek, Overflow Creek, Big Creek, Talley Mill Creek and all tributary waters were reclassified from Class B-trout, Class C-trout and Class C to Class B-trout ORW, Class C-trout ORW and Class C ORW and Clear Creek and all tributary waters were reclassified from Class C-trout and Class C to Class B-trout and Class B.

(e) The Schedule of Classifications and Water Quality Standards for the Little Tennessee River Basin and Savannah River Drainage Area was amended effective January 1, 1990 as follows:

- (1) North Fork Coweeta Creek (Index No. 2-10-4) and Falls Branch (Index No. 2-10-4-1) were reclassified from Class C to Class B.
- (2) Burningtown Creek (Index No. 2-38) was reclassified from C-trout to B-trout.

(f) The Schedule of Classifications and Water Quality Standards for the Little Tennessee River Basin and Savannah River Drainage Area was amended effective July 1, 1990 by the reclassification of Alarka Creek (Index No. 2-69) from source to Upper Long Creek (Index No. 2-69-2) including all tributaries from Classes C and C Tr to Classes C HQW and C Tr HQW.

(g) The Schedule of Classifications and Water Quality Standards for the Little Tennessee River Basin and Savannah River Drainage Area was amended effective March 1, 1991 as follows:

- (1) Cartoogechaye Creek [Index Nos. 2-19-(1) and 2-19-(16)] from Gibson Cove Branch to bridge at U.S. Hwy. 23 and 441 and from the bridge at U.S. Hwy. 23 and 441 to the Little Tennessee River was reclassified from Classes WS-III Tr and C Tr to Classes WS-III and B Tr and B Tr respectively.
- (2) Coweeta Creek (Index Nos. 2-10) from its source to the Little Tennessee River including all tributaries except Dryman Fork (Index No. 2-10-3) and North Fork Coweeta Creek (Index No. 2-10-4) was reclassified from Classes C and C Tr to Classes B and B Tr.

(h) The Schedule of Classifications and Water Quality Standards for the Little Tennessee River Basin and Savannah River Drainage Area was amended effective August 3, 1992 with the reclassification of all water supply waters (waters with a primary classification of WS-I, WS-II or WS-III). These waters were reclassified to WS-I, WS-II, WS-III, WS-IV or WS-V as defined in the revised water supply protection rules, (15A NCAC 02B .0100, .0200 and .0300) which became effective on August 3, 1992. In some cases, streams with primary classifications other than WS were reclassified to a WS classification due to their proximity and linkage to water supply waters. In other cases, waters were reclassified from a WS classification to an alternate appropriate primary classification after being identified as downstream of a water supply intake or identified as not being used for water supply purposes.

(i) The Schedule of Classifications and Water Quality Standards for the Little Tennessee River Basin and Savannah River Drainage Area has been amended effective February 1, 1993 as follows:

- (1) Bearallow Creek from its source to 2.3 miles upstream of the Toxaway River [Index No. 4-7-(1)] was revised to indicate the application of an additional management strategy (referencing 15A NCAC 02B .0201(d)) to protect downstream waters; and
- (2) the Tuckasegee River from its source to Tennessee Creek [Index No. 2-79-(0.5)] including all tributaries was reclassified from Classes WS-III B Tr HQW, WS-III HQW and WS-III to Classes WS-III Tr ORW and WS-III ORW.

(j) The Schedule of Classifications and Water Quality Standards for the Little Tennessee River Basin and Savannah River Drainage Area was amended effective August 1, 1994 with the reclassification of Deep Creek [Index Nos. 2-79-63-(1) and 2-79-63-(16)] from its source to the Great Smokey Mountains National Park Boundary including tributaries from Classes C Tr, B Tr and C Tr HQW to Classes WS-II Tr and WS-II Tr CA.

(k) The Schedule of Classifications and Water Quality Standards for the Little Tennessee River Basin and Savannah River Drainage Area was amended effective September 1, 1996 as follows:

- (1) Deep Creek from the Great Smoky Mountains National Park Boundary to the Tuckasegee River [Index no. 2-79-63-(21)] was reclassified from Class C Tr to Class B Tr; and
- (2) the Tuckasegee River from the West Fork Tuckasegee River to Savannah Creek and from Macks Town Branch to Cochran Branch [Index Nos. 2-79-(24), 2-79(29.5) and 2-79-(38)] was reclassified from Classes WS-III Tr, WS-III Tr CA and C to Classes WS-III B Tr, WS-III B Tr CA and B.

(l) The Schedule of Classifications and Water Quality Standards for the Little Tennessee River Basin and Savannah River Drainage Area was amended effective August 1, 1998 with the reclassifications of Thorpe Reservoir (Lake Glenville), Hurricane Creek, and Laurel Branch [Index Nos. 2-79-23-(1), 2-79-23-2, and 2-79-23-2-1 respectively] from classes WS-III B,

WS-III Tr and WS-III to classes WS-III B HQW, WS-III Tr HQW, and WS-III HQW.

(m) The Schedule of Classifications and Water Quality Standards for the Little Tennessee River Basin and Savannah River Drainage Area was amended August 1, 2000 with the reclassification of Wesser Creek [Index No. 2-79-52-5-1] from its source to Williams Branch from Class C to Class C Tr.

(n) The Schedule of Classifications and Water Quality Standards for the Little Tennessee River Basin and Savannah River Drainage Area was amended April 1, 2003 with the reclassification of a portion of the Little Tennessee River [Index No. 2-(1)] from a point 0.4 mile upstream of N.C. Highway 28 to Nantahala River Arm of Fontana Lake from Class C to Class B.

(o) The Schedule of Classifications and Water Quality Standards for the Little Tennessee River Basin and Savannah River Drainage Area was amended January 1, 2007 with the reclassification of the entire watersheds of all creeks that drain to the north shore of Fontana Lake between Eagle and Forney Creeks, including Eagle and Forney Creeks, [Index Nos. 2-96 through 2-164 (excluding all waterbodies that drain to the south shore of Fontana Lake)] from Class B, C Tr, WS-IV Tr CA, WS-IV Tr, and WS-IV B CA to Class B ORW, C Tr ORW, WS-IV Tr ORW CA, WS-IV Tr ORW, and WS-IV B ORW CA, respectively. Additional site-specific management strategies are outlined in Rule 15A NCAC 02B .0225(e)(12).

(p) The Schedule of Classifications and Water Quality Standards for the Little Tennessee River Basin and Savannah River Drainage Area was amended effective November 1, 2007 with the reclassification of Richland Balsam Seep near Beechflat Creek [Index No. 2-79-28-3-2] to Class WL UWL as defined in 15A NCAC 02B. 0101. The Division of Water Quality maintains a Geographic Information Systems data layer of the UWL.

*History Note: Authority G.S. 143-214.1; 143-215.1; 143-215.3(a)(1); S.L. 2005-97; Eff. February 1, 1976;*

*Amended Eff. November 1, 2007; January 1, 2007; April 1, 2003; August 1, 2000; August 1, 1998; September 1, 1996; August 1, 1994; February 1, 1993; August 3, 1992; March 1, 1991.*

#### **15A NCAC 02B .0304 FRENCH BROAD RIVER BASIN**

(a) The French Broad River Basin Schedule of Classifications and Water Quality Standards may be inspected at the following places:

- (1) the Internet at <http://h2o.enr.state.nc.us/csu/>; and
- (2) the North Carolina Department of Environment and Natural Resources:
  - (A) Asheville Regional Office  
2090 US Highway 70  
Swannanoa, North Carolina
  - (B) Division of Water Quality  
Central Office  
512 North Salisbury Street  
Raleigh, North Carolina.

- (b) Unnamed Streams. Such streams entering Tennessee are classified "B."
- (c) The French Broad River Basin Schedule of Classifications and Water Quality Standards was amended effective:
- (1) September 22, 1976;
  - (2) March 1, 1977;
  - (3) August 12, 1979;
  - (4) April 1, 1983;
  - (5) August 1, 1984;
  - (6) August 1, 1985;
  - (7) February 1, 1986;
  - (8) May 1, 1987;
  - (9) March 1, 1989;
  - (10) October 1, 1989;
  - (11) January 1, 1990;
  - (12) August 1, 1990;
  - (13) August 3, 1992;
  - (14) October 1, 1993;
  - (15) July 1, 1995;
  - (16) November 1, 1995;
  - (17) January 1, 1996;
  - (18) April 1, 1996;
  - (19) August 1, 1998;
  - (20) August 1 2000;
  - (21) August 1, 2002;
  - (22) September 1, 2004;
  - (23) November 1, 2007.
- (d) The Schedule of Classifications and Water Quality Standards for the French Broad River Basin was amended effective March 1, 1989 as follows:
- (1) Cataloochee Creek (Index No. 5-41) and all tributary waters were reclassified from Class C-trout and Class C to Class C-trout ORW and Class C ORW.
  - (2) South Fork Mills River (Index No. 6-54-3) down to Queen Creek and all tributaries were reclassified from Class WS-I and Class WS-III-trout to Class WS-I ORW and Class WS-III-trout ORW.
- (e) The Schedule of Classifications and Water Quality Standards for the French Broad River Basin was amended effective October 1, 1989 as follows: Cane River (Index No. 7-3) from source to Bowlens Creek and all tributaries were reclassified from Class C trout and Class C to Class WS-III trout and Class WS-III.
- (f) The Schedule of Classifications and Water Quality Standards for the French Broad River Basin was amended effective January 1, 1990 as follows: North Toe River (Index No. 7-2) from source to Cathis Creek (Christ Branch) and all tributaries were reclassified from Class C trout and Class C to Class WS-III trout and Class WS-III.
- (g) The Schedule of Classifications and Water Quality Standards for the French Broad River Basin was amended effective August 3, 1992 with the reclassification of all water supply waters (waters with a primary classification of WS-I, WS-II or WS-III). These waters were reclassified to WS-I, WS-II, WS-III, WS-IV or WS-V as defined in the revised water supply protection rules, (15A NCAC 2B .0100, .0200 and .0300) which became effective on August 3, 1992. In some cases,

streams with primary classifications other than WS were reclassified to a WS classification due to their proximity and linkage to water supply waters. In other cases, waters were reclassified from a WS classification to an alternate appropriate primary classification after being identified as downstream of a water supply intake or identified as not being used for water supply purposes.

(h) The Schedule of Classifications and Water Quality Standards for the French Broad River Basin was amended effective October 1, 1993 as follows: Reasonover Creek [Index No. 6-38-14-(1)] from source to Reasonover Lake Dam and all tributaries were reclassified from Class B Trout to Class WS-V and B Trout, and Reasonover Creek [Index No. 6-38-14-(4)] from Reasonover Lake Dam to Lake Julia Dam and all tributaries were reclassified from Class C Trout to Class WS-V Trout.

(i) The Schedule of Classifications and Water Quality Standards for the French Broad River Basin was amended effective July 1, 1995 with the reclassification of Cane Creek [Index Nos. 6-57-(1) and 6-57-(9)] from its source to the French Broad River from Classes WS-IV and WS-IV Tr to Classes WS-V, WS-V Tr and WS-IV.

(j) The Schedule of Classifications and Water Quality Standards for the French Broad River Basin was amended effective November 1, 1995 as follows: North Toe River [Index Numbers 7-2-(0.5) and 7-2-(37.5)] from source to a point 0.2 miles downstream of Banjo Branch, including tributaries, has been reclassified from Class WS-III, WS-III Trout and WS-III Trout CA (critical area) to Class WS-IV Trout, WS-IV, WS-IV Trout CA, and C Trout.

(k) The Schedule of Classifications and Water Quality Standards for the French Broad River Basin was amended effective January 1, 1996 as follows: Stokely Hollow [Index Numbers 6-121.5-(1) and 6-121.5-(2)] from source to mouth of French Broad River has been reclassified from Class WS-II and Class WS-II CA to Class C.

(l) The Schedule of Classifications and Water Quality Standards for the French Broad River Basin was amended April 1, 1996 with the reclassification of the French Broad River [Index No. 6-(1)] from a point 0.5 miles downstream of Little River to Mill Pond Creek to Class WS-IV; French Broad River [Index No. 6-(51.5)] from a point 0.6 miles upstream of Mills River to Mills River to Class WS-IV CA (Critical Area), from Mills River to a point 0.1 miles upstream of Boring Mill Branch to Class C; and the Mills River [Index No. 6-54-(5)] was reclassified from City of Hendersonville water supply intake to a point 0.7 miles upstream of mouth of Mills River to Class WS-III, and from a point 0.7 miles upstream of mouth of Mills River to French Broad River to Class WS- III CA (Critical Area).

(m) The Schedule of Classifications and Water Quality Standards for the French Broad River Basin was amended August 1, 1998 with the revision to the primary classification for portions of the French Broad River [Index No. 6-(38.5)] and the North Toe River 7-2-(10.5) from Class IV to Class C.

(n) The Schedule of Classifications and Water Quality Standards for the French Broad River Basin was amended August 1, 1998 with the reclassification of Clear Creek [Index No. 6-55-(1)] from its source to Lewis Creek from Class C Tr to Class B Tr.

(o) The Schedule of Classifications and Water Quality Standards for the French Broad River Basin was amended August 1, 2000 with the reclassification of Rough Creek [Index No. 5-8-4-(1)], including all tributaries, from its source to the Canton Reservoir from Class WS-I to Class WS-I Tr ORW.

(p) The Schedule of Classifications and Water Quality Standards for the French Broad River Basin was amended August 1, 2002 with the revision to the primary classification for the French Broad River [Index No. 6-(1), 6-(27), 6-(47.5), 6-(52.5), and 6-(54.5)] including its four headwater forks' mainstems, watershed of tributary Davidson River, and watershed of tributary Bent Creek below Powhatan Dam, and the Nolichucky River [Index No. 7] including a lower portion of the North Toe River from Class C and Class WS-IV to Class B.

(q) The Schedule of Classifications and Water Quality Standards for the French Broad River Basin was amended August 1, 2002 with the reclassification of the North Toe River [Index No. 7-2-(0.5)], including all tributaries, from source to a point 0.2 mile upstream of Pyatt Creek, from Class C Tr to Class WS-V Tr.

(r) The Schedule of Classifications and Water Quality Standards for the French Broad River Basin was amended September 1, 2004 with the reclassification of a portion of Richland Creek [Index No. 5-16(1)], from source to a point approximately 11.2 miles from source (Boyd Avenue), from Class B to Class B Tr, and all tributaries to the portion of the creek referenced in this Paragraph from C, C HQW, and WS-I HQW, and WS-I HQW to C Tr, C HQW Tr, and WS-I HQW Tr, respectively, except Hyatt Creek [Index No. 5-16-6], Farmer Branch [Index No. 5-16-11], and tributaries already classified as Tr.

(s) The Schedule of Classifications and Water Quality Standards for the French Broad River Basin was amended effective November 1, 2007 with the reclassification of McClure's Bog near Gash Creek [Index No. 6-47] to Class WL UWL as defined in 15A NCAC 02B .0101. The North Carolina Division of Water Quality maintains a Geographic Information Systems data layer of the UWL.

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

*Eff. February 1, 1976;*

*Amended Eff. November 1, 2007; September 1, 2004; August 1, 2002; August 1, 2000; August 1, 1998; April 1, 1996; January 1, 1996; November 1, 1995; July 1, 1995.*

#### **15A NCAC 02B .0305 WATAUGA RIVER BASIN**

(a) The Watauga River Basin Schedule of Classifications and Water Quality Standards may be inspected at the following places:

- (1) the Internet at <http://h2o.enr.state.nc.us/csu/>; and
- (2) the North Carolina Department of Environment and Natural Resources:
  - (A) Asheville Regional Office  
2090 US Highway 70  
Swannanoa, North Carolina
  - (B) Division of Water Quality  
Central Office  
512 North Salisbury Street

Raleigh, North Carolina.

(b) Unnamed Streams. Such streams entering the State of Tennessee are classified "C."

(c) The Watauga River Basin Schedule of Classifications and Water Quality Standards was amended effective:

- (1) August 12, 1979;
- (2) February 1, 1986;
- (3) October 1, 1987;
- (4) August 1, 1989;
- (5) August 1, 1990;
- (6) December 1, 1990;
- (7) April 1, 1992;
- (8) August 3, 1992;
- (9) February 1, 1993;
- (10) April 1, 1994;
- (11) August 1, 1998;
- (12) November 1, 2007.

(d) The Schedule of Classifications and Water Quality Standards for the Watauga River Basin was amended effective July 1, 1989 as follows:

- (1) Dutch Creek (Index No. 8-11) was reclassified from Class C-trout to Class B-trout.
- (2) Pond Creek (Index No. 8-20-2) from water supply intake (located just above Tamarack Road) to Beech Creek and all tributary waters were reclassified from Class WS-III to C.

(e) The Schedule of Classifications and Water Quality Standards for the Watauga River Basin was amended effective December 1, 1990 with the reclassification of the Watauga River from the US Highway 321 bridge to the North Carolina/Tennessee state line from Class C to Class B.

(f) The Schedule of Classifications and Water Quality Standards for the Watauga River Basin was amended effective April 1, 1992 with the reclassification of Pond Creek from Classes WS-III and C to Classes WS-III Trout and C Trout.

(g) The Schedule of Classifications and Water Quality Standards for the Watauga River Basin was amended effective August 3, 1992 with the reclassification of all water supply waters (waters with a primary classification of WS-I, WS-II or WS-III). These waters were reclassified to WS-I, WS-II, WS-III, WS-IV or WS-V as defined in the revised water supply protection rules, (15A NCAC 2B .0100, .0200 and .0300) which became effective on August 3, 1992. In some cases, streams with primary classifications other than WS were reclassified to a WS classification due to their proximity and linkage to water supply waters. In other cases, waters were reclassified from a WS classification to an alternate appropriate primary classification after being identified as downstream of a water supply intake or identified as not being used for water supply purposes.

(h) The Schedule of Classifications and Water Quality Standards for the Watauga River Basin has been amended effective February 1, 1993 with the reclassification of Boone Fork (Index No. 8-7) and all tributary waters from Classes C Tr HQW and C HQW to Classes C Tr ORW and C ORW.

(i) The Schedule of Classifications and Water Quality Standards for the Watauga River Basin has been amended effective April 1, 1994 with the reclassification of the Elk River from Peavine

Branch to the North Carolina/Tennessee state line [Index No. 8-22-(3)] from Class C Tr to Class B Tr.

(j) The Schedule of Classifications and Water Quality Standards for the Watauga River Basin has been amended effective August 1, 1998 with the reclassification of East Fork Pond Creek from its source to the backwater of Santis Lake, [Index No. 8-20-2-1.5] from Class WS-II Tr to Class WS-III Tr; the reclassification of West Fork Pond Creek (Santis Lake) [Index No. 8-20-2-1-(2)] from the backwaters of Santis Lake to Pond Creek from WS-II Tr CA to WS-III Tr CA; and the reclassification of the connecting stream of Lake Coffey [Index No. 8-20-2-2] from the dam at Lake Coffey to Pond Creek from WS-II Tr CA to C Tr.

(k) The Schedule of Classifications and Water Quality Standards for the Watauga River Basin has been amended effective November 1, 2007 with the reclassification of the Beech Creek Bog near Beech Creek [Index No. 8-20] to Class WL UWL as defined in 15A NCAC 02B .0101. The North Carolina Division of Water Quality maintains a Geographic Information Systems data layer of the UWL.

*History Note: Authority G.S. 143-214.1; 143-215.1; 143-215.3(a)(1);*  
*Eff. February 1, 1976;*  
*Amended Eff. November 1, 2007; August 1, 1998; April 1, 1994;*  
*February 1, 1993; August 3, 1992; April 1, 1992.*

**15A NCAC 02B .0307 NEW RIVER BASIN**

(a) The New River Basin Schedule of Classifications and Water Quality Standards may be inspected at the following places:

- (1) the Internet at <http://h2o.enr.state.nc.us/csu/>; and
- (2) the North Carolina Department of Environment and Natural Resources:
  - (A) Asheville Regional Office  
2090 US Highway 70  
Swannanoa, North Carolina
  - (B) Winston-Salem Regional Office  
585 Waughtown Street  
Winston-Salem, North Carolina
  - (C) Division of Water Quality  
Central Office  
512 North Salisbury Street  
Raleigh, North Carolina.

(b) Unnamed Streams. Such streams entering the State of Tennessee are classified "C."

(c) The New River Basin Schedule of Classifications and Water Quality Standards was amended effective:

- (1) August 10, 1980;
- (2) April 1, 1983;
- (3) February 1, 1986;
- (4) August 1, 1989;
- (5) August 1, 1990;
- (6) August 3, 1992;
- (7) February 1, 1993;
- (8) August 1, 1998;
- (9) November 1, 2007.

(d) The Schedule of Classifications and Water Quality Standards for the New River Basin was amended effective July 1, 1989 as follows:

- (1) South Fork New River [Index No. 10-1-(30)] from Dog Creek to New River and all tributary waters were reclassified from Class C-trout and Class C to Class B-trout and B.

(e) The Schedule of Classifications and Water Quality Standards for the New River Basin was amended effective August 3, 1992 with the reclassification of all water supply waters (waters with a primary classification of WS-I, WS-II or WS-III). These waters were reclassified to WS-I, WS-II, WS-III, WS-IV or WS-V as defined in the revised water supply protection rules, (15A NCAC 02B .0100, .0200 and .0300) which became effective on August 3, 1992. In some cases, streams with primary classifications other than WS were reclassified to a WS classification due to their proximity and linkage to water supply waters. In other cases, waters were reclassified from a WS classification to an alternate appropriate primary classification after being identified as downstream of a water supply intake or identified as not being used for water supply purposes.

(f) The Schedule of Classifications and Water Quality Standards for the New River Basin has been amended effective February 1, 1993 as follows:

- (1) the South Fork New River (Index No. 10-1-33.5) from Dog Creek to the New River was reclassified from Class B HQW to Class B ORW;
- (2) the New River (Index No. 10) from the confluence of the North And South Fork New Rivers to the last point at which it crosses the North Carolina/Virginia State line was reclassified from Class C HQW to Class C ORW; and
- (3) Old Field Creek (Index No. 10-1-22) from Call Creek to the South Fork New River, and Call Creek (Index No. 10-1-22-1) from its source to Old Field Creek were reclassified from Class WS-IV Trout to Class WS-IV Trout ORW.

(g) The Schedule of Classifications and Water Quality Standards for the New River Basin was amended effective August 1, 1998 with the revision to the primary classification for a portion of the South Fork New River [Index No. 10-1 (20.5)] from Class WS-IV to Class WS-V.

(h) The Schedule of Classifications and Water Quality Standards for the New River Basin was amended effective November 1, 2007 with the reclassification of Bluff Mountain Fen near Buffalo Creek [Index No. 10-2-20] to Class WL UWL as defined in 15A NCAC 02B .0101. The North Carolina Division of Water Quality maintains a Geographic Information Systems data layer of the UWL.

*History Note: Authority G.S. 143-214.1; 143-215.1; 143-215.3(a)(1);*  
*Eff. February 1, 1976;*  
*Amended Eff. November 1, 2007; August 1, 1998; February 1, 1993; August 3, 1992; August 1, 1990; August 1, 1989.*



**15A NCAC 02B .0309 YADKIN-PEE DEE RIVER BASIN**

(a) The Yadkin-Pee Dee River Schedule of Classifications and Water Quality Standards may be inspected at the following places:

- (1) the Internet at <http://h2o.enr.state.nc.us/csu/>; and
- (2) the North Carolina Department of Environment and Natural Resources:
  - (A) Mooresville Regional Office  
610 East Center Avenue, Suite 301  
Mooresville, North Carolina
  - (B) Winston-Salem Regional Office  
585 Waughtown Street  
Winston-Salem, North Carolina
  - (C) Fayetteville Regional Office  
Systel Building  
225 Green Street  
Suite 714  
Fayetteville, North Carolina
  - (D) Asheville Regional Office  
2090 US Highway 70  
Swannanoa, North Carolina
  - (E) Division of Water Quality  
Central Office  
512 North Salisbury Street  
Raleigh, North Carolina.

(b) Unnamed Streams. Such streams entering Virginia are classified "C," and such streams entering South Carolina are classified "C".

(c) The Yadkin-Pee Dee River Basin Schedule of Classifications and Water Quality Standards was amended effective:

- (1) February 12, 1979;
- (2) March 1, 1983;
- (3) August 1, 1985;
- (4) February 1, 1986;
- (5) October 1, 1988;
- (6) March 1, 1989;
- (7) January 1, 1990;
- (8) August 1, 1990;
- (9) January 1, 1992;
- (10) April 1, 1992;
- (11) August 3, 1992;
- (12) December 1, 1992;
- (13) April 1, 1993;
- (14) September 1, 1994;
- (15) August 1, 1995;
- (16) August 1, 1998;
- (17) April 1, 1999;
- (18) July 1, 2006;
- (19) September 1, 2006;
- (20) November 1, 2007.

(d) The Schedule of Classifications and Water Quality Standard for the Yadkin-Pee Dee River Basin has been amended effective October 1, 1988 as follows:

- (1) Mitchell River [Index No. 12-62-(1)] from source to mouth of Christian Creek (North Fork Mitchell River) including all tributaries

has been reclassified from Class B Tr to Class B Tr ORW.

- (2) Mitchell River [Index No. 12-62-(7)] from mouth of Christian Creek (North Fork Mitchell River) to Surry County SR 1315 including all tributaries has been classified from Class C Tr to C Tr ORW, except Christian Creek and Robertson Creek which will be reclassified from Class B Tr to Class B Tr ORW.

- (3) Mitchell River [Index No. 12-62-(12)] from Surry County SR 1315 to mouth of South Fork Mitchell River including all tributaries from Class C to Class C ORW.

(e) The Schedule of Classifications and Water Quality Standards for the Yadkin-Pee Dee River Basin was amended effective March 1, 1989 as follows:

- (1) Elk Creek [Index Nos. 12-24-(1) and 12-24-(10)] and all tributary waters were reclassified from Class B-trout, Class C-trout and Class B to Class B-trout ORW, Class C-trout ORW and Class B ORW.

(f) The Schedule of Classifications and Water Quality Standards for the Yadkin-Pee Dee River Basin was amended effective January 1, 1990 as follows: Barnes Creek (Index No. 13-2-18) was reclassified from Class C to Class C ORW.

(g) The Schedule of Classifications and Water Quality Standards for the Yadkin-Pee Dee River Basin has been amended effective January 1, 1992 as follows:

- (1) Little River [Index Nos. 13-25-(10) and 13-25-(19)] from Suggs Creek to Densons Creek has been reclassified from Classes WS-III and C to Classes WS-III HQW and C HQW.
- (2) Densons Creek [Index No. 13-25-20-(1)] from its source to Troy's Water Supply Intake including all tributaries has been reclassified from Class WS-III to Class WS-III HQW.
- (3) Bridgers Creek (Index No. 13-25-24) from its source to the Little River has been reclassified from Class C to Class C HQW.

(h) The Schedule of Classifications and Water Quality Standards for the Yadkin-Pee Dee River Basin was amended effective April 1, 1992 with the reclassification of the North Prong South Fork Mitchell River from Class C to Class C Trout.

(i) The Schedule of Classifications and Water Quality Standards for the Yadkin-Pee Dee River was amended effective August 3, 1992 with the reclassification of all water supply waters (waters with a primary classification of WS-I, WS-II or WS-III). These waters were reclassified to WS-I, WS-II, WS-III, WS-IV or WS-V as defined in the revised water supply protection rules, (15A NCAC 2B .0100, .0200 and .0300) which became effective on August 3, 1992. In some cases, streams with primary classifications other than WS were reclassified to a WS classification due to their proximity and linkage to water supply waters. In other cases, waters were reclassified from a WS classification to an alternate appropriate primary classification after being identified as downstream of a water supply intake or identified as not being used for water supply purposes.

(j) The Schedule of Classifications and Water Quality Standards for the Yadkin-Pee Dee River Basin has been amended effective December 1, 1992 as follows:

- (1) Pike Creek (Index No. 12-46-1-2) was reclassified from Class C Tr to Class C Tr HQW;
- (2) Basin Creek (Index No. 12-46-2-2) was reclassified from Class C Tr to Class C Tr ORW;
- (3) Bullhead Creek (Index No. 12-46-4-2) was reclassified from Class C Tr to Class C Tr ORW;
- (4) Rich Mountain Creek (Index No. 12-46-4-2-2) was reclassified from Class Tr to Class C Tr ORW; and
- (5) Widows Creek (Index No. 12-46-4-4) was reclassified from Class C Tr HQW to Class C Tr ORW.

(k) The Schedule of Classifications and Water Quality Standards for the Yadkin-Pee Dee River Basin has been amended effective September 1, 1994 as follows:

- (1) Lanes Creek [Index Nos. 13-17-40-(1) and 13-17-40-(10.5)] from its source to the Marshville water supply dam including tributaries was reclassified from Classes WS-II and WS-II CA to Class WS-V.
- (2) The South Yadkin River [Index Nos. 12-108-(9.7) and 12-108-(15.5)] from Iredell County SR 1892 to a point 0.7 mile upstream of the mouth of Hunting Creek including associated tributaries was reclassified from Classes WS-V, C and WS-IV to Classes WS-V, WS-IV, C and WS-IV CA.
- (3) The Yadkin River [Index Nos. 12-(53) and 12-(71)] from a point 0.3 mile upstream of the mouth of Elkin Creek (River) to the Town of King water supply intake including associated tributaries was reclassified from Classes C and WS-IV to Classes WS-IV and WS-IV CA.
- (4) The Yadkin River [Index Nos. 12-(80.5), 12-(81.5) and 12-(84.5)] from the Town of King water supply intake to the Davie County water supply intake reclassified from Classes C, B, WS-IV and WS-V to Classes WS-IV, WS-IV B and WS-IV CA.

(l) The Schedule of Classifications and Water Quality Standards for the Yadkin-Pee Dee River Basin has been amended effective August 1, 1995 as follows: Bear Creek [Index Nos. 12-108-18-(3), 12-108-18-(3.3)], Little Bear Creek (Index No. 12-108-18-2), and Blue Branch (Index No. 12-108-18-2-1) were reclassified from WS-II and WS-II CA (Critical Area) to C and WS-IV.

(m) The Schedule of Classifications and Water Quality Standards for the Yadkin-Pee Dee River Basin was amended effective August 1, 1998 with the revision to the primary classification for portions of the Yadkin River [Index No. 12-(45)] from Class WS-IV to WS-V, Yadkin River [Index No. 12-(67.5)] from Class WS-IV to Class C, Yadkin River [Index Nos. 12-(93.5) and 12-(98.5)] from Class WS-IV to Class WS-V, South Yadkin River [Index No. 12-108-(12.5)] from Class WS-

IV to Class WS-V, and South Yadkin River [Index Nos. 12-108-(19.5) and 12-108-(22)] from Class WS-IV to Class C.

(n) The Schedule of Classifications and Water Quality Standards for the Yadkin Pee-Dee River Basin was amended effective April 1, 1999 with the reclassification of a portion of the Yadkin River [Index No. 12-(80.5)] from WS-IV CA to WS-IV. A portion of the Yadkin River 0.5 mile upstream of Bashavia Creek was reclassified from WS-IV to WS-IV CA. Bashavia Creek [Index Nos. 12-81-(0.5) and 12-81-(2)] was reclassified from WS-IV and WS-IV CA to Class C. Tributaries to Bashavia Creek were also reclassified to Class C. Portions of the Yadkin River [Index Nos. 12-(25.5) and 12-(27)] were reclassified from WS-IV to Class C and from WS-IV & B to Class B. Tributaries were reclassified from Class WS-IV to Class C. Supplemental classifications were not changed.

(o) The Schedule of Classifications and Water Quality Standards for the Yadkin Pee-Dee River Basin was amended effective July 1, 2006 with the reclassification of a portion of the Uwharrie River. More specifically, Index No. 13-2-(25), Index No. 13-2-(17.5), and a portion of Index No. 13-2-(1.5) was reclassified from Class WS-IV CA, WS-IV, and C, to Class WS-IV B CA, WS-IV B, and B, respectively.

(p) The Schedule of Classifications and Water Quality Standards for the Yadkin Pee-Dee River Basin was amended effective September 1, 2006 with the reclassification of a segment of the Yadkin River [portion of Index No. 12-(53)] from a point 0.3 mile upstream of the Town of Elkin proposed water supply intake to the Town of Elkin proposed water supply intake from C to WS-IV CA. The Town of Elkin proposed water supply intake is to be placed on the Yadkin River at a point directly above the mouth of Elkin Creek.

(q) The Schedule of Classifications and Water Quality Standards for the Yadkin-Pee Dee River Basin was amended effective November 1, 2007 with the reclassifications as listed below, and the North Carolina Division of Water Quality maintains a Geographic Information Systems data layer of these UWLs.

- (1) Black Ankle Bog near Suggs Creek [Index No. 13-25-12] was reclassified to Class WL UWL as defined in 15A NCAC 02B .0101.
- (2) Pilot Mountain Floodplain Pool near Horne Creek [Index No. 12-75] was reclassified to Class WL UWL as defined in 15A NCAC 02B .0101.

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

*Eff. February 1, 1976;*

*Amended Eff. November 1, 2007; September 1, 2006; July 1, 2006; April 1, 1999; August 1, 1998; August 1, 1995; September 1, 1994; April 1, 1993; December 1, 1992.*

#### **15A NCAC 02B .0310 LUMBER RIVER BASIN**

(a) The Lumber River Basin Schedule of Classifications and Water Quality Standards may be inspected at the following places:

- (1) the Internet at <http://h2o.enr.state.nc.us/csu/>; and

- (2) the North Carolina Department of Environment and Natural Resources:
- (A) Fayetteville Regional Office  
225 Green Street  
Systel Building Suite 714  
Fayetteville, North Carolina
  - (B) Wilmington Regional Office  
127 Cardinal Drive Extension  
Wilmington, North Carolina
  - (C) Division of Water Quality  
Central Office  
512 North Salisbury Street  
Raleigh, North Carolina.
- (b) Unnamed Streams. Such streams entering South Carolina are classified "C Sw".
- (c) The Lumber River Basin Schedule of Classification and Water Quality Standards was amended effective:
- (1) March 1, 1977;
  - (2) December 13, 1979;
  - (3) September 14, 1980;
  - (4) April 12, 1981;
  - (5) April 1, 1982;
  - (6) February 1, 1986;
  - (7) July 1, 1990;
  - (8) August 1, 1990;
  - (9) August 3, 1992;
  - (10) September 1, 1996;
  - (11) August 1, 2000;
  - (12) November 1, 2007.
- (d) The Schedule of Classifications and Water Quality Standards for the Lumber River Basin was amended effective July 1, 1990 by the reclassification of Naked Creek (Index No. 14-2-6) from source to Drowning Creek including all tributaries from Class WS-III to Class WS-III ORW.
- (e) The Schedule of Classifications and Water Quality Standards for the Lumber River Basin was amended effective August 3, 1992 with the reclassification of all water supply waters (waters with a primary classification of WS-I, WS-II or WS-III). These waters were reclassified to WS-I, WS-II, WS-III, WS-IV or WS-V as defined in the revised water supply protection rules, (15A NCAC 02B .0100, .0200 and .0300) which became effective on August 3, 1992. In some cases, streams with primary classifications other than WS were reclassified to a WS classification due to their proximity and linkage to water supply waters. In other cases, waters were reclassified from a WS classification to an alternate appropriate primary classification after being identified as downstream of a water supply intake or identified as not being used for water supply purposes.
- (f) The Schedule of Classifications and Water Quality Standards for the Lumber River Basin was amended effective September 1, 1996 by the reclassification of the Lumber River from 2.0 miles upstream of highway 401 to a point 0.5 mile upstream of Powell Branch [Index Nos. 14-(3), 14-(4), 14-(4.5), 14-(7) and 14-(10.3)] from Classes WS-IV Sw HQW, WS-IV Sw HQW CA and C Sw HQW to Classes WS-IV B Sw HQW, WS-IV B Sw HQW CA and B Sw HQW.
- (g) The Schedule of Classifications and Water Quality Standards for the Lumber River Basin was amended effective

August 1, 2000 with the reclassification of Lake Waccamaw [Index No. 15-2] from Class B Sw to Class B Sw ORW.

(h) The Schedule of Classifications and Water Quality Standards for the Lumber River Basin was amended effective November 1, 2007 with the reclassifications listed below, and the North Carolina Division of Water Quality maintains a Geographic Information Systems data layer of these UWLs:

- (1) Waccamaw Natural Lake Shoreline near Lake Waccamaw [Index No. 15-2] was reclassified to Class WL UWL as defined in 15A NCAC 02B .0101.
- (2) Green Swamp Small Depression Pond near Royal Oak Swamp [Index No. 15-25-1-12] was reclassified to Class WL UWL as defined in 15A NCAC 02B .0101.
- (3) Old Dock Savanna near Gum Swamp Run [Index No. 15-6] was reclassified to Class WL UWL as defined in 15A NCAC 02B .0101.
- (4) Myrtle Head Savanna near Mill Branch [Index No. 15-7-7] was reclassified to Class WL UWL as defined in 15A NCAC 02B .0101.
- (5) Goosepond Bay near Big Marsh Swamp [Index No. 14-22-2] was reclassified to Class WL UWL as defined in 15A NCAC 02B .0101.
- (6) Antioch Bay near Raft Swamp [Index No. 14-10-(1)] was reclassified to Class WL UWL as defined in 15A NCAC 02B .0101.
- (7) Pretty Pond Bay near Big Marsh Swamp [Index No. 14-22-2] was reclassified to Class WL UWL as defined in 15A NCAC 02B .0101.
- (8) Dunahoe Bay near Big Marsh Swamp [Index No. 14-22-2] was reclassified to Class WL UWL as defined in 15A NCAC 02B .0101.
- (9) Hamby's Bay near Raft Swamp [Index No. 14-10-(1)] was reclassified to Class WL UWL as defined in 15A NCAC 02B .0101.
- (10) Oak Savanna Bay near Smith Branch [Index No. 14-10-3] was reclassified to Class WL UWL as defined in 15A NCAC 02B .0101.
- (11) Big Island Savanna near Driving Creek [Index No. 15-7-1] was reclassified to Class WL UWL as defined in 15A NCAC 02B .0101.

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

*Eff. February 1, 1976;*

*Amended Eff. November 1, 2007; August 1, 2000; September 1, 1996; August 3, 1992; August 1, 1990; July 1, 1990; February 1, 1986.*

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

(a) The Cape Fear River Basin Schedule of Classifications and Water Quality Standards may be inspected at the following places:

- (1) the Internet at <http://h2o.enr.state.nc.us/csu/>; and

(2) the North Carolina Department of Environment and Natural Resources:

- (A) Winston-Salem Regional Office  
585 Waughtown Street  
Winston-Salem, North Carolina
- (B) Fayetteville Regional Office  
225 Green Street  
Systel Building Suite 714  
Fayetteville, North Carolina
- (C) Raleigh Regional Office  
3800 Barrett Drive  
Raleigh, North Carolina
- (D) Washington Regional Office  
943 Washington Square Mall  
Washington, North Carolina
- (E) Wilmington Regional Office  
127 Cardinal Drive Extension  
Wilmington, North Carolina
- (F) Division of Water Quality  
Central Office  
512 North Salisbury Street  
Raleigh, North Carolina.

(b) The Cape Fear River Basin Schedule of Classification and Water Quality Standards was amended effective:

- (1) March 1, 1977;
- (2) December 13, 1979;
- (3) December 14, 1980;
- (4) August 9, 1981;
- (5) April 1, 1982;
- (6) December 1, 1983;
- (7) January 1, 1985;
- (8) August 1, 1985;
- (9) December 1, 1985;
- (10) February 1, 1986;
- (11) July 1, 1987;
- (12) October 1, 1987;
- (13) March 1, 1988;
- (14) June 1, 1988;
- (15) July 1, 1988;
- (16) January 1, 1990;
- (17) August 1, 1990;
- (18) August 3, 1992;
- (19) September 1, 1994;
- (20) August 1, 1998;
- (21) April 1, 1999;
- (22) August 1, 2002;
- (23) November 1, 2004;
- (24) November 1, 2007.

(c) The Schedule of Classifications and Water Quality Standards for the Cape Fear River Basin has been amended effective June 1, 1988 as follows:

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

Lake and all tributaries has been reclassified from Class WS-III to WS-I.

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

(e) The Schedule of Classifications and Water Quality Standards for the Cape Fear River Basin has been amended effective January 1, 1990 as follows:

- (1) Intracoastal Waterway (Index No. 18-87) from southern edge of White Oak River Basin to western end of Permuda Island (a line from Morris Landing to Atlantic Ocean), from the eastern mouth of Old Topsail Creek to the southwestern shore of Howe Creek and from the southwest mouth of Shinn Creek to channel marker No. 153 including all tributaries except the King Creek Restricted Area, Hardison Creek, Old Topsail Creek, Mill Creek, Futch Creek and Pages Creek were reclassified from Class SA to Class SA ORW.
- (2) Topsail Sound and Middle Sound ORW Area which includes all waters between the Barrier Islands and the Intracoastal Waterway located between a line running from the western most shore of Mason Inlet to the southwestern shore of Howe Creek and a line running from the western shore of New Topsail Inlet to the eastern mouth of Old Topsail Creek was reclassified from Class SA to Class SA ORW.
- (3) Masonboro Sound ORW Area which includes all waters between the Barrier Islands and the mainland from a line running from the southwest mouth of Shinn Creek at the Intracoastal Waterway to the southern shore of Masonboro Inlet and a line running from the Intracoastal Waterway Channel marker No. 153 to the southside of the Carolina Beach Inlet was reclassified from Class SA to Class SA ORW.

(f) The Schedule of Classifications and Water Quality Standards for the Cape Fear River Basin has been amended effective January 1, 1990 as follows: Big Alamance Creek [Index No. 16-19-(1)] from source to Lake Mackintosh Dam including all tributaries has been reclassified from Class WS-III NSW to Class WS-II NSW.

(g) The Schedule of Classifications and Water Quality Standards for the Cape Fear River Basin was amended effective August 3, 1992 with the reclassification of all water supply waters (waters with a primary classification of WS-I, WS-II or WS-III). These waters were reclassified to WS-I, WS-II, WS-III, WS-IV or WS-V as defined in the revised water supply protection rules, (15A NCAC 02B .0100, .0200 and .0300) which became effective on August 3, 1992. In some cases, streams with primary classifications other than WS were reclassified to a WS classification due to their proximity and linkage to water supply waters. In other cases, waters were reclassified from a WS classification to an alternate appropriate

primary classification after being identified as downstream of a water supply intake or identified as not being used for water supply purposes.

(h) The Schedule of Classifications and Water Quality Standards for the Cape Fear River Basin was amended effective June 1, 1994 as follows:

- (1) The Black River from its source to the Cape Fear River [Index Nos. 18-68-(0.5), 18-68-(3.5) and 18-65-(11.5)] was reclassified from Classes C Sw and C Sw HQW to Class C Sw ORW.
- (2) The South River from Big Swamp to the Black River [Index Nos. 18-68-12-(0.5) and 18-68-12(11.5)] was reclassified from Classes C Sw and C Sw HQW to Class C Sw ORW.
- (3) Six Runs Creek from Quewhiffle Swamp to the Black River [Index No. 18-68-2] was reclassified from Class C Sw to Class C Sw ORW.

(i) The Schedule of Classifications and Water Quality Standards for the Cape Fear River Basin was amended effective September 1, 1994 with the reclassification of the Deep River [Index No. 17-(36.5)] from the Town of Gulf-Goldston water supply intake to US highway 421 including associated tributaries from Class C to Classes C, WS-IV and WS-IV CA.

(j) The Schedule of Classifications and Water Quality Standards for the Cape Fear River Basin was amended effective August 1, 1998 with the revision to the primary classification for portions of the Deep River [Index No. 17-(28.5)] from Class WS-IV to Class WS-V, Deep River [Index No. 17-(41.5)] from Class WS-IV to Class C, and the Cape Fear River [Index 18-(10.5)] from Class WS-IV to Class WS-V.

(k) The Schedule of Classifications and Water Quality Standards for the Cape Fear River Basin was amended effective April 1, 1999 with the reclassification of Buckhorn Creek (Harris Lake)[Index No. 18-7-(3)] from the backwaters of Harris Lake to the Dam at Harris Lake from Class C to Class WS-V.

(l) The Schedule of Classifications and Water Quality Standards for the Cape Fear River Basin was amended effective April 1, 1999 with the reclassification of the Deep River [Index No. 17-(4)] from the dam at Oakdale-Cotton Mills, Inc. to the dam at Randleman Reservoir (located 1.6 mile upstream of U.S. Hwy 220 Business), and including tributaries from Class C and Class B to Class WS-IV and Class WS-IV & B. Streams within the Randleman Reservoir Critical Area have been reclassified to WS-IV CA. The Critical Area for a WS-IV reservoir is defined as 0.5 mile and draining to the normal pool elevation of the reservoir. All waters within the Randleman Reservoir Water Supply Watershed are within a designated Critical Water Supply Watershed and are subject to a special management strategy specified in 15A NCAC 02B .0248.

(m) The Schedule of Classifications and Water Quality Standards for the Cape Fear River Basin was amended effective August 1, 2002 as follows:

- (1) Mill Creek [Index Nos. 18-23-11-(1), 18-23-11-(2), 18-23-11-3, 18-23-11-(5)] from its source to the Little River, including all tributaries was reclassified from Class WS-III NSW and Class WS-III B NSW to Class WS-

III NSW HQW@ and Class WS-III B NSW HQW@.

- (2) McDeed's Creek [Index Nos. 18-23-11-4, 18-23-11-4-1] from its source to Mill Creek, including all tributaries was reclassified from Class WS III NSW and Class WS-III B NSW to Class WS-III NSW HQW@ and Class WS-III B NSW HQW@.

The "@" symbol as used in this Paragraph means that if the governing municipality has deemed that a development is covered under a "5/70 provision" as described in Rule 15A NCAC 02B .0215(3)(b)(i)(E) (Fresh Surface Water Quality Standards for Class WS-III Waters), then that development is not subject to the stormwater requirements as described in rule 15A NCAC 02H .1006 (Stormwater Requirements: High Quality Waters).

(n) The Schedule of Classifications and Water Quality Standards for the Cape Fear River Basin was amended effective November 1, 2004 as follows:

- (1) A portion of Rocky River [Index Number 17-43-(1)] from a point approximately 0.3 mile upstream of Town of Siler City upper reservoir dam to a point approximately 0.3 mile downstream of Lacy Creek from WS-III to WS-III CA.
- (2) A portion of Rocky River [Index Number 17-43-(8)] from dam at lower water supply reservoir for Town of Siler City to a point approximately 65 feet below dam (site of proposed dam) from C to WS-III CA.
- (3) A portion of Mud Lick Creek (Index No. 17-43-6) from a point approximately 0.4 mile upstream of Chatham County SR 1355 to Town of Siler City lower water supply reservoir from WS-III to WS-III CA.
- (4) A portion of Lacy Creek (17-43-7) from a point approximately 0.6 mile downstream of Chatham County SR 1362 to Town of Siler City lower water supply reservoir from WS-III to WS-III CA.

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

- (1) Military Ocean Terminal Sunny Point Pools, all on the eastern shore of the Cape Fear River [Index No. 18-(71)] were reclassified to Class WL UWL as defined in 15A NCAC 02B .0101.
- (2) Salters Lake Bay near Salters Lake [Index No. 18-44-4] was reclassified to Class WL UWL as defined in 15A NCAC 02B .0101.
- (3) Jones Lake Bay near Jones Lake [Index No. 18-46-7-1] was reclassified to Class WL UWL as defined in 15A NCAC 02B .0101.
- (4) Weymouth Woods Sandhill Seep near Mill Creek [18-23-11-(1)] was reclassified to Class

- WL UWL as defined in 15A NCAC 02B .0101.
- (5) Fly Trap Savanna near Cape Fear River [Index No. 18-(71)] was reclassified to Class WL UWL as defined in 15A NCAC 02B .0101.
  - (6) Lily Pond near Cape Fear River [Index No. 18-(71)] was reclassified to Class WL UWL as defined in 15A NCAC 02B .0101.
  - (7) Grassy Pond near Cape Fear River [Index No. 18-(71)] was reclassified to Class WL UWL as defined in 15A NCAC 02B .0101.
  - (8) The Neck Savanna near Sandy Run Swamp [Index No. 18-74-33-2] was reclassified to Class WL UWL as defined in 15A NCAC 02B .0101.
  - (9) Bower's Bog near Mill Creek [Index No. 18-23-11-(1)] was reclassified to Class WL UWL as defined in 15A NCAC 02B .0101.
  - (10) Bushy Lake near Turnbull Creek [Index No. 18-46] was reclassified to Class WL UWL as defined in 15A NCAC 02B .0101.

*History Note: Authority G.S. 143-214.1; 143-215.1; 143-215.3(a)(1); Eff. February 1, 1976; Amended Eff. November 1, 2007; November 1, 2004; August 1, 2002; April 1, 1999; August 1, 1998; September 1, 1994; June 1, 1994; August 3, 1992; August 1, 1990.*

**15A NCAC 02B .0312 WHITE OAK RIVER BASIN**

(a) The White Oak River Basin Schedule of Classifications and Water Quality Standards may be inspected in the following places:

- (1) the internet at <http://h2o.enr.state.nc.us/csu/>; and
- (2) the North Carolina Department of Environment and Natural Resources:
  - (A) Washington Regional Office  
943 Washington Square Mall  
Washington, North Carolina
  - (B) Wilmington Regional Office  
127 Cardinal Drive Extension  
Wilmington, North Carolina
  - (C) Division of Water Quality  
Central Office  
512 North Salisbury Street  
Raleigh, North Carolina.

(b) The White Oak River Basin Schedule of Classification and Water Quality Standards was amended effective:

- (1) December 13, 1979;
- (2) June 1, 1988;
- (3) January 1, 1990;
- (4) August 1, 1990;
- (5) August 1, 1991;
- (6) June 1, 1992;
- (7) December 1, 1992;
- (8) November 1, 2007.

(c) The Schedule of Classifications and Water Quality Standards for the White Oak River Basin has been amended effective January 1, 1990 as follows:

- (1) Intracoastal Waterway (Index No. 19-39) from northeastern boundary of Cape Fear River Basin to Daybeacon No. 17 including all unnamed bays, guts, and channels, except Rogers Bay and Mill Creek and Intracoastal Waterway (Index No. 19-41) from the northeast mouth of Goose Creek to the southwest mouth of Queen Creek were reclassified from Class SA to Class SA ORW.
- (2) Bear Island ORW Area, which includes all waters within an area north of Bear Island defined by a line from the western most point on Bear Island to the northeast mouth of Goose Creek on the mainland, east to the southwest mouth of Queen Creek, then south to green marker No. 49, then northeast to the northern most point on Huggins Island, then southeast along the shoreline of Huggins Island to the southeastern most point of Huggins Island, then south to the northeastern most point on Dudley Island, then southwest along the shoreline of Dudley Island to the eastern tip of Bear Island to the western mouth of Foster Creek including Cow Channel were reclassified from Class SA to Class SA ORW.
- (3) Bogue Sound (including Intracoastal Waterway from White Oak River Basin to Beaufort Inlet) (Index No. 20-36) from Bogue Inlet to a line across Bogue Sound from the southwest side of mouth of Gales Creek to Rock Point and all tributaries except Hunting Island Creek, Goose Creek, and Broad Creek were reclassified from Class SA to Class SA ORW.
- (4) Core Sound (Index No. 21-35-7) from northern boundary of White Oak River Basin (a line from Hall Point to Drum Inlet) to Back Sound and all tributaries except Atlantic Harbor Restricted Area, Nelson Bay, Jarrett Bay, Williston Creek, Wade Creek and Middens Creek were reclassified from Class SA to Class SA ORW.
- (5) Back Sound (Index No. 21-35) from a point on Shackleford Banks at lat. 34 degrees 40' 57" and long 76 degrees 37' 30" north to the western most point of Middle Marshes and along the northwest shoreline of Middle Marshes (to include all of Middle Marshes) to Rush Point on Harkers Island and along the southern shore of Harkers Island back to Core Sound and all tributaries were reclassified from Class SA to Class SA ORW.

(d) The Schedule of Classifications and Water Quality Standards for the White Oak River Basin was amended effective August 1, 1991 by adding the supplemental classification NSW (Nutrient Sensitive Waters) to all waters in the New River

Drainage Area above a line running across the New River from Grey Point to a point of land approximately 2,200 yards downstream of the mouth of Duck Creek.

(e) The Schedule of Classifications and Water Quality Standards for the White Oak River Basin was amended effective June 1, 1992 with the reclassification of Peletier Creek (Index No. 20-36-11) from its source to Bogue Sound from Class SA to Class SB with the requirement that no discharges be allowed.

(f) The Schedule of Classifications and Water Quality Standards for the White Oak River Basin has been amended effective December 1, 1992 with the reclassification of the Atlantic Harbor Restricted Area (Index No. 21-35-7-2) from Class SC to Class SA ORW.

(g) The Schedule of Classifications and Water Quality Standards for the White Oak River Basin has been amended effective November 1, 2007 with the reclassifications listed below, and the North Carolina Division of Water Quality maintains a Geographic Information Systems data layer of these UWLs:

- (1) Theodore Roosevelt Maritime Swamp Forest near Roosevelt Natural Area Swamp [Index No. 20-36-9.5-(1)] was reclassified to Class WL UWL as defined in 15A NCAC 02B .0101.
- (2) Bear Island Maritime Wet Grassland near the Atlantic Ocean [Index No. 99-(4)] was reclassified to Class WL UWL as defined in 15A NCAC 02B .0101.

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

*Eff. February 1, 1976;*

*Amended Eff. November 1, 2007; December 1, 1992; June 1, 1992; August 1, 1991; August 1, 1990.*

**15A NCAC 02B .0313 ROANOKE RIVER BASIN**

(a) The Roanoke River Basin Schedule of Classifications and Water Quality Standards may be inspected at the following places:

- (1) the Internet at <http://h2o.enr.state.nc.us/csu/>; and
- (2) the North Carolina Department of Environment and Natural Resources:
  - (A) Raleigh Regional Office  
3800 Barrett Drive  
Raleigh, North Carolina
  - (B) Washington Regional Office  
943 Washington Square Mall  
Washington, North Carolina
  - (C) Winston-Salem Regional Office  
585 Woughtown Street  
Winston-Salem, North Carolina
  - (D) Division of Water Quality  
Regional Office  
512 North Salisbury Street  
Raleigh, North Carolina.

(b) Unnamed Streams. Such streams entering Virginia are classified "C", except that all backwaters of John H. Kerr Reservoir and the North Carolina portion of streams tributary

thereto not otherwise named or described shall carry the classification "B," and all backwaters of Lake Gaston and the North Carolina portion of streams tributary thereto not otherwise named or described shall carry the classification "C and B".

(c) The Roanoke River Basin Schedule of Classification and Water Quality Standards was amended effective:

- (1) May 18, 1977;
- (2) July 9, 1978;
- (3) July 18, 1979;
- (4) July 13, 1980;
- (5) March 1, 1983;
- (6) August 1, 1985;
- (7) February 1, 1986;
- (8) July 1, 1991;
- (9) August 3, 1992;
- (10) August 1, 1998;
- (11) April 1, 1999;
- (12) April 1, 2001;
- (13) November 1, 2007.

(d) The Schedule of Classifications and Water Quality Standards for the Roanoke River Basin was amended effective July 1, 1991 with the reclassification of Hyco Lake (Index No. 22-58) from Class C to Class B.

(e) The Schedule of Classifications and Water Quality Standards for the Roanoke River Basin was amended effective August 3, 1992 with the reclassification of all water supply waters (waters with a primary classification of WS-I, WS-II or WS-III). These waters were reclassified to WS-I, WS-II, WS-III, WS-IV or WS-V as defined in the revised water supply protection rules, (15A NCAC 2B .0100, .0200 and .0300) which became effective on August 3, 1992. In some cases, streams with primary classifications other than WS were reclassified to a WS classification due to their proximity and linkage to water supply waters. In other cases, waters were reclassified from a WS classification to an alternate appropriate primary classification after being identified as downstream of a water supply intake or identified as not being used for water supply purposes.

(f) The Schedule of Classifications and Water Quality Standards for the Roanoke River Basin was amended effective August 1, 1998 with the reclassification of Cascade Creek (Camp Creek) [Index No. 22-12] and its tributaries from its source to the backwaters at the swimming lake from Class B to Class B ORW, and reclassification of Indian Creek [index No. 22-13] and its tributaries from its source to Window Falls from Class C to Class C ORW.

(g) The Schedule of Classifications and Water Quality Standards for the Roanoke River Basin was amended effective August 1, 1998 with the reclassification of Dan River and Mayo River WS-IV Protected Areas. The Protected Areas were reduced in size.

(h) The Schedule of Classifications and Water Quality Standards for the Roanoke River Basin was amended effective April 1, 1999 as follows:

- (1) Hyco River, including Hyco Lake below elevation 410 [Index No. 22-58-(0.5)] was reclassified from Class B to Class WS-V B.
- (2) Mayo Creek (Maho Creek) (Mayo Reservoir) [Index No. 22-58-15] was reclassified from its

source to the dam of Mayo Reservoir from Class C to Class WS-V.

(i) The Schedule of Classifications and Water Quality Standards for the Roanoke River Basin was amended effective April 1, 2001 as follows:

- (1) Fullers Creek from source to a point 0.8 mile upstream of Yanceyville water supply dam [Index No. 22-56-4-(1)] was reclassified from Class WS-II to Class WS-III.
- (2) Fullers Creek from a point 0.8 mile upstream of Yanceyville water supply dam to Yanceyville water supply dam [Index No. 22-56-4-(2)] was reclassified from Class WS-II CA to Class WS-III CA.

(j) The Schedule of Classifications and Water Quality Standards for the Roanoke River Basin was amended effective November 1, 2007 with the reclassification of Hanging Rock Hillside Seepage Bog near Cascade Creek [Index No. 22-12-(2)] to Class WL UWL as defined in 15A NCAC 02B .0101. The Division of Water Quality maintains a Geographic Information Systems data layer of the UWL.

*History Note: Authority G.S. 143-214.1; 143-215.1; 143-215.3(a)(1); Eff. February 1, 1976; Amended Eff. November 1, 2007; April 1, 2001; April 1, 1999; August 1, 1998; August 3, 1992; July 1, 1991; February 1, 1986; August 1, 1985.*

#### **15A NCAC 02B .0315 NEUSE RIVER BASIN**

(a) The Neuse River Basin Schedule of Classification and Water Quality Standards may be inspected at the following places:

- (1) the Internet at <http://h2o.enr.state.nc.us/csu/>; and
- (2) the North Carolina Department of Environment and Natural Resources:
  - (A) Raleigh Regional Office  
3800 Barrett Drive  
Raleigh, North Carolina
  - (B) Washington Regional Office  
943 Washington Square Mall  
Washington, North Carolina
  - (C) Wilmington Regional Office  
127 Cardinal Drive  
Wilmington, North Carolina
  - (D) Division of Water Quality  
Central Office  
512 North Salisbury Street  
Raleigh, North Carolina.

(b) The Neuse River Basin Schedule of Classification and Water Quality Standards was amended effective:

- (1) March 1, 1977;
- (2) December 13, 1979;
- (3) September 14, 1980;
- (4) August 9, 1981;
- (5) January 1, 1982;
- (6) April 1, 1982;
- (7) December 1, 1983;
- (8) January 1, 1985;

- (9) August 1, 1985;
- (10) February 1, 1986;
- (11) May 1, 1988;
- (12) July 1, 1988;
- (13) October 1, 1988;
- (14) January 1, 1990;
- (15) August 1, 1990;
- (16) December 1, 1990;
- (17) July 1, 1991;
- (18) August 3, 1992;
- (19) April 1, 1994;
- (20) July 1, 1996;
- (21) September 1, 1996;
- (22) April 1, 1997;
- (23) August 1, 1998;
- (24) August 1, 2002;
- (25) July 1, 2004;
- (26) November 1, 2007.

(c) The Schedule of Classifications and Water Quality Standards for the Neuse River Basin has been amended effective July 1, 1988 as follows:

- (1) Smith Creek [Index No. 27-23-(1)] from source to the dam at Wake Forest Reservoir has been reclassified from Class WS-III to WS-I.
- (2) Little River [Index No. 27-57-(1)] from source to the N.C. Hwy. 97 Bridge near Zebulon including all tributaries has been reclassified from Class WS-III to WS-I.
- (3) An unnamed tributary to Buffalo Creek just upstream of Robertson's Pond in Wake County from source to Buffalo Creek including Leo's Pond has been reclassified from Class C to B.

(d) The Schedule of Classifications and Water Quality Standards for the Neuse River Basin has been amended effective October 1, 1988 as follows:

- (1) Walnut Creek (Lake Johnson, Lake Raleigh) [Index No. 27-34-(1)]. Lake Johnson and Lake Raleigh have been reclassified from Class WS-III to Class WS-III B.
- (2) Haw Creek (Camp Charles Lake) (Index No. 27-86-3-7) from the backwaters of Camp Charles Lake to dam at Camp Charles Lake has been reclassified from Class C to Class B.

(e) The Schedule of Classifications and Water Quality Standards for the Neuse River Basin has been amended effective January 1, 1990 as follows:

- (1) Neuse-Southeast Pamlico Sound ORW Area which includes all waters within a line beginning at the southwest tip of Ocracoke Island, and extending north west along the Tar-Pamlico River Basin and Neuse River Basin boundary line to Lat. 35 degrees 06' 30", thence in a southwest direction to Ship Point and all tributaries, were reclassified from Class SA NSW to Class SA NSW ORW.
- (2) Core Sound (Index No. 27-149) from northeastern limit of White Oak River Basin (a line from Hall Point to Drum Inlet) to Pamlico



Sound and all tributaries, except Thorofare, John Day Ditch were reclassified from Class SA NSW to Class SA NSW ORW.

(f) The Schedule of Classifications and Water Quality Standards for the Neuse River Basin was amended effective December 1, 1990 with the reclassification of the following waters as described in (1) through (3) of this Paragraph.

- (1) Northwest Creek from its source to the Neuse River (Index No. 27-105) from Class SC Sw NSW to Class SB Sw NSW;
- (2) Upper Broad Creek [Index No. 27-106-(7)] from Pamlico County SR 1103 at Lees Landing to the Neuse River from Class SC Sw NSW to Class SB Sw NSW; and
- (3) Goose Creek [Index No. 27-107-(11)] from Wood Landing to the Neuse River from Class SC Sw NSW to Class SB Sw NSW.

(g) The Schedule of Classifications and Water Quality Standards for the Neuse River Basin was amended effective July 1, 1991 with the reclassification of the Bay River [Index No. 27-150-(1)] within a line running from Flea Point to the Hammock, east to a line running from Bell Point to Darby Point, including Harper Creek, Tempe Gut, Moore Creek and Newton Creek, and excluding that portion of the Bay River landward of a line running from Poorhouse Point to Darby Point from Classes SC Sw NSW and SC Sw NSW HQW to Class SA NSW.

(h) The Schedule of Classifications and Water Quality Standards for the Neuse River Basin was amended effective August 3, 1992 with the reclassification of all water supply waters (waters with a primary classification of WS-I, WS-II or WS-III). These waters were reclassified to WS-I, WS-II, WS-III, WS-IV or WS-V as defined in the revised water supply protection rules, (15A NCAC 02B .0100, .0200 and .0300) which became effective on August 3, 1992. In some cases, streams with primary classifications other than WS were reclassified to a WS classification due to their proximity and linkage to water supply waters. In other cases, waters were reclassified from a WS classification to an alternate appropriate primary classification after being identified as downstream of a water supply intake or identified as not being used for water supply purposes.

(i) The Schedule of Classifications and Water Quality Standards for the Neuse River Basin was amended effective April 1, 1994 as follows:

- (1) Lake Crabtree [Index No. 27-33-(1)] was reclassified from Class C NSW to Class B NSW.
- (2) The Eno River from Orange County State Road 1561 to Durham County State Road 1003 [Index No. 27-10-(16)] was reclassified from Class WS-IV NSW to Class WS-IV B NSW.
- (3) Silver Lake (Index No. 27-43-5) was reclassified from Class WS-III NSW to Class WS-III B NSW.

(j) The Schedule of Classifications and Water Quality Standards for the Neuse River Basin was amended effective July 1, 1996 with the reclassification of Austin Creek [Index Nos. 27-23-3-(1)

and 27-23-3-(2)] from its source to Smith Creek from classes WS-III NSW and WS-III NSW CA to class C NSW.

(k) The Schedule of Classifications and Water Quality Standards for the Neuse River Basin was amended effective September 1, 1996 with the reclassification of an unnamed tributary to Hannah Creek (Tuckers Lake) [Index No. 27-52-6-0.5] from Class C NSW to Class B NSW.

(l) The Schedule of Classifications and Water Quality Standards for the Neuse River Basin was amended effective April 1, 1997 with the reclassification of the Neuse River (including tributaries) from mouth of Marks Creek to a point 1.3 miles downstream of Johnston County State Road 1908 to class WS-IV NSW and from a point 1.3 miles downstream of Johnston County State Road 1908 to the Johnston County Water Supply intake (located 1.8 miles downstream of Johnston County State Road 1908) to class WS-IV CA NSW [Index Nos. 27-(36) and 27-(38.5)].

(m) The Schedule of Classifications and Water Quality Standards for the Neuse River Basin was amended effective August 1, 1998 with the revision of the Critical Area and Protected Area boundaries surrounding the Falls Lake water supply reservoir. The revisions to these boundaries is the result of the Corps of Engineers raising the lake's normal pool elevation. The result of these revisions is the Critical and Protected Area boundaries (classifications) may extend further upstream than the current designations. The Critical Area for a WS-IV reservoir is defined as .5 miles and draining to the normal pool elevation. The Protected Area for a WS-IV reservoir is defined as 5 miles and draining to the normal pool elevation. The normal pool elevation of the Falls Lake reservoir has changed from 250.1 feet mean sea level (msl) to 251.5 feet msl.

(n) The Schedule of Classifications and Water Quality Standards for the Neuse River Basin was amended effective August 1, 2002 with the reclassification of the Neuse River [portions of Index No. 27-(56)], including portions of its tributaries, from a point 0.7 mile downstream of the mouth of Coxes Creek to a point 0.6 mile upstream of Lenoir County proposed water supply intake from Class C NSW to Class WS-IV NSW and from a point 0.6 mile upstream of Lenoir County proposed water supply intake to Lenoir proposed water supply intake from Class C NSW to Class WS-IV CA NSW.

(o) The Schedule of Classifications and Water Quality Standards for the Neuse River Basin was amended effective July 1, 2004 with the reclassification of the Neuse River (including tributaries in Wake County) [Index Nos. 27-(20.7), 27-21, 27-21-1] from the dam at Falls Lake to a point 0.5 mile upstream of the Town of Wake Forest Water Supply Intake (former water supply intake for Burlington Mills Wake Finishing Plant) from Class C NSW to Class WS-IV NSW and from a point 0.5 mile upstream of the Town of Wake Forest proposed water supply intake to Town of Wake Forest proposed water supply intake [Index No. 27-(20.1)] from Class C NSW to Class WS-IV NSW CA. Fantasy Lake [Index No. 27 -57-3-1-1], a former rock quarry within a WS-II NSW water supply watershed, was reclassified from Class WS-II NSW to Class WS-II NSW CA.

(p) The Schedule of Classifications and Water Quality Standards for the Neuse River Basin was amended effective November 1, 2007 with the reclassification of the entire

watershed of Deep Creek (Index No. 27-3-4) from source to Flat River from Class WS-III NSW to Class WS-III ORW NSW.

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

*Eff. February 1, 1976;*

*Amended Eff. November 1, 2007; July 1, 2004 (see SL 2001-361); August 1, 2002; August 1, 1998; April 1, 1997; September 1, 1996; July 1, 1996; April 1, 1994; August 3, 1992; July 1, 1991.*

**15A NCAC 02B .0316 TAR-PAMLICO RIVER BASIN**

(a) The Tar-Pamlico River Basin Schedule of Classifications and Water Quality Standards may be inspected at the following places:

- (1) the internet at <http://h2o.enr.state.nc.us/csu/>; and
- (2) the North Carolina Department of Environment and Natural Resources:
  - (A) Raleigh Regional Office  
3800 Barrett Drive  
Raleigh, North Carolina
  - (B) Washington Regional Office  
943 Washington Square Mall  
Washington, North Carolina
  - (C) Division of Water Quality  
Central Office  
512 North Salisbury Street  
Raleigh, North Carolina.

(b) Unnamed Streams. All drainage canals not noted in the schedule are classified "C Sw," except the main drainage canals to Pamlico Sound and its bays which are classified "SC."

(c) The Tar-Pamlico River Basin Schedule of Classification and Water Quality Standards was amended effective:

- (1) March 1, 1977;
- (2) November 1, 1978;
- (3) June 8, 1980;
- (4) October 1, 1983;
- (5) June 1, 1984;
- (6) August 1, 1985;
- (7) February 1, 1986;
- (8) August 1, 1988;
- (9) January 1, 1990;
- (10) August 1, 1990;
- (11) August 3, 1992;
- (12) April 1, 1994;
- (13) January 1, 1996;
- (14) September 1, 1996;
- (15) October 7, 2003;
- (16) June 1, 2004;
- (17) November 1, 2007.

(d) The Schedule of Classifications and Water Quality Standards for the Tar-Pamlico River Basin was amended effective August 1, 1988 as follows:

- (1) Tar River (Index No. 28-94) from a point 1.2 miles downstream of Broad Run to the upstream side of Tranters Creek from Class C to Class B.

(e) The Schedule of Classifications and Water Quality Standards for the Tar-Pamlico River Basin was amended effective January 1, 1990 by the reclassification of Pamlico River and Pamlico Sound [Index No. 29-(27)] which includes all waters within a line beginning at Juniper Bay Point and running due south to Lat. 35° 18' 00", long. 76° 13' 20", thence due west to lat. 35° 18' 00", long 76° 20' 00", thence northwest to Shell Point and including Shell Bay, Swanquarter and Juniper Bays and their tributaries, but excluding the Blowout, Hydeland Canal, Juniper Canal and Quarter Canal were reclassified from Class SA and SC to SA ORW and SC ORW.

(f) The Schedule of Classifications and Water Quality Standards for the Tar-Pamlico River Basin was amended effective January 1, 1990 by adding the supplemental classification NSW (Nutrient Sensitive Waters) to all waters in the basin from source to a line across Pamlico River from Roos Point to Persimmon Tree Point.

(g) The Schedule of Classifications and Water Quality Standards for the Tar-Pamlico River Basin was amended effective August 3, 1992 with the reclassification of all water supply waters (waters with a primary classification of WS-I, WS-II or WS-III). These waters were reclassified to WS-I, WS-II, WS-III, WS-IV or WS-V as defined in the revised water supply protection rules, (15A NCAC 2B .0100, .0200 and .0300) which became effective on August 3, 1992. In some cases, streams with primary classifications other than WS were reclassified to a WS classification due to their proximity and linkage to water supply waters. In other cases, waters were reclassified from a WS classification to an alternate appropriate primary classification after being identified as downstream of a water supply intake or identified as not being used for water supply purposes.

(h) The Schedule of Classifications and Water Quality Standards for the Tar-Pamlico River Basin was amended effective April 1, 1994 with the reclassification of Blounts Creek from Herring Run to Blounts Bay [Index No. 29-9-1-(3)] from Class SC NSW to Class SB NSW.

(i) The Schedule of Classifications and Water Quality Standards for the Tar-Pamlico River Basin was amended effective January 1, 1996 with the reclassification of Tranters Creek [Index Numbers 28-103- (4.5), 28-103- (13.5), 28-103- (14.5) and 28-103-(16.5)] from a point 1.5 miles upstream of Turkey Swamp to the City of Washington's former auxiliary water supply intake, including tributaries, from Class WS-IV Sw NSW and Class WS-IV CA Sw NSW to Class C Sw NSW.

(j) The Schedule of Classifications and Water Quality Standards for the Tar-Pamlico River Basin was amended effective September 1, 1996 with the addition of Huddles Cut (previously unnamed in the schedule) classified as SC NSW with an Index No. of 29-25.5.

(k) The Schedule of Classifications and Water Quality Standards for the Tar-Pamlico River Basin was temporarily amended effective October 7, 2003 and permanently amended June 1, 2004 with the reclassification of a portion of Swift Creek [Index Number 28-78-(0.5)] and a portion of Sandy Creek [Index Number 28-78-1-(19)] from Nash County SR 1004 to Nash County SR 1003 from Class C NSW to Class C ORW NSW, and the waters that drain to these two creek portions to include only the ORW management strategy as represented by

"+" The "+" symbol as used in this paragraph means that all undesignated waterbodies that drain to the portions of the two creeks referenced in this Paragraph shall comply with Paragraph (c) of Rule .0225 of this Subchapter in order to protect the designated waters as per Rule .0203 of this Subchapter and to protect outstanding resource values found in the designated waters as well as in the undesignated waters that drain to the designated waters.

(l) The Schedule of Classifications and Water Quality Standards for the Tar-Pamlico River Basin was amended effective November 1, 2007 with the reclassifications listed below, and the North Carolina Division of Water Quality maintains a Geographic Information Systems data layer of these UWLs.

- (1) Goose Creek Tidal Freshwater Marsh along the confluence of Goose Creek [Index No. 29-33] and the Pamlico River [Index No. 29-27)], along Flatty Creek [Index No. 29-11-4] a length of the Pamlico River shoreline [Index No. 29-(27)] was reclassified to Class WL UWL as defined in 15A NCAC 02B .0101.
- (2) Mallard Creek Tidal Freshwater Marsh along Mallard Creek [Index No. 29-13-(1)] 0.2 miles above its confluence with the Pamlico River to Class WL UWL as defined in 15A NCAC 02B .0101.

*History Note: Authority G.S. 143-214.1; 143-215.1; 143-215.3(a)(1);*  
*Eff. February 1, 1976;*  
*Amended Eff. August 1, 2003 (see S.L. 2003-433, s.1);*  
*September 1, 1996; January 1, 1996; April 1, 1994; August 3, 1992; August 1, 1990;*  
*Temporary Amendment Eff. October 7, 2003;*  
*Amended Eff. November 1, 2007; June 1, 2004.*

**15A NCAC 02B .0317 PASQUOTANK RIVER BASIN**

(a) The Pasquotank River Basin Schedule of Classifications and Water Quality Standards may be inspected at the following places:

- (1) the Internet at <http://h2o.enr.state.nc.us/csu/>; and
- (2) the North Carolina Department of Environment and Natural Resources:
  - (A) Washington Regional Office  
943 Washington Square Mall  
Washington, North Carolina
  - (B) Division of Water Quality  
Central Office  
512 North Salisbury Street  
Raleigh, North Carolina.

(b) Unnamed Streams. All drainage canals not noted in the schedule are classified "C."

(c) The Pasquotank River Basin Schedule of Classifications and Water Quality Standards was amended effective:

- (1) March 1, 1977;
- (2) May 18, 1977;
- (3) December 13, 1979;
- (4) January 1, 1985;

- (5) February 1, 1986;
- (6) January 1, 1990;
- (7) August 1, 1990;
- (8) August 3, 1992;
- (9) August 1, 1998;
- (10) August 1, 2000;
- (11) November 1, 2007.

(d) The Schedule of Classifications and Water Quality Standards for the Pasquotank River Basin was amended effective January 1, 1990 by the reclassification of Alligator River [Index Nos. 30-16-(1) and 30-16-(7)] from source to U.S. Hwy. 64 and all tributaries except Swindells Canal, Florida Canal, New Lake, Fairfield Canal, Carters Canal, Dunbar Canal and Intracoastal Waterway (Pungo River - Alligator River Canal) were reclassified from C Sw and SC Sw to C Sw ORW and SC Sw ORW.

(e) The Schedule of Classifications and Water Quality Standards for the Pasquotank River Basin was amended effective August 1, 1990 as follows:

- (1) Croatan Sound [Index No. 30-20-(1)] from a point of land on the southern side of mouth of Peter Mashoes Creek on Dare County mainland following a line eastward to Northwest Point on Roanoke Island and then from Northwest Point following a line west to Reeds Point on Dare County mainland was reclassified from Class SC to Class SB.
- (2) Croatan Sound [Index No. 30-20-(1.5)] from Northwest Point on Roanoke Island following a line west to Reeds Point on Dare County mainland to William B. Umstead Memorial Bridge was reclassified from Class SC to Class SA.

(f) The Schedule of Classifications and Water Quality Standards for the Pasquotank River Basin was amended effective August 3, 1992 with the reclassification of all water supply waters (waters with a primary classification of WS-I, WS-II or WS-III). These waters were reclassified to WS-I, WS-II, WS-III, WS-IV or WS-V as defined in the revised water supply protection rules, (15A NCAC 2B .0100, .0200 and .0300) which became effective on August 3, 1992. In some cases, streams with primary classifications other than WS were reclassified to a WS classification due to their proximity and linkage to water supply waters. In other cases, waters were reclassified from a WS classification to an alternate appropriate primary classification after being identified as downstream of a water supply intake or identified as not being used for water supply purposes.

(g) The Schedule of Classifications and Water Quality Standards for the Pasquotank River Basin was amended effective August 1, 1998 with the revision to the primary classification for a portion of the Pasquotank River [Index No. 30-3-(1.7)] from Class WS-IV to Class WS-V.

(h) The Schedule of Classifications and Water Quality Standards for the Pasquotank River Basin was amended effective August 1, 2000 with the reclassification of Lake Phelps [Index No. 30-14-4-6-1] from Class C Sw to Class B Sw ORW.

(i) The Schedule of Classifications and Water Quality Standards for the Pasquotank River Basin was amended effective November 1, 2007 with the reclassifications listed below, and

the North Carolina Division of Water Quality maintains a Geographic Information Systems data layer of these UWLs.

- (1) Phelps Lake Natural Lake Shoreline near Phelps Lake [Index No. 30-14-4-6-1] was reclassified to Class WL UWL as defined in 15A NCAC 02B .0101.
- (2) Nags Head Woods near Buzzard Bay [Index No. 30-21-1] was reclassified to Class WL UWL as defined in 15A NCAC 02B .0101.

*History Note:* Authority G.S. 143-214.1; 143-215.1; 143-215.3(a)(1);  
*Eff. February 1, 1976;*  
*Amended Eff. November 1, 2007; August 1, 2000; August 1, 1998; August 3, 1992; August 1, 1990; January 1, 1990; February 1, 1986.*

**15A NCAC 02R .0101 PURPOSE**

This Subchapter establishes the North Carolina Ecosystem Enhancement Program pursuant to G.S. 143-214.8 through 143-214.13.

*History Note:* Authority G.S. 143-214.8; 143-214.9; 143-215.3;  
*Eff. August 1, 1998;*  
*Amended Eff. Pending Legislative Review.*

**15A NCAC 02R .0201 PURPOSE**

The purpose of the Basinwide Restoration Plans is to identify wetlands and riparian areas within each of the 17 major river basins of the state that have the potential, through restoration, enhancement, creation or preservation, to contribute to the goals of the Ecosystem Enhancement Program.

*History Note:* Authority G.S. 143-214.10; 143-215.3;  
*Eff. August 1, 1998;*  
*Amended Eff. Pending Legislative Review.*

**15A NCAC 02R .0203 PUBLIC INVOLVEMENT; AVAILABILITY**

- (a) The Secretary, or the Secretary's designee, shall provide interested parties an opportunity to review and comment on the proposed Basinwide Restoration Plans.
- (b) The Basinwide Restoration Plans shall be available for review through the Ecosystem Enhancement Program's website at [www.nceep.net](http://www.nceep.net).

*History Note:* Authority G.S. 143-214.10; 143-215.3;  
*Eff. August 1, 1998;*  
*Amended Eff. Pending Legislative Review.*

**15A NCAC 02R .0401 PURPOSE**

This Section establishes the Ecosystem Restoration Fund pursuant to G.S. 143-214.12.

*History Note:* Authority G.S. 143-214.11; 143-214.12; 143-215.3;  
*Eff. August 1, 1998;*  
*Amended Eff. Pending Legislative Review.*

**15A NCAC 02R .0402 SCHEDULE OF FEES**

(a) The amount of payment into the Fund necessary to achieve compliance with compensatory mitigation requirements shall be determined in accordance with Subparagraphs (1) through (7) of this Paragraph. The fee shall be based on the acres and types of compensatory mitigation specified in the approved certifications issued by the Department under 33 USC 1341; and permits or authorizations issued by the United States Army Corps of Engineers under 33 USC 1344. Payments shall be rounded up in increments of linear feet for streams and in 0.25 acre increments for wetlands, e.g. for streams, 520.3 linear feet of compensatory mitigation would be considered as 521 feet, and for wetlands, 2.35 acres of required compensatory mitigation would be considered as 2.5 acres for the purpose of calculating the amount of payment.

(b) Payments made pursuant to Subparagraphs (3) through (6) of this Paragraph are subject to separate fees determined by which 8-digit hydrologic unit (as defined by the United States Geological Survey) the permitted impact is located. Fees are assessed according to the location of the permitted impact and mitigation type as follows:

- (1) Fees in Subparagraphs (3) and (4) shall be applied to the following 8 digit hydrologic units organized by river basin: Broad: 03050105; Cape Fear: 03030002, 03030004, 03030005, 03030007; Catawba: 03050101, 03050102, 03050103; French Broad: 06010106, 06010105, 06010108; Hiwassee: 06020002; Little Tennessee: 06010202, 06010203, 06010204; Lumber 03040207; Neuse: 03020201; New: 05050001; Roanoke: 03010107; Savannah: 03060101, 03060102; Tar-Pamlico: 03020101; Watauga: 06010103; White Oak: 03030001, 03020106; Yadkin: 03040102, 03040103, 03040105, 03040202
- (2) Fees in Subparagraphs (5) and (6) shall be applied to all other 8 digit hydrologic units not listed in Subparagraph (1).
- (3) Classified surface waters other than wetlands as defined in 15A NCAC 02B .0202. The payment shall be three hundred and twenty-three dollars (\$323.00) per linear foot of stream.
- (4) Class WL wetlands as defined in 15A NCAC 02B .0101(c)(8). The payment shall be:
  - (A) Forty-three thousand dollars (\$43,000) per acre for non-riparian wetlands.
  - (B) Fifty-nine thousand and six hundred dollars (\$59,600) per acre for riparian wetlands.
- (5) Classified surface waters other than wetlands as defined in 15A NCAC 02B .0202. The payment shall be two hundred and forty-four dollars (\$244.00) per linear foot of stream.
- (6) Class WL wetlands as defined in 15A NCAC 02B .0101(c)(8). The payment shall be:

- (A) Twenty-two thousand one hundred and thirteen dollars (\$22,113) per acre for non-riparian wetlands.
- (B) Thirty-three thousand six hundred and ninety-six (\$33,696) per acre for riparian wetlands.
- (7) Class SWL wetlands as defined in 15A NCAC 02B .0101(d)(4). The payment shall be one hundred and forty-six thousand and six hundred and fifteen dollars (\$146,615.00) per acre.

(c) The fees outlined in Subparagraphs (b)(1) through (b)(7) and Paragraph (e) of this Rule shall be reviewed annually by the Department and compared to the actual cost of restoration activities conducted by the Department, including planning, monitoring and maintenance costs. Based upon this annual review, revisions to Paragraph (a) of this Rule shall be recommended to the Commission when adjustments to this Schedule of Fees are deemed necessary to ensure that the Schedule of Fees reflects the actual costs of restoration activities.

(d) The fees outlined in Subparagraphs (b)(1) through (b)(7) and Paragraph (e) of this Rule shall be adjusted for inflation on an annual basis using the Civil Works Construction Cost Index System published by the US Army Corps of Engineers. This adjustment shall occur at the end of each calendar year as follows: the fees in Subparagraphs (b)(1) through (b)(7) and Paragraph (e) of this Rule for each year shall be multiplied by the annual composite Civil Works Construction Cost Index yearly percentage change issued in September of each year and the result shall be the increase to that fee for the next fiscal year. The revised fees shall be made available via the NC Ecosystem Enhancement Program's web site ([www.nceep.net](http://www.nceep.net)) and become effective on the following July 1<sup>st</sup>.

(e) For properties and easements donated to the NC Department of Environment and Natural Resources, a fee of one thousand dollars (\$1,000) per acre shall be charged at the time the land or easement is transferred to the Department's Conservation Grant Fund Endowment to cover costs of long-term management of the property. For properties that are less than one acre in size, the minimum payment shall be one thousand dollars (\$1,000). This charge applies only to properties and easements donated to the Department for the sole purpose of property or easement maintenance. This does not apply to properties or easements donated to the Department in association with restoration projects conducted by the Department.

*History Note: Authority G.S. 143-214.11; 143-214.12; 143-215.3;*

*Eff. August 1, 1998;*

*Amended Eff. April 1, 2003;*

*Amended Eff. Pending Legislative Review.*

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#### **15A NCAC 10C .0503 DESCRIPTIVE BOUNDARIES**

The following waters have been designated as primary nursery areas:

- (1) North River:

- (a) Broad Creek - Camden County - Entire stream;
- (b) Deep Creek - Currituck County - Entire stream;
- (c) Lutz Creek - Currituck County - Entire stream.
- (2) Alligator River:
  - (a) East Lake - Dare County - Inland waters portion;
  - (b) Little Alligator River - Tyrrell County - Entire stream.
- (3) Currituck Sound:
  - (a) Martin Point Creek - Dare County - Entire stream (Jean Guite Creek);
  - (b) Tull Creek and Bay - Currituck County - Tull Bay to mouth of Northwest River; Tull Creek from mouth upstream to SR 1222 bridge.
- (4) Pamlico River:
  - (a) Duck Creek - Beaufort County - Entire stream;
  - (b) Bath Creek - Beaufort County - Entire stream;
  - (c) Mixons Creek - Beaufort County - Entire stream;
  - (d) Porter Creek - Beaufort County - Entire stream;
  - (e) Tooleys Creek - Beaufort County - Entire stream;
  - (f) Jacobs Creek - Beaufort County - Entire stream;
  - (g) Jacks Creek - Beaufort County - Entire stream;
  - (h) Bond Creek - Beaufort County - Entire stream;
  - (i) Muddy Creek - Beaufort County - Entire stream;
  - (j) Strawhorn Creek - Beaufort County - Entire stream;
  - (k) South Prong Wright Creek - Beaufort County - Entire stream;
  - (l) Jordan Creek - Beaufort County - Entire stream.
- (5) Neuse River:
  - (a) Slocum Creek - Craven County - Entire stream;
  - (b) Hancock Creek - Craven County - Entire stream.
- (6) New River:
  - (a) French Creek - Onslow County - Entire stream;
  - (b) New River - Onslow County - US Highway 17 bridge to point 0.75 miles upstream.
- (7) Roanoke River: Halifax and Northampton counties - US 258 bridge to Roanoke Rapids dam.
- (8) Tar-Pamlico River: Nash, Edgecombe, Pitt and Beaufort counties - N&S railroad at

- Washington upstream to Rocky Mount Mills Dam.
- (9) Neuse River: Wake, Johnston, Wayne, Lenoir, Pitt and Craven counties - Pitchkettle Creek upstream to Milburnie Dam.
  - (10) Cape Fear River: Chatham, Lee, Harnett, Cumberland and Bladen counties - Lock and Dam No. 1 upstream to Buckhorn Dam.
  - (11) Albemarle Sound: Peter Mashoes Creek – Dare County – Entire Stream.
  - (12) Croatan Sound: Spencer Creek – Dare County – Entire Stream.
  - (13) New River: Onslow County – US 17 bridge upstream to NC 24/US 258 bridge.
  - (14) White Oak River: Onslow and Jones counties – Grants Creek upstream to Gibson Bridge Road (SR 1118).
  - (15) Northeast Cape Fear River: Pender County – NC 210 bridge upstream to NC 53 bridge.

*History Note: Authority G.S. 113-132; 113-134;  
Eff. August 1, 1990;  
Amended Eff. November 1, 2007; August 1, 2004; July 1, 2000;  
July 1, 1993.*

**15A NCAC 10F .0359 CHEROKEE COUNTY**

(a) Regulated Areas. This Rule applies to the following sections of Hiawassee Lake:

- (1) the waters within 50 yards of Hiawassee Hideaway Marina;
- (2) the waters within 50 yards of Shook's Boat Dock;
- (3) the waters within 50 yards of Bear Paw Marina;
- (4) the waters within 50 yards of TVA Boat Ramp at Micken's Branch; and
- (5) the waters within 50 yards of Harbor Cove Marina.

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

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

*History Note: Authority G.S. 75A-3; 75A-15;  
Eff. May 1, 1989;  
Amended Eff. November 1, 2007; May 1, 2006.*

**15A NCAC 10F .0373 TRANSYLVANIA COUNTY**

(a) Regulated Area. Lake Toxaway.

(b) Speed Limit. No person shall operate a vessel at greater than no-wake speed within 50 yards of the Lake Toxaway Marina.

(c) Placement and Maintenance of Markers. The Board of Commissioners of Transylvania County is designated a suitable agency for placement and maintenance of markers implementing

this Rule, subject to the approval of the United States Army Corp of Engineers.

*History Note: Authority G.S. 75A-3; 75A-15;  
Eff. November 1, 2007.*

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**15A NCAC 11 .0104 DEFINITIONS**

As used in these Rules, the following definitions shall apply.

- (1) "Absorbed dose" means the energy imparted by ionizing radiation per unit mass of irradiated material. The units of absorbed dose are the rad and the gray (Gy).
- (2) "Accelerator produced material" means any material made radioactive by use of a particle accelerator.
- (3) "Act" means North Carolina Radiation Protection Act as defined in G.S. 104E-1.
- (4) "Activity" is the rate of disintegration (transformation) or decay of radioactive material. The units of activity are the curie (Ci) and the becquerel (Bq).
- (5) "Adult" means an individual 18 or more years of age.
- (6) "Agency" means the North Carolina Department of Environment and Natural Resources, Division of Environmental Health, Radiation Protection Section.
- (7) "Agreement state" has the meaning as defined in G.S. 104E-5(2).
- (8) "Air-purifying respirator" means a respirator with an air-purifying filter, cartridge, or canister that removes specific air contaminants by passing ambient air through the air-purifying element.
- (9) "Airborne radioactive material" means any radioactive material dispersed in the air in the form of dusts, fumes, particulates, mists, vapors, or gases.
- (10) "Airborne radioactivity area" means a room, enclosure, or area in which airborne radioactive materials, composed wholly or partly of licensed radioactive material, exist in concentrations:
  - (a) in excess of the derived air concentrations (DACs) specified in Appendix B to 10 CFR 20.1001 - 20.2401; or
  - (b) to such a degree that an individual present in the area without respiratory protective equipment could exceed, during the hours an individual is present in a week, an intake of 0.6 percent of the annual limit on intake (ALI) or 12 DAC-hours.
- (11) "ALARA" (acronym for "as low as is reasonably achievable") means making every reasonable effort to maintain exposures to

- radiation as far below the dose limits in the rules of this Chapter as is practical consistent with the purpose for which the licensed or registered activity is undertaken, taking into account the state of technology, the economics of improvements in relation to benefits to the public health and safety, and other societal and socioeconomic considerations, and in relation to utilization of sources of radiation in the public interest.
- (12) "Annual limit on intake" (ALI) means the derived limit for the amount of radioactive material taken into the body of an adult worker by inhalation or ingestion in a year. ALI is the smaller value of intake of a given radionuclide in an effective dose equivalent of five rems (0.05 Sv) or a committed dose equivalent of 50 rems (0.5 Sv) to any individual organ or tissue. (ALI values for intake by ingestion and by inhalation of selected radionuclides are given in Table 1, Columns 1 and 2, of Appendix B to 10 CFR 20.1001 - 20.2401).
- (13) "Annually" means either:
- (a) at intervals not to exceed 12 consecutive months; or
  - (b) once per year at the same time each year (completed during the same month each year over a period of multiple years).
- (14) "Assigned protection factor (APF)" means the expected workplace level of respiratory protection that would be provided by a properly functioning respirator or a class of respirators to properly fitted and trained users. APF can be divided into the ambient airborne concentrations to estimate inhaled air concentrations.
- (15) "Atmosphere-supplying respirator" means a respirator that supplies the respirator user with breathing air from a source independent of the ambient atmosphere and includes supplied-air respirators (SARs) and self-contained breathing apparatus (SCBA) units.
- (16) "Authorized representative" means an employee of the agency, or an individual outside the agency when the individual is specifically so designated by the agency under Rule .0112 of this Section.
- (17) "Authorized user" means an individual who is authorized by license or registration condition to use a source of radiation.
- (18) "Background radiation" means radiation from cosmic sources; naturally occurring radioactive materials, including radon (except as a decay product of source or special nuclear material); and global fallout as it exists in the environment from the testing of nuclear explosive devices or from past nuclear accidents such as Chernobyl that contribute to background radiation and are not under the control of the licensee or registrant. "Background radiation" does not include sources of radiation regulated by the agency.
- (19) "Becquerel" is the SI unit of radioactivity. One becquerel is equal to one disintegration per second (s-1).
- (20) "Bioassay" or "radiobioassay" means the determination of kinds, quantities or concentrations, and, in some cases, the locations of radioactive material in the human body, whether by direct measurement (in vivo counting) or by analysis and evaluation of materials excreted or removed from the human body.
- (21) "Byproduct material" has the meaning as defined in G.S. 104E-5(4).
- (22) "Class", "lung class" or "inhalation class" means a classification scheme for inhaled material according to its rate of clearance from the pulmonary region of the lung. Materials are classified as D, W, or Y, which applies to a range of clearance half-times as follows:

**CLASSIFICATION OF INHALED MATERIAL**

- |   |   |
|---|---|
| <p>Class</p> <p>Class D (Day)</p> <p>Class W (Weeks)</p> <p>Class Y (Years)</p> | <p>Clearance half-time</p> <p>less than 10 days</p> <p>10 days to 100 days</p> <p>greater than 100 days</p> |
|---|---|
- (23) "Collective dose" is the sum of the individual doses received in a given period of time by a specified population from exposure to a specified source of radiation.
- (24) "Commission" has the meaning as defined in G.S. 104E-5(5).
- (25) "Committed dose equivalent" ( $H_{T,50}$ ) means the dose equivalent to organs or tissues of reference (T) that will be received from an intake of radioactive material by an individual during the 50-year period following the intake.
- (26) "Committed effective dose equivalent" ( $H_{E,50}$ ) is the sum of the products of the weighting factors applicable to each of the body organs or tissues that are irradiated and the committed dose equivalent to these organs or tissues ( $H_{E,50} = \sum w_T H_{T,50}$ ).
- (27) "Constraint (dose constraint)" means a value above which specified licensee actions are required.
- (28) "Controlled area" means an area, outside of a restricted area but inside the site boundary,

- access to which can be limited by the licensee or registrant for any reason.
- (29) "Critical group" means the group of individuals reasonably expected to receive the greatest exposure to residual radioactivity for any applicable set of circumstances.
- (30) "Curie" is the special unit of radioactivity. One curie is equal to  $3.7 \times 10^{10}$  disintegrations per second =  $3.7 \times 10^{10}$  becquerels =  $2.22 \times 10^{12}$  disintegrations per minute.
- (31) "Declared pregnant woman" means a woman who has voluntarily informed the licensee or registrant, in writing, of her pregnancy and the estimated date of conception. The declaration remains in effect until the declared pregnant woman withdraws the declaration in writing or is no longer pregnant.
- (32) "Decommission" means to remove (as a facility) safely from service and reduce residual radioactivity to a level that permits release of the property for either unrestricted use and termination of the license or for restricted use and termination of the license.
- (33) "Deep-dose equivalent" ( $H_d$ ), which applies to external whole-body exposure, is the dose equivalent at a tissue depth of one cm ( $1000 \text{ mg/cm}^2$ ).
- (34) "Demand respirator" means an atmosphere-supplying respirator that admits breathing air to the facepiece only when a negative pressure is created inside the facepiece by inhalation.
- (35) "Department" has the meaning as defined in G.S. 104E-5(6).
- (36) "Depleted uranium" means the source material uranium in which the isotope uranium-235 is less than 0.711 weight percent of the total uranium present. Depleted uranium does not include special nuclear material.
- (37) "Derived air concentration" (DAC) means the concentration of a given radionuclide in air which, if breathed by the reference man for a working year of 2,000 hours under conditions of light work (inhalation rate 1.2 cubic meters of air per hour), results in an intake of ALI. DAC values are given in Table 1, Column 3, of Appendix B to 10 CFR 20.1001 - 20.2401).
- (38) "Derived air concentration-hour" (DAC-hour) is the product of the concentration of radioactive material in air (expressed as a fraction or multiple of the derived air concentration for each radionuclide) and the time of exposure to that radionuclide, in hours. A licensee may take 2,000 DAC-hours to represent one ALI, equivalent to a committed effective dose equivalent of five rems (0.05 Sv).
- (39) "Diagnostic clinical procedures manual" means a collection of written procedures governing the use of radioactive material that describes each method by which the licensee performs diagnostic clinical procedures and includes other instructions and precautions. Each diagnostic clinical procedure including the radiopharmaceutical, dosage and route of administration, shall be approved by an authorized user prior to inclusion in the manual. The radiation safety officer shall ensure that the manual includes the approved written procedure for all diagnostic clinical procedures performed at the facility.
- (40) "Disposable respirator" means a respirator for which maintenance is not intended and that is designed to be discarded after excessive breathing resistance, sorbent exhaustion, physical damage, or end-of-service-life renders it unsuitable for use. Examples of this type of respirator are a disposable half-mask respirator or a disposable escape-only self-contained breathing apparatus (SCBA).
- (41) "Distinguishable from Background" means that the detectable concentration of a radionuclide is statistically different from the background concentration of that radionuclide in the vicinity of the site or, in the case of structures, in similar materials using measurement technology, survey and statistical techniques as defined in 10 CFR 20.1003.
- (42) "Dose" (or radiation dose) is a generic term that means absorbed dose, dose equivalent, effective dose equivalent, committed dose equivalent, effective dose equivalent, or total effective dose equivalent, as defined in other Items of this Rule.
- (43) "Dose equivalent" ( $H_T$ ) means the product of the absorbed dose in tissue, quality factor, and all other necessary modifying factors at the location of interest. The units of dose equivalent are the rem and sievert (Sv).
- (44) "Dose limits" (see "Limits" defined in this Rule).
- (45) "Dosimetry processor" means an individual or an organization that processes and evaluates individual monitoring equipment in order to determine the radiation dose delivered to the equipment.
- (46) "Effective dose equivalent" ( $H_E$ ) is the sum of the products of the dose equivalent to the organ or tissue ( $H_T$ ) and the weighting factors ( $w_T$ ) applicable to each of the body organs or tissues that are irradiated ( $H_E = \sum w_T H_T$ ).
- (47) "Embryo/fetus" means the developing human organism from conception until the time of birth.
- (48) "Entrance or access point" means any location through which an individual could gain access to radiation areas or to a source of radiation. This includes entry or exit portals of sufficient



- size to permit human entry, irrespective of their intended use.
- (49) "Equipment services" means the selling, installation, rebuilding, conversion, repair, inspection, testing, survey or calibration of equipment which can affect compliance with these Rules by a licensee or registrant.
- (50) "Exposure" means being exposed to ionizing radiation or to radioactive material.
- (51) "Exposure rate" means the exposure per unit of time, such as R/min and mR/h.
- (52) "External dose" means that portion of the dose equivalent received from radiation sources outside the body.
- (53) "Extremity" means hand, elbow, arm below the elbow, foot, knee, or leg below the knee.
- (54) "Eye dose equivalent" (See "Lens dose equivalent" as defined in this Rule).
- (55) "Filtering facepiece (dust mask)" means a negative pressure particulate respirator with a filter as an integral part of the facepiece or with the entire facepiece composed of the filtering medium, not equipped with elastomeric sealing surfaces and adjustable straps.
- (56) "Fit factor" means a quantitative estimate of the fit of a particular respirator to a specific individual, and typically estimates the ratio of the concentration of a substance in ambient air to its concentration inside the respirator when worn.
- (57) "Fit test" means the use of a protocol to qualitatively or quantitatively evaluate the fit of a respirator on an individual.
- (58) "Generally applicable environmental radiation standards" means standards issued by the U.S. Environmental Protection Agency (EPA) under the authority of the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.), as amended, that impose limits on radiation exposures or levels, or concentrations or quantities of radioactive material, in the general environment outside the boundaries of locations under the control of persons possessing or using sources of radiation.
- (59) "Gray" (Gy) is the SI unit of absorbed dose. One gray is equal to an absorbed dose of one joule/kilogram (100 rads).
- (60) "Helmet" means a rigid respiratory inlet covering that also provides head protection against impact and penetration.
- (61) "High radiation area" means an area, accessible to individuals, in which radiation levels from sources external to the body could result in an individual receiving a dose equivalent in excess of 0.1 rem (1 mSv) in one hour at 30 centimeters from the radiation source or from any surface that the radiation penetrates.
- (62) "Hood" means a respiratory inlet covering that completely covers the head and neck and may also cover portions of the shoulders and torso.
- (63) "Hospital" means a facility that provides as its primary functions diagnostic services and intensive medical and nursing care in the treatment of acute stages of illness.
- (64) "Human use" means the internal or external administration of radiation or radioactive materials to human beings.
- (65) "Individual" means any human being.
- (66) "Individual monitoring" means:
- (a) the assessment of dose equivalent by the use of devices designed to be worn by an individual;
  - (b) the assessment of committed effective dose equivalent by bioassay (see Bioassay) or by determination of the time-weighted air concentrations to which an individual has been exposed, i.e., DAC-hours; or
  - (c) the assessment of dose equivalent by the use of survey data.
- (67) "Individual monitoring devices" or "individual monitoring equipment" means devices designed to be worn by a single individual for the assessment of dose equivalent such as film badges, thermoluminescence dosimeters (TLDs), pocket ionization chambers, and personal ("lapel") air sampling devices.
- (68) "Inhalation class" (see "Class" defined in this Rule).
- (69) "Inspection" means an official examination or observation to determine compliance with rules, orders, requirements and conditions of the agency or the Commission.
- (70) "Internal dose" means that portion of the dose equivalent received from radioactive material taken into the body.
- (71) "Lens dose equivalent" or "LDE" applies to the external exposure of the lens of the eye and is taken as the dose equivalent at a tissue depth of 0.3 cm (300 mg/cm<sup>2</sup>).
- (72) "License", except where otherwise specified, means a license issued pursuant to Section .0300 of this Chapter.
- (73) "Licensee" means any person who is licensed by the agency pursuant to Section .0300 of this Chapter.
- (74) "Licensing state" means any state designated as such by the Conference of Radiation Control Program Directors, Inc. Unless the context indicates otherwise, use of the term Agreement State in this Chapter shall be deemed to include licensing state with respect to naturally occurring and accelerator produced radioactive material (NARM).
- (75) "Limits" or "dose limits" means the permissible upper bounds of radiation doses.

- (76) "Loose-fitting facepiece" means a respiratory inlet covering that is designed to form a partial seal with the face.
- (77) "Lost or missing licensed radioactive material" means licensed radioactive material whose location is unknown. It includes material that has been shipped but has not reached its destination and whose location cannot be readily traced in the transportation system.
- (78) "Lung class" (see "Class" as defined in this Rule).
- (79) "Medical event" means an event that meets the criteria in Rule .0364 of this Chapter.
- (80) "Medical use" means the intentional internal or external administration of radioactive material or the radiation therefrom to patients or human research subjects under the supervision of an authorized user.
- (81) "Member of the public" means any individual except when that individual is receiving an occupational dose.
- (82) "Minor" means an individual less than 18 years of age.
- (83) "Mobile nuclear medicine service" means the transportation and medical use of radioactive material.
- (84) "Monitoring", "radiation monitoring" or "radiation protection monitoring" means the measurement of radiation levels, concentrations, surface area concentrations or quantities of radioactive material and the use of the results of these measurements to evaluate potential exposures and doses.
- (85) "Natural radioactivity" means radioactivity of naturally occurring nuclides.
- (86) "Negative pressure respirator" means a tight-fitting respirator in which the air pressure inside the facepiece is negative during inhalation with respect to the ambient air pressure outside of the respirator.
- (87) "Nonstochastic effect" means health effects, the severity of which varies with the dose and for which a threshold is believed to exist. Radiation-induced cataract formation is an example of a nonstochastic effect (also called a deterministic effect).
- (88) "NRC" means the United States Nuclear Regulatory Commission or its authorized representatives.
- (89) "Occupational dose" means the dose received by an individual in the course of employment in which the individual's assigned duties involve exposure to radiation or radioactive material from licensed and unlicensed sources of radiation, whether in the possession of the licensee or registrant or other person. Occupational dose does not include dose received from background radiation, as a patient from medical practices, from exposure to individuals administered radioactive material and released in accordance with Rule .0358 of this Chapter, from voluntary participation in medical research programs, or as a member of the general public.
- (90) "Particle accelerator" means any machine capable of accelerating electrons, protons, deuterons, or other charged particles.
- (91) "Person" has the meaning as defined in G.S. 104E-5(11).
- (92) "Personnel monitoring equipment" means devices, such as film badges, pocket dosimeters, and thermoluminescent dosimeters, designed to be worn or carried by an individual for the purpose of estimating the dose received by the individual.
- (93) "Pharmacist" means a person licensed by this state to practice pharmacy.
- (94) "Physician" means an individual licensed to practice medicine in this state.
- (95) "Planned special exposure" means an infrequent exposure to radiation, separate from and in addition to the annual dose limits.
- (96) "Positive pressure respirator" means a respirator in which the pressure inside the respiratory inlet covering exceeds the ambient air pressure outside the respirator.
- (97) "Powered air-purifying respirator (PAPR)" means an air-purifying respirator that uses a blower to force the ambient air through air-purifying elements to the inlet covering.
- (98) "Prescribed dosage" means the specified activity or range of activity of unsealed radioactive material as documented:
  - (a) In a written directive; or
  - (b) In accordance with the directions of an authorized user.
- (99) "Prescribed dose" means:
  - (a) for teletherapy or accelerator radiation:
    - (i) the total dose; and
    - (ii) the dose per fraction as documented in the written directive;
  - (b) for brachytherapy:
    - (i) the total source strength and exposure time; or
    - (ii) the total dose, as documented in the written directive;
  - (c) for gamma stereotactic radiosurgery, the total dose as documented in the written directive; or
  - (d) for remote brachytherapy afterloaders, the total dose and dose per fraction as documented in a written directive.
- (100) "Pressure demand respirator" means a positive pressure atmosphere-supplying respirator that

- admits breathing air to the facepiece when the positive pressure is reduced inside the facepiece by inhalation.
- (101) "Public dose" means the dose received by a member of the public from exposure to radiation or radioactive material released by a licensee or registrant, or to another source of radiation within a licensee's or registrant's control. It does not include occupational dose or doses received from background radiation, as a patient from medical practices, from exposure to individuals administered radioactive material and released in accordance with Rule .0358 of this Chapter, or from voluntary participation in medical research programs.
- (102) "Qualitative fit test (QLFT)" means a pass/fail fit test to assess the adequacy of respirator fit that relies on the individual's response to the test agent.
- (103) "Quality factor" (Q) means the modifying factor that is used to derive dose equivalent from absorbed dose. Quality factors are provided in the definition of rem in this Rule.
- (104) "Quantitative fit test (QNFT)" means an assessment of the adequacy of respirator fit by numerically measuring the amount of leakage into the respirator.
- (105) "Quarter" means a period of time equal to one-fourth of the year observed by the licensee or registrant (approximately 13 consecutive weeks), providing that the beginning of the first quarter in a year coincides with the starting date of the year and that no day is omitted or duplicated in consecutive quarters.
- (106) "Quarterly" means either:
- (a) at intervals not to exceed 13 weeks; or
  - (b) once per 13 weeks at about the same time during each 13 week period (completed during the same month of the quarter (first month, second month or third month) each quarter over a time period of several quarters.
- (107) "Rad" is the special unit of absorbed dose. One rad is equal to an absorbed dose of 100 ergs/gram or 0.01 joule/kilogram (0.01 gray).
- (108) "Radiation" (ionizing radiation), except as otherwise defined in Section .1400 of this Chapter, has the meaning as defined in G.S. 104E-5(12).
- (109) "Radiation area" means an area, accessible to individuals, in which radiation levels could result in an individual receiving a dose equivalent in excess of 0.005 rem (0.05 mSv) in one hour at 30 centimeters from the radiation source or from any surface that the radiation penetrates.
- (110) "Radiation dose" means dose.
- (111) "Radiation machine" has the meaning as defined in G.S. 104E-5(13).
- (112) "Radiation safety officer" means one who has the knowledge and responsibility to apply appropriate radiation protection rules.
- (113) "Radioactive material" has the meaning as defined in G.S. 104E-5(14).
- (114) "Radioactive waste disposal facility" means any low-level radioactive waste disposal facility, as defined in G.S. 104E-5(9c), established for the purpose of receiving low-level radioactive waste, as defined in Rule .1202 of this Chapter, generated by another licensee for the purpose of disposal.
- (115) "Radioactive waste processing facility" means any low-level radioactive waste facility, as defined in G.S. 104E-5(9b), established for the purpose of receiving waste, as defined in this Rule, generated by another licensee to be stored, compacted, incinerated or treated.
- (116) "Radioactivity" means the disintegration of unstable atomic nuclei by emission of radiation.
- (117) "Radiobioassay" means bioassay.
- (118) "Reference man" means a hypothetical aggregation of human physical and physiological characteristics arrived at by international consensus as published by the International Commission on Radiological Protection. These characteristics may be used by researchers and public health workers to standardize results of experiments and to relate biological insult to a common base.
- (119) "Registrant" means any person who is registered with the agency as required by provisions of these Rules or the Act.
- (120) "Registration" means registration with the agency in accordance with these Rules.
- (121) "Regulations of the U.S. Department of Transportation" means the regulations in 49 CFR Parts 100-189.
- (122) "Rem" is the special unit of any of the quantities expressed as dose equivalent. The dose equivalent in rems is equal to the absorbed dose in rads multiplied by the quality factor (1 rem = 0.01 sievert). As used in this Chapter, the quality factors for converting absorbed dose to dose equivalent are as follows:

**QUALITY FACTORS AND ABSORBED DOSE EQUIVALENCIES**

TYPE OF RADIATION

Quality Factor

Absorbed

	(Q)	Dose Equal to a Unit Dose Equivalent <sup>a</sup>
X-, gamma, or beta radiation	1	1
Alpha particles, multiple-charged particles, fission fragments and heavy particles of unknown charge	20	0.05
Neutrons of unknown energy	10	0.1
High-energy protons	10	0.1

<sup>a</sup> Absorbed dose in rad equal to one rem or the absorbed dose in gray equal to one sievert.

If it is more convenient to measure the neutron fluence rate than to determine the neutron dose equivalent rate in rems per hour or sieverts per hour, one rem (0.01 Sv) of neutron radiation of unknown energies may, for purposes of the rules of this Chapter, be assumed to result from a total fluence of 25 million neutrons per square centimeter incident upon the body.

If sufficient information exists to estimate the approximate energy distribution of the neutrons, the licensee or registrant may use the fluence rate per unit dose equivalent or the appropriate Q value from the following table to convert a measured tissue dose in rads to dose equivalent in rems:

**MEAN QUALITY FACTORS, Q, AND FLUENCE PER UNIT DOSE  
EQUIVALENT FOR MONOENERGETIC NEUTRONS**

	Neutron Energy (MeV)	Quality Factor <sup>a</sup> (Q)	Fluence per Unit Dose Equivalent <sup>b</sup> (neutrons cm <sup>-2</sup> rem <sup>-1</sup> )
(thermal)	2.5 x 10 <sup>-8</sup>	2	980 x 10 <sup>6</sup>
	1 x 10 <sup>-7</sup>	2	980 x 10 <sup>6</sup>
	1 x 10 <sup>-6</sup>	2	810 x 10 <sup>6</sup>
	1 x 10 <sup>-5</sup>	2	810 x 10 <sup>6</sup>
	1 x 10 <sup>-4</sup>	2	840 x 10 <sup>6</sup>
	1 x 10 <sup>-3</sup>	2	980 x 10 <sup>6</sup>
	1 x 10 <sup>-2</sup>	2.5	1010 x 10 <sup>6</sup>
	1 x 10 <sup>-1</sup>	7.5	170 x 10 <sup>6</sup>
	5 x 10 <sup>-1</sup>	11	39 x 10 <sup>6</sup>
	1	11	27 x 10 <sup>6</sup>
	2.5	9	29 x 10 <sup>6</sup>
	5	8	23 x 10 <sup>6</sup>
	7	7	24 x 10 <sup>6</sup>
	10	6.5	24 x 10 <sup>6</sup>
	14	7.5	17 x 10 <sup>6</sup>
	20	8	16 x 10 <sup>6</sup>
	40	7	14 x 10 <sup>6</sup>
	60	5.5	16 x 10 <sup>6</sup>
	1 x 10 <sup>2</sup>	4	20 x 10 <sup>6</sup>
	2 x 10 <sup>2</sup>	3.5	19 x 10 <sup>6</sup>
	3 x 10 <sup>2</sup>	3.5	16 x 10 <sup>6</sup>
	4 x 10 <sup>2</sup>	3.5	14 x 10 <sup>6</sup>

<sup>a</sup> Value of quality factor (Q) at the point where the dose equivalent is maximum in a 30-cm diameter cylinder tissue-equivalent phantom.

<sup>b</sup> Monoenergetic neutrons incident normally on a 30-cm diameter cylinder tissue-equivalent phantom.

(123) Research and development" means:  
(a) theoretical analysis, exploration, or  
experimentation; or

(b) the extension of investigative findings  
and theories of a scientific or  
technical nature into practical  
application for experimental and

- demonstration purposes, including the experimental production and testing of models, devices, equipment, materials, and processes.
- Research and development does not include the internal or external administration of radiation or radioactive material to human beings.
- (124) "Residual radioactivity" means radioactivity in structures, materials, soils, groundwater, and other media at a site resulting from activities under the licensee's control. This includes radioactivity from all licensed and unlicensed sources used by the licensee, but excludes background radiation. It also includes radioactive materials remaining at the site as a result of routine or accidental releases of radioactive material at the site and previous burials at the site, even if the burials were made in accordance with the provisions of Section .1600 of this Chapter.
- (125) "Respiratory protective device" means an apparatus, such as a respirator, used to reduce the individual's intake of airborne radioactive materials.
- (126) "Restricted area" means an area, access to which is controlled by the licensee or registrant for purposes of protecting individuals against undue risks from exposure to radiation and radioactive materials. Restricted area does not include areas used as residential quarters, but separate rooms in a residential building may be set apart as a restricted area.
- (127) "Roentgen" (R) means the special unit of exposure. One roentgen equals  $2.58 \times 10^{-4}$  coulombs/kilogram of air.
- (128) "Sanitary sewerage" means a system of public sewers for carrying off waste water and refuse, but excluding sewage treatment facilities, septic tanks, and leach fields owned or operated by the licensee.
- (129) "Sealed source" means radioactive material that is permanently bonded, fixed or encapsulated so as to prevent release and dispersal of the radioactive material under the most severe conditions which are likely to be encountered in normal use and handling.
- (130) "Sealed source and device registry" means the national registry that contains all the registration certificates, generated by both NRC and the Agreement States, that summarize the radiation safety information for the sealed sources and devices and describe the licensing and use conditions approved for the product.
- (131) "Self-contained breathing apparatus (SCBA)" means an atmosphere-supplying respirator for which the breathing air source is designed to be carried by the user.
- (132) "Semiannually" means either:
- (a) at intervals not to exceed six months; or
  - (b) once per six months at about the same time during each six month period (completed during the sixth month of each six month period over multiple six month periods).
- (133) "Shallow-dose equivalent" ( $H_s$ ), which applies to the external exposure of the skin of the whole body or the skin of an extremity, is taken as the dose equivalent at a tissue depth of 0.007 centimeter ( $7 \text{ mg/cm}^2$ ).
- (134) "SI unit" means a unit of measure from the International System of Units as established by the General Conference of Weights and Measures.
- (135) "Sievert" is the SI unit of any of the quantities expressed as dose equivalent. The dose equivalent in sieverts is equal to the absorbed dose in grays multiplied by the quality factor ( $1 \text{ Sv} = 100 \text{ rems}$ ).
- (136) "Site boundary" means that line beyond which the land or property is not owned, leased, or otherwise controlled by the licensee or registrant.
- (137) "Source material" has the meaning as defined in G.S. 104E-5(15).
- (138) "Source of radiation" means any radioactive material, or any device or equipment emitting or capable of producing radiation.
- (139) "Special form radioactive material" means radioactive material which satisfies the following conditions:
- (a) It is either a single solid piece or is contained in a sealed capsule that can be opened only by destroying the capsule;
  - (b) The piece or capsule has at least one dimension not less than five millimeters (0.197 inch); and
  - (c) It satisfies the test requirements specified by the U.S. Nuclear Regulatory Commission, Subpart F of 10 CFR Part 71, and the tests prescribed in Rule .0114 of this Section. A special form encapsulation designed in accordance with the U.S. Nuclear Regulatory Commission requirements, Subpart F of 10 CFR Part 71, in effect on June 30, 1984, and constructed prior to July 1, 1985, may continue to be used. A special form encapsulation either designed or constructed after June 30, 1985, must meet requirements of this definition

applicable at the time of its design or construction.

- (140) "Special nuclear material" has the meaning as defined in G.S. 104E-5(16).
- (141) "Special nuclear material in quantities not sufficient to form a critical mass" means uranium enriched in the isotope uranium-235 in quantities not exceeding 350 grams of contained uranium-235; uranium-233 in quantities not exceeding 200 grams; plutonium in quantities not exceeding 200 grams; or any combination of uranium-235, uranium enriched in uranium-235 and plutonium in

accordance with the following formula: For each kind of special nuclear material, determine the ratio between the quantity of that special nuclear material and the quantity specified in this Rule for the same kind of special nuclear material. The sum of these ratios for all the kinds of special nuclear material in combination shall not exceed unity. For example, the following quantities in combination would not exceed the limitations and are within the formula, as follows:

$$\frac{175 \text{ (gram contained U-235)}}{350} + \frac{50 \text{ (grams U-233)}}{200} + \frac{50 \text{ (grams Pu)}}{200} \text{ is } < \text{ or } = 1$$

- (142) "State" means the State of North Carolina.
- (143) "Stochastic effects" means health effects that occur randomly and for which the probability of the effect occurring, rather than its severity, is assumed to be a linear function of dose without threshold. Hereditary effects and cancer incidence are examples of stochastic effects.
- (144) "Supplied-air respirator (SAR or airline respirator)" means an atmosphere-supplying respirator for which the source of breathing air is not designed to be carried by the user.
- (145) "Survey" means an evaluation of the radiological conditions and potential hazards incident to the production, use, transfer, release, disposal, or presence of sources of radiation. When appropriate, such an evaluation includes a physical survey of the location of sources of radiation and measurements or calculations of levels of radiation, or concentrations or quantities of radioactive material present.
- (146) "These Rules" means Chapter 11 of this Title.
- (147) "Tight-fitting facepiece" means a respiratory inlet covering that forms a complete seal with the face.
- (148) "To the extent practicable" means to the extent feasible or capable of being done or carried out with reasonable effort.
- (149) "Total effective dose equivalent" (TEDE) means the sum of the deep-dose equivalent (for external exposures) and the committed effective dose equivalent (for internal exposures).
- (150) "Toxic or hazardous constituent of the waste" means the nonradioactive content of waste which, notwithstanding the radioactive content, would be classified as "hazardous waste" as defined in G.S. 130A-290(8).
- (151) "Type A quantity" means a quantity of radioactive material, the aggregate radioactivity of which does not exceed A<sub>1</sub> for

special form radioactive material or A<sub>2</sub> for normal form radioactive material, where A<sub>1</sub> and A<sub>2</sub> are given in Rule .0113 of this Section or may be determined by procedures described in Rule .0113 of this Section. All quantities of radioactive material greater than a Type A quantity are Type B.

- (152) "Unit dosage" means a dosage intended for medical use in an individual that has been obtained from a manufacturer or preparer licensed pursuant to 10 CFR 32.72 or equivalent agreement state requirements.
- (153) "Unrefined and unprocessed ore" means ore in its natural form prior to any processing, such as grinding, roasting, beneficiating, or refining.
- (154) "Unrestricted area" means an area, access to which is neither limited nor controlled by the licensee or registrant.
- (155) "User seal check (fit check)" means an action conducted by the respirator user to determine if the respirator is properly seated to the face. Examples include negative pressure check, positive pressure check, irritant smoke check, or isoamyl acetate check.
- (156) "Very high radiation area" means an area, accessible to individuals, in which radiation levels from sources external to the body could result in an individual receiving an absorbed dose in excess of 500 rads (5 grays) in one hour at one meter from a radiation source or from any surface that the radiation penetrates. At very high doses received at high dose rates, units of absorbed dose (e.g., rads and grays) are appropriate, rather than units of dose equivalent (e.g., rems and sieverts).
- (157) "Waste" means low-level radioactive waste as defined in G.S. 104E-5(9a) and includes licensed naturally occurring and accelerator produced radioactive material which is not subject to regulation by the U.S. Nuclear Regulatory Commission under the Atomic

- Energy Act of 1954, as amended, except as defined differently in Rule .1202 of this Chapter.
- (158) "Waste, Class A" is defined in Rule .1650 of this Chapter.
- (159) "Waste, Class B" is defined in Rule .1650 of this Chapter.
- (160) "Waste, Class C" is defined in Rule .1650 of this Chapter.

- (161) "Week" means seven consecutive days starting on Sunday.
- (162) "Weighting factor",  $w_T$ , for an organ or tissue (T) is the proportion of the risk of stochastic effects resulting from irradiation of that organ or tissue to the total risk of stochastic effects when the whole body is irradiated uniformly. For calculating the effective dose equivalent, the values of  $w_T$  are:

**ORGAN DOSE WEIGHTING FACTORS**

Organ or Tissue	$w_T$
Gonads	0.25
Breast	0.15
Red bone marrow	0.12
Lung	0.12
Thyroid	0.03
Bone surfaces	0.03
Remainder	0.30 <sup>a</sup>
Whole body	1.00 <sup>b</sup>

<sup>a</sup> 0.30 results from 0.06 for each of 5 "remainder" organs (excluding the skin and the lens of the eye) that receive the highest doses.

<sup>b</sup> For the purpose of weighting the external whole body dose (for adding it to the internal dose), a single weighting factor,  $w_T = 1.0$ , has been specified.

- (163) "Whole body" means, for purposes of external exposure, head, trunk (including male gonads), arms above the elbow, or legs above the knee.
- (164) "Worker" means an individual engaged in work under a license or registration issued by the agency and controlled by a licensee or registrant, but does not include the licensee or registrant.
- (165) "Working level" (WL) is any combination of short-lived radon daughters (for radon-222: polonium-218, lead-214, bismuth-214, and polonium-214; and for radon-220: polonium-216, lead-212, bismuth-212, and polonium-212) in one liter of air that will result in the ultimate emission of  $1.3 \times 10^5$  MeV of potential alpha particle energy.
- (166) "Working level month" (WLM) means an exposure to one working level for 170 hours.
- (167) "Written directive" means an order in writing for a specific patient or human research subject dated and signed by an authorized user prior to the administration of a radiopharmaceutical or radiation from a licensed source, except as specified in Sub-item (e) of this definition, containing the patient or human research subject's name and the following information:
- (a) for the administration of greater than 30 microcuries (1.11 Megabecquerels (MBq)) of sodium iodide I-131, the dosage;
    - (b) for the therapeutic administration of a radiopharmaceutical other than sodium iodide I-131:
      - (i) radionuclide;
      - (ii) dosage; and
      - (iii) route of administration;
    - (c) for teletherapy or accelerator radiation therapy:
      - (i) total dose;
      - (ii) dose per fraction;
      - (iii) treatment site; and
      - (iv) number of fractions;
    - (d) for high-dose-rate remote afterloading brachytherapy:
      - (i) radionuclide;
      - (ii) treatment site;
      - (iii) dose per fraction
      - (iv) number of fractions; and
      - (v) total dose;
    - (e) for all other brachytherapy:
      - (i) prior to implantation:
        - (A) radionuclide;
        - (B) treatment site; and
        - (C) dose; and
      - (ii) after implantation:
        - (A) radionuclide;
        - (B) treatment site;
        - (C) number of sources;
        - (D) total source strength and exposure time; and
        - (E) total dose;

- (f) for gamma stereotactic radiosurgery:
  - (i) the total dose;
  - (ii) treatment site; and
  - (iii) values for the target coordinate settings per treatment for each anatomically distinct treatment site.
- (168) "Year" means the period of time beginning in January used to determine compliance with the provisions of Section .1600 of this Chapter. The licensee or registrant may change the starting date of the year used to determine compliance by the licensee or registrant provided that the change is made at the beginning of the year and that no day is omitted or duplicated in consecutive years.

*History Note: Authority G.S. 104E-7(a)(2); Eff. February 1, 1980; Amended Eff. November 1, 1989; June 1, 1989; October 1, 1984; Transferred and Recodified from 10 NCAC 3G .2204 Eff. January 4, 1990; Amended Eff. January 1, 1994; May 1, 1992; Temporary Amendment Eff. August 20, 1994, for a Period of 180 Days or until the permanent rule becomes effective, whichever is sooner; Amended Eff. November 1, 2007; May 1, 2006; January 1, 2005; August 1, 2002; April 1, 1999; August 1, 1998; May 1, 1995.*

**15A NCAC 11 .0117 INCORPORATION BY REFERENCE**

(a) For the purpose of the rules in this Chapter, the following rules, standards and other requirements are hereby incorporated by reference including any subsequent amendments and editions:

- (1) Appendix A, Appendix B, Appendix C, and Appendix G to 10 CFR Parts 20.1001 - 20.2401;
- (2) 10 CFR Part 21, 10 CFR Part 30.1, 30.10, 10 CFR Part 31, 10 CFR Part 32, Subpart J of 10 CFR Part 35, 10 CFR 35.50, 35.51, 35.55, 35.57, 35.59, 35.190, 35.290, 35.390, 35.392, 35.394, 35.396, 35.432, 35.433, 35.457, 35.490, 35.491, 35.500, 35.590, Subpart H of 10 CFR Part 35, 35.1000, 10 CFR Part 36, 10 CFR Part 40 and 10 CFR Part 50;
- (3) 10 CFR Part 61, 10 CFR Part 70, 10 CFR Part 71, 10 CFR Part 73, 10 CFR Part 110, 10 CFR Part 140 and 10 CFR Part 150;
- (4) 21 CFR Part 1010, 21 CFR Part 1020 and 21 CFR Part 1040;
- (5) 39 CFR Part 14 and 39 CFR Part 15;
- (6) Postal Service Manual (Domestic Mail Manual) Section 124.3 [incorporated by reference in 39 CFR Section 111.11];
- (7) 40 CFR Part 261;
- (8) 49 CFR Parts 100-189;

- (9) "Agreement Between the United States Atomic Energy Commission and the State of North Carolina for Discontinuance of Certain Commission Regulatory Authority and Responsibility within the State Pursuant to Section 274 of the Atomic Energy Act of 1954, as Amended", signed July 21, 1964;
- (10) "Standards and Specifications for Geodetic Control Networks (September 1984);
- (11) "Geometric Geodetic Survey Accuracy Standards and Specifications for Geodetic Surveys Using GPS Relative Positioning Techniques";
- (12) "Reference Man: Anatomical, Physiological and Metabolic Characteristics" (ICRP Publication No. 23) of the International Commission on Radiological Protection;
- (13) "10 CFR, Chapter 1, Commission Notices, Policy Statements, Agreement States, 46 FR 7540"; and
- (14) American National Standard N432-1980 "Radiological Safety for the Design and Construction of Apparatus for Gamma Radiography".

(b) The rules, standards and other requirements incorporated by reference in Paragraph (a) of this Rule are available for inspection at the Department of Environment and Natural Resources, Division of Radiation Protection at the address listed in Rule .0111 of this Section. Except as noted in the Subparagraphs of this Paragraph, copies of the rules, standards and other requirements incorporated by reference in Paragraph (a) of this Rule may be obtained from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 at a cost as follows:

- (1) Three dollars (\$3.00) for the appendixes listed in Subparagraph (a)(1) of this Rule, available from the Division of Radiation Protection;
- (2) Twenty-five dollars (\$25.00) for the regulations listed in Subparagraph (a)(2) of this Rule in a volume containing 10 CFR Parts 0-50;
- (3) Eighteen dollars (\$18.00) for the regulations listed in Subparagraph (a)(3) of this Rule in a volume containing 10 CFR Parts 51-199;
- (4) Eighteen dollars (\$18.00) for the regulations listed in Subparagraph (a)(4) of this Rule in a volume containing 21 CFR Parts 800-1299;
- (5) Sixteen dollars (\$16.00) for the regulations listed in Subparagraph (a)(5) of this Rule in a volume containing 39 CFR;
- (6) Thirty-six dollars (\$36.00) for the manual listed in Subparagraph (a)(6) of this Rule;
- (7) Thirty-one dollars (\$31.00) for the regulations listed in Subparagraph (a)(7) of this Rule in a volume containing 40 CFR Parts 260-299;
- (8) For the regulations listed in Subparagraph (a)(8) of this Rule:



- (A) Twenty-three dollars (\$23.00) for a volume containing 49 CFR Parts 100-177; and
- (B) Seventeen dollars (\$17.00) for a volume containing 49 CFR Parts 178-199;
- (9) One dollar (\$1.00) for the agreement in Subparagraph (a)(9) of this Rule, available from the Division of Radiation Protection;
- (10) Two dollars and eighty-five cents (\$2.85) for the standards and specifications in Subparagraph (a)(10) of this Rule, available from the National Geodetic Information Center, N/CG174, Rockwall Building, Room 24, National Geodetic Survey, NOAA, Rockville, MD 20852;
- (11) Two dollars and eighty-five cents (\$2.85) for the standards and specifications in Subparagraph (a)(11) of this Rule, available from the National Geodetic Information Center, NCG174, Rockwall Building, Room 24, National Geodetic Survey, NOAA, Rockville, MD 20852;
- (12) One hundred and five dollars (\$105.00) for the ICRP Publication No. 23 in Subparagraph (a)(12) of this Rule, available from Pergamon Press, Inc., Maxwell House, Fairview Park, Elmsford, NY 10523;
- (13) Two dollars (\$2.00) for the document in Subparagraph (a)(13) of this Rule, available from the Division of Radiation Protection; and
- (14) Thirty-eight dollars plus five dollars shipping and handling (\$43.00) for the American National Standard N432-1980 in Subparagraph (a)(14) of this Rule, available from the American National Standards Institute, Inc., 1430 Broadway, New York, New York 10018, telephone number (212) 642-4900.

(c) Nothing in this incorporation by reference of 10 CFR Part 61 in Subparagraph (a)(3) of this Rule shall limit or affect the continued applicability of G.S. 104E-25(a) and (b).

*History Note: Authority G.S. 104E-7; 104E-15(a); 150B-21.6;  
Eff. June 1, 1993;  
Temporary Amendment Eff. August 20, 1994, for a period of 180 days or until the permanent rule becomes effective, whichever is sooner;  
Amended Eff. November 1, 2007; August 1, 2002; April 1, 1999;  
August 1, 1998; May 1, 1995.*

**15A NCAC 11 .0318 SPECIFIC LICENSES:  
GENERAL REQUIREMENTS FOR HUMAN USE**

(a) For the purposes of this Rule "Authorized medical physicist" means an individual who:

- (1) Meets the requirements in 10 CFR 35.51(a) and 35.59; or, before October 24, 2005, met the requirements in 10 CFR 35.961(a), or (b), and 35.59; or
- (2) Is identified as an authorized medical physicist or teletherapy physicist on:
  - (A) A specific medical use license issued by the U.S. Nuclear Regulatory Commission or Agreement State;
  - (B) A medical use permit issued by the U.S. Nuclear Regulatory Commission master material licensee;
  - (C) A permit issued by a U.S. Nuclear Regulatory Commission or Agreement State broad scope medical use licensee; or
  - (D) A permit issued by a U.S. Nuclear Regulatory Commission master material license broad scope medical use permittee.
- (b) For the purposes of this Rule, "Authorized nuclear pharmacist" means a pharmacist who:
  - (1) Meets the requirements in 10 CFR 35.55(a) and 35.59; or, before October 24, 2005, met the requirements in 10 CFR 35.980(a) and 35.59; or
  - (2) Is identified as an authorized nuclear pharmacist on:
    - (A) A specific license issued by the U.S. Nuclear Regulatory Commission or Agreement State that authorizes medical use or the practice of nuclear pharmacy;
    - (B) A permit issued by the U.S. Nuclear Regulatory Commission master material licensee that authorizes medical use or the practice of nuclear pharmacy;
    - (C) A permit issued by a U.S. Nuclear Regulatory Commission or Agreement State broad scope medical use license that authorizes medical use or the practice of nuclear pharmacy; or
    - (D) A permit issued by a U.S. Nuclear Regulatory Commission master material license broad scope medical use permittee that authorizes medical use or the practice of nuclear pharmacy; or
  - (3) Is identified as an authorized nuclear pharmacist by a commercial nuclear pharmacy that has been authorized to identify authorized nuclear pharmacists; or
  - (4) Is designated as an authorized nuclear pharmacist in accordance with 10 CFR 32.72(b)(4).

(c) For the purposes of this Rule "Authorized user" means a physician who:

- (1) Meets the requirements in 10 CFR 35.59 and 35.190(a), 35.290(a), 35.390(a), 35.392(a), 35.394(a), 35.490(a), 35.590(a), or 35.690(a); or on or before October 24, 2005, met the requirements in 10 CFR 35.910(a), 35.920(a), 35.930(a), 35.940(a), 35.950(a), or 35.960(a) and 35.59; or
- (2) Is identified as an authorized user on:
  - (A) A U.S. Nuclear Regulatory Commission or Agreement State license that authorizes medical use of radioactive material;
  - (B) A permit issued by a U.S. Nuclear Regulatory Commission master material licensee that is authorized to permit the medical use of radioactive material;
  - (C) A permit issued by a U.S. Nuclear Regulatory Commission or Agreement State specific licensee of broad scope that is authorized to permit the medical use of radioactive material; or
  - (D) A permit issued by a U.S. Nuclear Regulatory Commission master material license broad scope permittee that is authorized to permit the medical use of byproduct material.
- (d) For the purposes of this Rule "Brachytherapy" means a method of radiation therapy in which sources are used to deliver a radiation dose at a distance of up to a few centimeters by surface, intracavitary, intraluminal or interstitial application.
- (e) For the purposes of this Rule "Brachytherapy source" means a radioactive source or a manufacture-assembled source train or a combination of these sources that is designed to deliver a therapeutic dose within a distance of a few centimeters.
- (f) For the purposes of this Rule "High dose-rate remote afterloader" means a brachytherapy device that remotely delivers a dose rate in excess of 12 gray (1200 rads) per hour at the point or surface where the dose is prescribed.
- (g) For the purposes of this Rule "Low dose-rate remote afterloader" means a brachytherapy device that remotely delivers a dose rate of less than or equal to 2 gray (200 rads) per hour at the point or surface where the dose is prescribed.
- (h) For the purposes of this Rule "Manual brachytherapy" means a type of brachytherapy in which the brachytherapy sources (e.g., seeds, ribbons) are manually placed topically on or inserted either into the body cavities that are in close proximity to a treatment site or directly into the tissue volume.
- (i) For the purposes of this Rule "Medium dose-rate remote afterloader" means a brachytherapy device that remotely delivers a dose rate of greater than 200 rads (2 gray), but less than 1200 rads (12 gray) per hour at the point or surface where the dose is prescribed.
- (j) For the purposes of this Rule "Patient intervention" means actions by the patient or human research subject, whether intentional or unintentional, such as dislodging or removing treatment devices or prematurely terminating the administration.
- (k) For the purposes of this Rule "Pulsed dose-rate afterloader" means a type of remote afterloading brachytherapy device that uses a single source capable of delivering dose rates in the "high dose-rate" range, but:
  - (1) is approximately one-tenth of the activity of typical high dose-rate remote afterloader sources; and
  - (2) is used to simulate the radiobiology of a low dose-rate treatment by inserting the source for a given fraction of each hour.
- (l) For the purposes of this Rule "Radiation safety officer" as used in this Section, means an individual who:
  - (1) Meets the requirements in 10 CFR 35.50(a) or (c)(1) and 10 CFR 35.59; or, before October 24, 2005, met the requirements of 10 CFR 35.900(a) and 35.59, as incorporated by reference in 15A NCAC 11 .0117; or
  - (2) Is identified as a Radiation Safety Officer on:
    - (A) A specific medical use license issued by the U.S. or an Agreement State; or
    - (B) A medical use permit issued by a U.S. Nuclear Regulatory Commission master material licensee.
- (m) For the purposes of this Rule "Stereotactic radiosurgery" means the use of external radiation in conjunction with a stereotactic guidance device to precisely deliver a therapeutic dose to a tissue volume.
- (n) For the purposes of this Rule "Therapeutic dosage" means a dosage of unsealed radioactive material that is intended to deliver a radiation dose to a patient or human research subject for palliative or curative treatment.
- (o) For the purposes of this Rule "Treatment site" means the anatomical description of the tissue intended to receive a radiation dose, as described in a written directive.
- (p) License required:
  - (1) A person shall not manufacture, produce, acquire, receive, possess, use or transfer radioactive material for medical use except in accordance with a specific license issued by the agency or as allowed pursuant to Subparagraphs (p)(2) and (p)(3) of this Rule.
  - (2) An individual may receive, possess, use, or transfer radioactive material in accordance with the rules of this Section under the supervision of an authorized user as provided in this Section unless prohibited by license condition.
  - (3) An individual may prepare unsealed radioactive material for medical use in accordance with the rules of this Section under the supervision of a pharmacist who is an authorized user or physician who is an authorized user as provided in this Section unless prohibited by license condition.
- (q) A license application for human use of radioactive material shall be approved if the agency determines that:
  - (1) The applicant is qualified by reason of training and experience to use the material in question

- for the purpose requested in accordance with these Rules;
- (2) The applicant's proposed equipment, facilities, and procedures are adequate to protect public health from radiation hazards and minimize radiological danger to life or property;
  - (3) The issuance of the license will not be inimical to the health and safety of the public;
  - (4) The following training and supervisory relationship are adhered to:
    - (A) the user of radioisotopes applied to humans for diagnostic, therapeutic, or investigational purposes shall be a physician authorized by a condition of a specific license, including a specific license of broad scope.
    - (B) An authorized physician may delegate only to persons who are physicians under the supervision of the authorized physician, the following:
      - (i) the approval of procedures involving the administration to patients of radiopharmaceuticals or the application to patients of radiation from radioisotope sources;
      - (ii) the prescription of the radiopharmaceutical or source of radiation and the dose or exposure to be administered;
      - (iii) the determination of the route of administration; and
      - (iv) the interpretation of the results of diagnostic procedures in which radiopharmaceuticals are administered.
    - (C) The authorized physician shall review the work of the supervised individual as it pertains to the delegated work in Subparagraph (q)(4) of this Rule and the records kept reflecting that work.
  - (5) the applicant satisfies any applicable requirements in Rules .0319 to .0322 of this Section.
- (r) Subject to the provisions of Subparagraph (q)(4) and Paragraphs (s) to (v) of this Rule, an authorized physician may permit technicians and other paramedic personnel to perform the following activities:
- (1) preparation and quality control testing of radiopharmaceuticals and sources of radiation;
  - (2) measurement of radiopharmaceutical doses prior to administration;
  - (3) use of appropriate instrumentation for the collection of data to be used by the physician;
  - (4) administration of radiopharmaceuticals and radiation from radioisotope sources to patients.
- (s) Authorized physicians who permit activities to be performed by technicians and other paramedical personnel pursuant to Paragraph (r) of this Rule shall:
- (1) prior to giving permission, determine that the technicians and other paramedical personnel have been properly trained to perform their duties with training in the following subjects, as applicable to the duties assigned:
    - (A) general characteristics of radiation and radioactive materials;
    - (B) physical, chemical, and pharmaceutical characteristics of each radiopharmaceutical to be used;
    - (C) mathematics and calculations basic to the use and measurement of radioactivity, including units of radiation dose and radiation exposure;
    - (D) use of radiation instrumentation for measurements and monitoring including operating procedures, calibration of instruments, and limitations of instruments;
    - (E) principles and practices of radiation protection;
    - (F) additional training in the above subjects, as appropriate, when new duties are added.
  - (2) assure that the technicians and other paramedical personnel receive retraining in the subjects listed in Subparagraph (s)(1) of this Rule to maintain proficiency and to keep abreast of developments in the field of nuclear medical technology;
  - (3) keep records showing the bases for the determinations of proper training;
  - (4) retain responsibility as licensee or authorized user for the satisfactory performance of the activities; and
  - (5) review the work of the supervised individual and the records kept reflecting that work.
- (t) Certification in nuclear medicine technology by the American Registry of Radiologic Technologists or in nuclear medicine technology by the Nuclear Medicine Technologist Certification Board or the Society of Nuclear Medicine shall be deemed to satisfy the training requirements in Subparagraphs (s)(1) and (2) of this Rule.
- (u) An applicant for a license or for amendment or renewal of a license shall state whether he desires to permit technicians or other paramedical personnel to perform activities pursuant to Paragraph (r) of this Rule and, if so, shall include in his application for license, license amendment, or license renewal a statement of the activities to be so performed and a description of an adequate program for training the personnel, including retraining as required to keep abreast of developments in technology, or for otherwise determining that the personnel are properly trained to perform their duties.

(v) Whenever a technician or other paramedical person administers a radiopharmaceutical to a patient by injection, a physician shall be immediately accessible, but not necessarily a physician authorized by the agency to be a user of radioisotopes.

(w) A licensee that permits the receipt, possession, use, or transfer of radioactive material by an individual under the supervision of an authorized user shall:

- (1) In addition to the requirements in Rule .1003 of this Chapter, instruct the supervised individual in the licensee's written radiation protection procedures, written directive procedures, this Chapter, and license conditions with respect to the use of radioactive material; and
- (2) Require the supervised individual to follow the instructions of the supervising authorized user for medical uses of radioactive material, written radiation protection procedures established by the licensee, written directive procedures, rules of this Chapter, and license conditions with respect to the medical use of radioactive material.

(x) A licensee that permits the preparation of radioactive material for medical use by an individual under the supervision of an authorized nuclear pharmacist or physician who is an authorized user shall:

- (1) In addition to the requirements in Paragraph (s) of this Rule and Rule .1003 of this Chapter, instruct the supervised individual in the preparation of radioactive material for medical use, as appropriate to that individual's involvement with radioactive material; and
- (2) Require the supervised individual to follow the instructions of the supervising authorized user or authorized nuclear pharmacist regarding the preparation of radioactive material for medical use, written radiation protection procedures established by the licensee, the rules of this Chapter, and license conditions.

(y) A licensee that permits supervised activities under Paragraphs (r) and (s) of this Rule is responsible for the acts and omissions of the supervised individual.

(z) A licensee's management shall appoint a Radiation Safety Officer (RSO) who agrees in writing to be responsible for implementing the radiation safety program. The licensee, through the RSO, shall ensure that radiation safety activities are being performed in accordance with approved procedures and regulatory requirements in the daily operation of the licensee's radioactive material program.

(aa) A licensee shall establish in writing the authority, duties and responsibilities of the Radiation Safety Officer.

(bb) A licensee shall provide the Radiation Safety Officer sufficient authority, organizational freedom, and management prerogative to:

- (1) identify radiation safety problems;
- (2) investigate radiation safety problems such as overexposures, accidents, spills, losses, thefts, unauthorized receipts, uses, transfers, disposals, medical events, and other deviations

from approved radiation safety practice and implement corrective actions as necessary;

- (3) initiate, recommend or provide corrective actions for radiation safety problems;
- (4) verify implementation of corrective actions; and
- (5) retain records of items listed in Subparagraphs (1) through (4) of this Paragraph.

(cc) In addition to the requirements in Rule .1003 of this Chapter, the licensee shall provide radiation safety instruction, initially and at least annually, to personnel caring for patients or human research subjects who cannot be released in accordance with the requirements of Rule .0358 of this Section. To satisfy this requirement, the instruction must be commensurate with the duties of the personnel and include:

- (1) Patient or human research subject control;
- (2) Visitor control, including
  - (A) Routine visitation to hospitalized individuals in accordance with the provisions of Rule .1611(a)(1) of this Chapter; and
  - (B) Visitation authorized by Rule .1611(e) of this Chapter;
- (3) Contamination control;
- (4) Waste control;
- (5) Notification of the Radiation Safety Officer, or his designee, and an authorized user if the patient or the human research subject has a medical emergency or dies.

(dd) The licensee shall retain records of the radiation safety instructions required by Paragraphs (w), (x), and (cc) for three years. The record must include:

- (1) List of topics covered;
- (2) The date of the instruction;
- (3) The name(s) of the attendee(s); and
- (4) The name(s) of the individual(s) who provided the instruction.

*History Note: Authority G.S. 104E-7; 104E-10(b);*

*Eff. February 1, 1980;*

*Amended Eff. November 1, 2007; April 1, 1999; May 1, 1993; November 1, 1989.*

#### **15A NCAC 11 .0320 SPECIFIC LICENSES: HUMAN USE BY INDIVIDUAL PHYSICIANS**

(a) An application by an individual physician or a group of physicians for a specific license for human use of radioactive material shall be approved if:

- (1) the applicant satisfies the general requirements in Rule .0318 of this Section;
- (2) The application is for use in the applicant's practice in an office(s) outside a medical institution;
- (3) the applicant has access to a hospital possessing adequate facilities to hospitalize and monitor the applicant's radioactive patients whenever it is advisable;
- (4) the applicant has experience, which meets the requirements of the applicable sections of 10

- CFR Part 35, in the proposed use, the handling and administration of radioisotopes, and where applicable, the clinical management of radioactive patients; and
- (5) the physician(s) furnishes suitable evidence of experience along with the application, except that a statement from the medical isotope committee in the hospital where the applicant acquired experience, indicating its amount and nature, may be submitted as evidence of experience. 10 CFR Part 35 provides the requirements that meet the test for suitable evidence of experience.

(b) The agency shall not approve an application by an individual physician or group of physicians for a specific license to receive, possess or use radioactive material on the premises of a hospital unless:

- (1) The use of radioactive material is limited to:
  - (A) the administration of radiopharmaceuticals for diagnostic or therapeutic purposes;
  - (B) the performance of diagnostic studies on patients to whom a radiopharmaceutical has been administered;
  - (C) the performance of IN VITRO diagnostic studies; or
  - (D) the calibration and quality control checks of radioactive assay instrumentation, radiation safety instrumentation and diagnostic instrumentation;
- (2) The physician brings the radioactive material with him and removes the radioactive material when he departs;
- (3) No radioactive material is received, possessed or stored in the hospital other than the amount of material remaining in the patient; and
- (4) The hospital does not hold a radioactive material license under Rule .0319 of this Section.

*History Note: Authority G.S. 104E-7; 104E-10(b); Eff. February 1, 1980; Amended Eff. November 1, 2007; August 1, 2002; November 1, 1989.*

**15A NCAC 11 .0321 SPECIFIC LICENSES:  
GENERAL REQUIREMENTS FOR HUMAN USE OF  
UNSEALED RADIOACTIVE MATERIALS**

(a) An application for a specific license pursuant to Rule .0318 of this Section for any diagnostic or therapeutic use of unsealed radioactive material shall be approved if:

- (1) the applicant satisfies the requirements in Rule .0319 or Rule .0320 of this Section;
- (2) the applicant's proposed radiation detection instrumentation is adequate for conducting the diagnostic or therapeutic procedure(s) requested;

- (3) the physicians designated in the application as individual users, have clinical experience as required by Rule .0117(a)(2) of this Chapter;
- (4) the physicians and all other personnel who will be involved in the preparation and use of radioactive material have training and experience in the handling of unsealed radioactive material appropriate to their use of radioactive material and as required by Rule .0117(a)(2) of this Chapter;
- (5) the applicant has radiation safety operating procedures for handling and disposal of the radioactive material that provide protection to the workers, the public and the environment from radiation exposure and radioactive contamination.

(b) Any person authorized by Rules .0318, .0319, .0320, .0322, or .0324 of this Section for medical use of radioactive material may receive, possess and use any of the following radioactive material for check, calibration, transmission and reference use:

- (1) Sealed sources not exceeding 30 millicuries (mCi)(1.11 Gigabecquerel (GBq)) each, manufactured and distributed by a person licensed under 10 CFR 32.74 or equivalent Agreement State regulations;
- (2) Sealed sources, not exceeding 30 mCi (1.11 GBq) each, redistributed by a licensee authorized to redistribute the sealed sources manufactured and distributed by a person licensed under 10 CFR 32.74, providing the redistributed sealed sources are in the original packaging and shielding and are accompanied by the manufacturer's approved instructions;
- (3) Any radioactive material with a half-life not longer than 120 days in individual amounts not to exceed 15 mCi (0.56 GBq);
- (4) Any radioactive material with a half-life greater than 120 days in individual amounts not to exceed the smaller of 200 microcuries (μCi) (7.4 Megabecquerel (MBq)) or 1000 times the quantities in Appendix C of 10 CFR Part 20; and
- (5) Technetium-99m in amounts as needed.

(c) Any licensee who possesses sealed sources as calibration and reference sources pursuant to Paragraph (b) of this Rule shall test each source for leakage and contamination prior to initial use and at intervals not to exceed six months or at other intervals approved by the U.S. Nuclear Regulatory Commission or an Agreement State in the Sealed Source and Device Registry. If there is reason to suspect that a sealed source may have been damaged, or might be leaking, it shall be tested for leakage before further use.

(d) Leak test results shall be recorded in units of microcuries and maintained for inspection by the agency.

(e) Any licensee who possesses and uses calibration and reference sources pursuant to Paragraph (b) of this Rule shall:

- (1) follow the radiation safety and handling instructions that are required by the licensing agency to be furnished by the manufacturer on

the label attached to the source or permanent container thereof or in the leaflet or brochure that accompanies the source;

- (2) maintain such instructions in a legible and conveniently available form;
- (3) conduct a quarterly physical inventory to account for all sources received and possessed under the license. Records of the inventories shall be maintained for inspection by the agency and shall include the quantities and kinds of radioactive material, location of the sources and the date of the inventory.

(f) Any licensee who is licensed pursuant to Rules .0318, .0319, .0320, or .0324 of this Section for medical use of unsealed radioactive material also is authorized to use radioactive material under the general license in Rule .0314 of this Chapter for the specified IN VITRO uses without filing agency forms as required by Rule .0314(b) of the Chapter, provided that the licensee is subject to the other provisions of Rule .0314 of this Chapter.

(g) For each individual receiving radiopharmaceutical therapy and hospitalized because the individual cannot be released in accordance with Rule .0358 of this Section, a licensee shall:

- (1) provide a private room with a private sanitary facility;
- (2) post the individual's door with a "Radioactive Materials" sign and note on the door or the individual's chart, where and how long visitors may stay in the individual's room;
- (3) either monitor material or items removed from the individual's room to determine that their radioactivity cannot be distinguished from the natural background radiation level with a radiation detection survey instrument set on its most sensitive scale and with no interposed shielding, or handle them as radioactive waste; and
- (4) Notify the Radiation Safety Officer and authorized user as soon as feasible if the individual has a medical emergency and immediately if the patient dies.

*History Note: Authority G.S. 104E-7; 104E-10(b); Eff. February 1, 1980; Amended Eff. November 1, 2007; August 1, 2002; April 1, 1999; May 1, 1993.*

**15A NCAC 11 .0322 SPECIFIC LICENSES: HUMAN USE OF SEALED SOURCES**

(a) In addition to the requirements set forth in Rule .0318, .0319, or .0320 of this Section, a specific license for human use of sealed sources shall be issued only if the applicant, or if the application is made by an institution, the individual user:

- (1) has training and experience as required by Rule .0117(a)(2) of this Chapter, and
- (2) is a physician.

(b) The licensee shall comply with the provisions of Section .0700 of this Chapter and the requirements of Subpart H of 10 CFR Part 35.

(c) For medical use, a licensee may only use:

- (1) Sealed sources or devices manufactured, labeled, packaged and distributed in accordance with a license issued under 10 CFR Part 30 and 10 CFR 32.74 or equivalent requirements of an Agreement State;
- (2) Sealed sources or devices noncommercially transferred from a licensee licensed pursuant to Section .0300 of this Chapter, 10 CFR Part 35, or equivalent regulations of an Agreement State;
- (3) Teletherapy sources manufactured and distributed in accordance with 10 CFR Part 30 or the equivalent requirements of an Agreement State;
- (4) Brachytherapy sources, photon emitting remote afterloader units, teletherapy units or gamma stereotactic radiosurgery units for therapeutic medical use as approved in:
  - (A) the Sealed Sources and Device Registry; or
  - (B) Research in accordance with an active Investigational Device Exemption (IDE) application accepted by the FDA.

(d) In addition to the requirements in Rule .1003 of this Chapter, the licensee shall provide radiation safety instruction, initially and at least annually, to personnel caring for patients or human research subjects who are receiving brachytherapy and cannot be released in accordance with Rule .0358 of this Section. To satisfy this requirement, the instruction must be commensurate with the duties of the personnel and include:

- (1) Size and appearance of the brachytherapy sources;
- (2) Safe handling and shielding instructions;
- (3) Patient or human research subject control;
- (4) Visitor control, including both:
  - (A) Routine visitation to hospitalized individuals in accordance with the provisions of Rule .1611(a)(1) of this Chapter; and
  - (B) Visitation authorized by Rule .1611(e) of this Chapter.
- (5) Notification of the Radiation Safety Officer, or his designee, and an authorized user if the patient or the human research subject has a medical emergency or dies.

(e) The licensee shall retain records of the radiation safety instruction required in Paragraph (d) of this Rule for three years. The record must include:

- (1) List of topics covered;
- (2) The date of the instruction;
- (3) The name(s) of the attendee(s); and
- (4) The name(s) of the individual(s) who provided the instruction.

*History Note: Authority G.S. 104E-7; 104E-10(b); Eff. February 1, 1980; Amended Eff. November 1, 2007.*

**15A NCAC 11 .0333      SPECIFIC LICENSES:  
MANUFACTURE OF RADIOPHARMACEUTICALS**

An application for a specific license to manufacture and distribute radiopharmaceuticals containing radioactive material for use by persons licensed pursuant to Rule .0318, .0319, or .0320 of this Section for the radiopharmaceuticals and associated uses in Groups I, II or IV shall be approved subject to the following conditions:

- (1) the applicant satisfies the requirements of Rule .0317 of this Section; and
- (2) the applicant meets the applicable requirements in Section 32.72 of 10 CFR Part 32.

*History Note:*     Authority G.S. 104E-7; 104E-10(b);  
Eff. February 1, 1980;  
Amended Eff. November 1, 2007.

**15A NCAC 11 .0350      RECORDS AND REPORTS OF  
MISADMINISTRATION**

*History Note:*     Authority G.S. 104E-7(a)(2);  
Eff. June 1, 1989;  
Temporary Amendment Eff. August 20, 1994 for a period of 180 days or until the permanent rule becomes effective, whichever is sooner;  
Amended Eff. May 1, 1995; May 1, 1992;  
Repealed Eff. November 1, 2007.

**15A NCAC 11 .0356      PROCEDURES FOR  
ADMINISTRATIONS REQUIRING A WRITTEN  
DIRECTIVE**

(a) For any administration requiring a written directive, the licensee shall develop, implement, and maintain written procedures to provide that:

- (1) The patient or human research subject's identity is verified before each administration; and
- (2) Each administration is in accordance with the written directive.

(b) The procedures required by Paragraph (a) of this Rule must address the following items that are applicable to the licensee's use of radioactive material:

- (1) Verify the identity of the patient or human research subject;
- (2) Verify that the administration is in accordance with the treatment plan, if applicable, and the written directive;
- (3) Check both manual and computer-generated dose calculations; and
- (4) Verify that any computer-generated dose calculations are correctly transferred into the consoles of therapeutic medical units.

(c) A licensee shall retain a copy of the procedures required under Paragraph (a) until the agency terminates the pertinent license.

(d) If, because of the emergent nature of the patient's condition, a delay in order to provide a written directive would jeopardize

the patient's health, an oral directive is acceptable. The information contained in the oral directive shall be documented as soon as possible in writing in the patient's record. A written directive must be prepared within 48 hours of the oral directive.

(e) A revision to an existing written directive may be made:

- (1) if the revision is dated and signed by an authorized user before the administration of the dosage of unsealed radioactive material, the brachytherapy dose, the gamma stereotactic radiosurgery dose, the teletherapy dose, or the next fractional dose, or
- (2) if, because of the patient's condition, a delay in order to provide a written revision to an existing written directive would jeopardize the patient's health, an oral revision to an existing written directive is acceptable. The oral revision must be documented as soon as possible in the patient's record. A revised written directive must be signed by the authorized user within 48 hours of the oral revision.

(f) The licensee shall retain a record of the written directive and any revisions to the written directive for three years.

*History Note:*     Authority G.S. 104E-7; 104E-10(b);  
Temporary Adoption Eff. August 20, 1994 for a period of 180 days or until the permanent rule becomes effective, whichever is sooner;  
Eff. May 1, 1995;  
Amended Eff. November 1, 2007.

**15A NCAC 11 .0359      MEASUREMENTS/DOSAGES OF  
UNSEALED RADIOACTIVE MATERIAL FOR  
MEDICAL USE**

(a) A licensee shall possess and use a dose calibrator to measure the radioactivity of dosages of photon-emitting radionuclides prior to administration to each individual. A licensee shall:

- (1) develop, maintain, and implement written procedures for use of the dose calibrator;
- (2) calibrate each dose calibrator in accordance with the requirements of 10 CFR 35.60(b).

(b) A licensee shall retain a record of each check, test, and calibration performed in accordance with this Rule for a period of three years following the test.

*History Note:*     Authority G.S. 104E-7; 104E-10(b); 104E-12;  
Eff. April 1, 1999;  
Amended Eff. November 1, 2007.

**15A NCAC 11 .0360      SURVEYS OF  
RADIOPHARMACEUTICAL AREAS FOR RADIATION  
EXPOSURE RATE**

(a) A licensee shall survey with a radiation detection survey instrument at the end of each day of use all areas where radiopharmaceuticals are routinely prepared for use or administered.

(b) A licensee shall conduct the survey required by Paragraph (a) of this Rule so as to be able to detect dose rates as low as 0.1 millirem (1 microsievert) per hour.

(c) A licensee shall establish radiation dose rate trigger levels for the surveys required by Paragraph (a) of this Rule. A licensee shall require the individual performing the survey to promptly notify the Radiation Safety Officer if a dose rate exceeds a trigger level.

(d) A licensee shall retain a record of the survey required by this Rule for three years. The record shall include:

- (1) the date of the survey;
- (2) a plan of each area surveyed;
- (3) the trigger level established for each area;
- (4) the detected dose rate at several points in each area surveyed expressed in millirem (or microsievert) per hour;
- (5) the instrument used to make the survey; and
- (6) the initials of the individual who performed the survey.

(e) Any licensee authorized by the rules of this Chapter to manufacture, produce, acquire, receive, possess, use or transfer radioactive material for medical use shall have in its possession a calibrated portable radiation survey instrument capable of detecting dose rates over the range of 0.1 millirem per hour (1 microsievert per hour) to 100 millirem per hour (.01 millisievert per hour), and a portable radiation survey instrument capable of measuring dose rates over the range of one millirem per hour (.01 millisievert per hour) to 1,000 millirem per hour (10 millisievert per hour). A licensee shall calibrate the survey instruments used to show compliance with this Section before first use, annually, and following repair. The licensee shall:

- (1) calibrate all scales with readings up to 1,000 millirem (10 millisievert) per hour with a radiation source;
- (2) calibrate two separated readings on each scale that must be calibrated; and
- (3) conspicuously note on the instrument the apparent exposure rate from a dedicated check source as determined at the time of calibration, and the date of calibration.

(f) When calibrating a survey instrument, the licensee shall consider a point as calibrated if the indicated exposure rate differs from the calculated exposure rate by not more than 20 percent.

(g) A licensee shall check each survey instrument for proper operation with the dedicated check source each day of use. A licensee is not required to keep records of these checks.

(h) A licensee shall retain a record of each survey instrument calibration for three years. The record must include:

- (1) a description of the calibration procedure; and
- (2) the date of the calibration, a description of the source used and the certified exposure rates from the source, and the rates indicated by the instrument being calibrated, the correction factors deduced from the calibration data, and the identity of the individual who performed the calibration.

*History Note: Authority G.S. 104E-7; 104E-10(b); 104E-12; Eff. April 1, 1999; Amended Eff. November 1, 2007.*

#### **15A NCAC 11 .0361 MEDICAL USE OF UNSEALED RADIOACTIVE MATERIAL**

(a) A licensee may use any unsealed radioactive material prepared for use for uptake, dilution, or excretion studies, imaging and localization studies and radiopharmaceutical therapy that is:

- (1) Obtained from a manufacturer or preparer licensed under 10 CFR 32.72 or equivalent Agreement State requirements;
- (2) Prepared by:
  - (A) An authorized nuclear pharmacist;
  - (B) A physician who is an authorized user identified on a North Carolina Radioactive Materials License, an Agreement State Radioactive Materials License, or a license issued by the U.S. Nuclear Regulatory Commission or who meets the requirements in 15A NCAC 11 .0117(a)(2);
  - (C) An individual under the supervision, as specified in Rule .0318 of this Section, of the authorized nuclear pharmacist in Part (a)(2)(A) of this Rule or the physician who is an authorized user in Part (a)(2)(B) of this Rule;
- (3) Obtained from and prepared by an NRC or Agreement State licensee for use in research in accordance with a Radioactive Drug Research Committee-approved protocol or an Investigational New Drug (IND) protocol accepted by the FDA; or
- (4) Prepared by the licensee for use in research in accordance with a Radioactive Drug Research Committee-approved protocol or an Investigational New Drug (IND) protocol accepted by the FDA.

(b) A licensee shall not administer to humans a radiopharmaceutical containing more than 0.15 microcurie (0.15 kilobecquerel) of molybdenum-99 per millicurie (megabecquerel) of technetium-99m.

(c) A licensee that uses molybdenum-99/technetium-99m generators for preparing a technetium-99m radiopharmaceutical shall measure the molybdenum-99 concentration in the first eluate after receipt of a generator to demonstrate compliance with Paragraph (b) of this Rule.

(d) A licensee that must measure molybdenum concentration shall retain a record of each measurement for three years. The record shall include for each measured elution of technetium-99m:

- (1) the ratio of the measures expressed as microcuries of molybdenum-99 per millicurie of technetium-99m (or kilobecquerels of molybdenum-99 per megabecquerel of technetium-99m);
- (2) the time and date of the measurement; and
- (3) the initials of the individual who made the measurement.



*History Note:* Authority G.S. 104E-7(a)(2); 104E-10(b); 104E-12;  
*Eff. April 1, 1999;*  
*Amended Eff. November 1, 2007.*

**15A NCAC 11 .0363 PROVISIONS FOR THE PROTECTION OF HUMAN RESEARCH SUBJECTS**

(a) A licensee may conduct research involving human research subjects only if it uses the radioactive materials specified on its license for the uses authorized on its license.

(b) If the research is conducted, funded, supported, or regulated by a Federal agency that has implemented the Federal Policy for the Protection of Human Research Subjects (Federal Policy), the licensee shall, before conducting research:

- (1) Obtain review and approval of the research from an "Institutional Review Board" as defined and prescribed in the Federal Policy; and
- (2) Obtain "informed consent" as defined and described in the Federal Policy, from the human research subject.

(c) If the research will not be conducted, funded, supported, or regulated by a Federal agency that has implemented the Federal Policy, the licensee shall, before conducting research, apply for and receive a specific amendment to its medical use license. The amendment request must include a written commitment that the licensee will, before conducting research:

- (1) Obtain review and approval of the research from an "Institutional Review Board" as defined and described in the Federal Policy; and
- (2) Obtain "informed consent," as described in the Federal Policy, from the human research subject.

(d) Nothing in this Rule relieves licensees from complying with the other requirements in this Chapter or with any other applicable Rules and Laws in the State of North Carolina.

*History Note:* Authority G.S. 104E-7; 104E-10(b); 104E-12;  
*Eff. November 1, 2007.*

**15A NCAC 11 .0364 MEDICAL EVENTS**

(a) A licensee shall report any event, except for an event that results from patient intervention, in which the administration of radioactive material or radiation from radioactive material results in:

- (1) A dose that differs from the prescribed dose or dose that would have resulted from the prescribed dosage by more than 5 rem (0.05 Sievert (Sv)) effective dose equivalent, 50 rem (0.5 Sv) to an organ or tissue, or 50 rem (0.5 Sv) shallow dose equivalent to the skin; and
  - (A) The total dose delivered differs from the prescribed dose by 20 percent or more;
  - (B) The total dosage delivered differs from the prescribed dosage by 20

percent or more or falls outside the prescribed dosage range; or

- (C) The fractionated dose delivered differs from the prescribed dose, for a single fraction, by 50 percent or more.
- (2) A dose that exceeds 5 rem (0.05 Sv) effective dose equivalent, 50 rem (0.5 Sv) to an organ or tissue, or 50 rem (0.5 Sv) shallow dose equivalent to the skin from any of the following:
  - (A) An administration of a wrong radioactive drug containing radioactive material;
  - (B) An administration of a radioactive drug containing radioactive material by the wrong route of administration;
  - (C) An administration of a dose or dosage to a wrong individual or human research subject;
  - (D) An administration of a dose or dosage delivered by the wrong mode of treatment; or
  - (E) A leaking sealed source.
- (3) A dose to the skin or an organ or tissue other than the treatment site that exceeds by 50 rem (0.5 Sv) and 50 percent or more of the dose expected from the administration defined in the written directive (excluding, for permanent implants, seeds that were implanted in the correct site but migrated outside the treatment site).

(b) A licensee shall report any event resulting from intervention of a patient or human research subject in which the administration of radioactive material or radiation from radioactive material results or will result in an unintended permanent functional damage to an organ or a physiological system, as determined by a physician.

(c) The licensee shall notify by telephone the agency no later than the next calendar day after discovery of the medical event.

(d) The licensee shall submit a written report to the agency at the address listed in Rule .0111 of this Chapter within 15 days of the discovery of the medical event. The written report must include:

- (1) The licensee's name;
- (2) The name of the prescribing physician;
- (3) A brief description of the event;
- (4) Why the event occurred;
- (5) The effect, if any, on the individual(s) who received the administration;
- (6) What actions, if any, have been taken or are planned to prevent recurrence; and
- (7) Certification that the licensee notified the individual (or the individual's responsible relative or guardian) and if not, why not.

The report may not contain the individual's name or any other information that could lead to identification of the individual.

(e) The licensee shall provide notification of the event to the referring physician and also notify the individual who is the

subject of the medical event no later than 24 hours after its discovery unless the referring physician personally informs the licensee either that he or she will inform the individual or that based on medical judgment, telling the individual would be harmful. The licensee is not required to notify the individual without first consulting the referring physician. If the referring physician or the affected individual cannot be reached within 24 hours, the licensee shall notify the individual as soon as possible thereafter. The licensee may not delay any appropriate medical care for the individual, including any necessary remedial care as a result of the medical event, because of any delay in notification. To meet the requirements of this Paragraph, the notification of the individual who is the subject of the medical event may be made instead to that individual's responsible relative or guardian. If a verbal notification is made, the licensee shall inform the individual, or responsible relative or guardian, that a written description of the event can be obtained from the licensee upon request. The licensee shall provide such a written description if requested.

(f) Aside from the notification requirement, nothing in this Section affects any rights or duties of licensees and physicians in relation to each other, to individuals affected by the medical event, or to that individual's responsible relatives or guardians.

(g) A licensee shall:

- (1) Annotate a copy of the report provided to the agency with the:
  - (A) Name of the individual who is the subject of the event; and
  - (B) Social security number or other identification number, if one has been assigned, of the individual who is the subject of the medical event; and
- (2) Provide a copy of the annotated report to the referring physician if other than the licensee, no later than 15 days after the discovery of the event.

*History Note: Authority G.S. 104E-7(a)(2); 104E-10(b); 104E-12;  
Eff. November 1, 2007.*

**15A NCAC 11 .0365 REPORT AND NOTIFICATION OF A DOSE TO AN EMBRYO/FETUS OR A NURSING CHILD**

(a) A licensee shall report any dose to an embryo/fetus that is greater than 5 rem (50 mSv) dose equivalent that is a result of an administration of radioactive material or radiation from radioactive material to a pregnant individual unless the dose to the embryo/fetus was specifically approved, in advance, by that authorized user.

(b) A licensee shall report any dose to a nursing child that is a result of administration of radioactive material to a breast-feeding individual, that:

- (1) Is greater than 5 rem (50 mSv) total effective dose equivalent; or
- (2) Has resulted in unintended permanent functional damage to an organ or a physiological system of the child, as determined by a physician.

(c) The licensee shall notify by telephone the agency no later than the next calendar day after discovery of a dose to the embryo/fetus or nursing child that requires a report in Paragraphs (a) or (b) of this Rule.

(d) The licensee shall submit a written report to the agency at the address listed in Rule .0111 of this Chapter within 15 days after discovery of a dose to the embryo/fetus or nursing child that requires a report in Paragraphs (a) or (b) in this Rule.

(1) The written report must include:

- (A) The licensee's name;
- (B) The name of the prescribing physician;
- (C) A brief description of the event;
- (D) Why the event occurred;
- (E) The effect, if any, on the embryo/fetus or the nursing child;
- (F) What actions, if any, have been taken or are planned to prevent recurrence; and
- (G) Certification that the licensee notified the pregnant individual or mother (or the mother's or child's responsible relative or guardian), and if not, why not.

(2) The report must not contain the individual's or child's name or any other information that could lead to identification of the individual or child.

(e) The licensee shall provide notification of the event to the referring physician and also notify the pregnant individual or mother, both hereafter referred to as the mother, no later than 24 hours after discovery of an event that would require reporting under Paragraphs (a) or (b) of this Rule, unless the referring physician personally informs the licensee either that he or she will inform the mother or that, based on medical judgment, telling the mother would be harmful. The licensee is not required to notify the mother without first consulting with the referring physician. If the referring physician or mother cannot be reached within 24 hours, the licensee shall make the appropriate notifications as soon as possible thereafter. The licensee may not delay any appropriate medical care for the embryo/fetus or for the nursing child, including any necessary remedial care as a result of the event, because of any delay in notification. To meet the requirements of this Paragraph, the notification may be made to the mother's or child's responsible relative or guardian instead of the mother. If a verbal notification is made, the licensee shall inform the mother, or the mother's or child's responsible guardian, that a written description of the event can be obtained from the licensee upon request. The licensee shall provide such a written description if requested.

(f) A licensee shall:

- (1) Annotate a copy of the report provided to the agency with the:
  - (A) Name of the pregnant individual or the nursing child who is the subject of the event; and
  - (B) Social security number or other identification number, if one has been

- assigned, of the pregnant individual or the nursing child who is the subject of the event; and
- (2) Provide a copy of the annotated report to the referring physician, if other than the licensee, no later than 15 days after the discovery of the event.

*History Note: Authority G.S. 104E-7; 104E-10(b); 104E-12; Eff. November 1, 2007.*

**15A NCAC 11 .0702 MANUAL BRACHYTHERAPY**

**(a) Accountability, storage and transit**

- (1) Each licensee shall provide accountability of sealed sources and shall keep a record of the issue and return of all sealed sources. A physical inventory shall be made at least quarterly and a written record of the inventory maintained.
- (2) When not in use, sealed sources and applicators containing sealed sources shall be kept in a protective enclosure of such material and wall thickness as necessary to assure compliance with the provisions of Rules .1604, .1609 and .1611 of this Chapter.

**(b) Testing sealed sources for leakage and contamination**

- (1) All sealed sources with a half-life greater than 30 days and in any form other than gas shall be tested for leakage and contamination prior to initial use and at intervals not to exceed six months or at other intervals approved by the U.S. Nuclear Regulatory Commission or an Agreement State in the Sealed Source and Device Registry. If there is reason to suspect that a sealed source might have been damaged, or might be leaking, it shall be tested for leakage before further use.
- (2) Leak tests shall be capable of detecting the presence of 0.005 microcurie of radioactive material on the test sample, or in the case of radium, the escape of radon at rate of 0.001 microcurie per 24 hours. Any test conducted pursuant to Subparagraph (b)(1) of this Rule which reveals the presence of 0.005 microcurie or more of removable contamination or, in the case of radium, the escape of radon at the rate of 0.001 microcurie or more per 24 hours shall be considered evidence that the sealed source is leaking. The licensee shall immediately withdraw the source from use and shall cause it to be decontaminated and repaired or to be disposed of in accordance with applicable provisions of Section .1600 of this Chapter. A report describing the sealed sources involved, the test results and the corrective action taken shall be submitted in writing to the agency at the address stated in Rule .0111 of this Chapter within five days after the test.

- (3) Leak test results shall be recorded in units of microcuries and maintained for inspection by the agency.

**(c) Radiation surveys**

- (1) Immediately after implanting sources in an individual the licensee shall make a radiation survey of the individual and the area of use to confirm that no source has been misplaced. The licensee shall make a record of each survey.
- (2) Immediately after removing the last temporary implant source from an individual, the licensee shall make a radiation survey of the individual with a radiation detection survey instrument to confirm that all sources have been removed. The licensee may not release from confinement for medical care an individual treated by temporary implant until all sources have been removed.

(d) A licensee shall maintain accountability for all brachytherapy sources in storage or in use. After removing sources from an individual, a licensee shall return brachytherapy sources to the storage area. A licensee shall ensure that all sources taken from the storage area have been returned, and shall make a record of the source accountability and retain the record for three years.

**(e) For temporary implants, the record shall include:**

- (1) the number and activity of sources removed from storage;
- (2) the date and time the sources were removed from storage;
- (3) the name of the individual who removed the sources from storage;
- (4) the location of use;
- (5) the number and activity of sources returned to storage;
- (6) the date and time the sources were returned to storage; and
- (7) the name of the individual who returned the sources to storage.

**(f) For permanent implants, the record shall include:**

- (1) the number and activity of sources removed from storage;
- (2) the date and time the sources were removed from storage;
- (3) The name of the individual who removed the sources from storage;
- (4) the number and activity of sources not implanted;
- (5) the date the sources were returned to storage; and
- (6) the name of the individual who returned the sources to storage.

(g) For each patient or human research subject who is receiving brachytherapy and cannot be released under Rule .0358 of this Section, a licensee shall:

- (1) Not quarter the patient or human research subject in the same room as an individual who is not receiving brachytherapy;

- (2) Visibly post the patient's or human research subject's room with a "Radioactive Materials" sign; and
  - (3) Note on the door or in the patient's or human research subject's chart where and how long visitors may stay in the patient's or human research subject's room.
- (h) A licensee shall have applicable emergency response equipment available near each treatment room to respond to a source;
- (1) Dislodged from the patient; or
  - (2) Lodged within the patient following removal of the source applicators.
- (i) A licensee shall notify the Radiation Safety Officer or his or her designee, and an authorized user as soon as possible if the patient or human research subject has a medical emergency or dies.

*History Note: Authority G.S. 104E-7; 104E-12(a); Eff. February 1, 1980; Amended Eff. November 1, 2007; January 1, 2005; April 1, 1999; January 1, 1994; October 1, 1980.*

#### **15A NCAC 11 .0703 TELETHERAPY**

*History Note: Authority G.S. 104E-7(a)(2); 10 C.F.R. Chapter 1, Commission Notices, Policy Statements, Agreement States, 46 F.R. 7540; Eff. February 1, 1980; Amended Eff. April 1, 1999; June 1, 1993; May 1, 1992; October 1, 1984; October 1, 1980; Repealed Eff. November 1, 2007.*

#### **15A NCAC 11 .1611 DOSE LIMITS FOR INDIVIDUAL MEMBERS OF THE PUBLIC**

- (a) Each licensee or registrant shall conduct operations so that:
- (1) The total effective dose equivalent to individual members of the public from the licensed or registered operation does not exceed 0.1 rem (1 mSv) in a year exclusive of the dose contribution from background radiation from the licensee's disposal of radioactive material into sanitary sewerage in accordance with Rule .1630 of this Section, from any medical administration the individual has received, from exposure to individuals administered radioactive material and released in accordance with Rule .0358 of this Chapter and from voluntary participation in medical research programs; and
  - (2) The dose in any unrestricted area from external sources of radiation, exclusive of the dose contribution from patients administered radioactive material and released in accordance with Rule .0358 of this Chapter, does not exceed 0.002 rem (0.02 mSv) in any one hour.

(b) If the licensee or registrant permits members of the public to have access to controlled areas, the limits for members of the public continue to apply to those individuals.

(c) A licensee, registrant, license applicant or registration applicant may apply for and must receive agency authorization to operate up to an annual dose limit for an individual member of the public of 0.5 rem (5 mSv). The licensee, registrant, license applicant or registration applicant shall include the following information in this application:

- (1) demonstration of the need for and the expected duration of operations in excess of the limit in Paragraph (a) of this Rule;
- (2) the licensee's program to assess and control dose within the 0.5 rem (5 mSv) annual limit; and
- (3) the procedures to be followed to maintain the dose as low as is reasonably achievable.

(d) The agency may impose additional restrictions on radiation levels in unrestricted areas and on the total quantity of radionuclides that a licensee may release in effluents in order to maintain the collective dose as low as reasonably achievable.

(e) Notwithstanding Subparagraph (a)(1) of this Rule, a licensee may permit visitors to an individual who cannot be released in accordance with Rule .0358 of this Section to receive a dose in excess of 0.1 rem (1 mSv) if:

- (1) The radiation dose received does not exceed 0.5 rem (5 mSv); and
- (2) The authorized user, as defined in Section .0300 of this Chapter had determined before the visit that it is appropriate.

*History Note: Authority G.S. 104E-7(a)(2); Eff. January 1, 1994; Amended Eff. November 1, 2007; August 1, 1998.*

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#### **15A NCAC 13A .0107 STDS APPLICABLE TO GENERATORS OF HAZARDOUS WASTE - PART 262**

(a) 40 CFR 262.10 through 262.12 (Subpart A "General," are incorporated by reference including subsequent amendments and editions.

(b) 40 CFR 262.20 through 262.27 (Subpart B), "The Manifest," are incorporated by reference including subsequent amendments and editions, except that 262.24, 262.25, and 262.26 are not incorporated by reference.

(c) 40 CFR 262.30 through 262.34 (Subpart C), "Pre-Transport Requirements," are incorporated by reference including subsequent amendments and editions.

(d) 40 CFR 262.40 through 262.44 (Subpart D), "Recordkeeping and Reporting," are incorporated by reference including subsequent amendments and editions. In addition, a generator shall keep records of inspections and results of inspections required by Section 262.34 for at least three years from the date of the inspection.

(e) 40 CFR 262.50 through 262.58 (Subpart E), "Exports of Hazardous Waste," are incorporated by reference including subsequent amendments and editions.

(f) 40 CFR 262.60 (Subpart F), "Imports of Hazardous Waste," is incorporated by reference including subsequent amendments and editions.

(g) 40 CFR 262.70 (Subpart G), "Farmers," is incorporated by reference including subsequent amendments and editions.

(h) 40 CFR 262.80 through 262.89 (Subpart H), "Transfrontier Shipments of Hazardous Waste for Recovery within the OECD," are incorporated by reference including subsequent amendments and editions, except that 40 CFR 262.89(e) is not incorporated by reference.

(i) The appendix to 40 CFR Part 262 is incorporated by reference including subsequent amendments and editions.

*History Note: Authority G.S. 130A-294(c); 150B-21.6;*

*Eff. November 19, 1980;*

*Amended Eff. December 1, 1988; June 1, 1988; August 1, 1987; May 1, 1987;*

*Transferred and Recodified from 10 NCAC 10F .0030 Eff. April 4, 1990;*

*Amended Eff. August 1, 1990;*

*Recodified from 15A NCAC 13A .0008 Eff. August 30, 1990;*

*Amended Eff. April 1, 1993; October 1, 1990;*

*Recodified from 15A NCAC 13A .0007 Eff. December 20, 1996;*

*Amended Eff. November 1, 2007; January 1, 2007; April 1, 2001; August 1, 1998.*

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#### **15A NCAC 18A .2609 REFRIGERATION: THAWING: AND PREPARATION OF FOOD**

(a) All potentially hazardous foods, in a food service establishment, requiring refrigeration shall be kept at or below 45° F (7° C), except when being prepared or served. An air temperature thermometer accurate to 3° F (1.5°C) shall be provided in all refrigerators.

(b) Refrigeration and freezer capacity shall be sufficient to maintain required temperatures on all potentially hazardous foods.

(c) Potentially hazardous foods shall be thawed:

- (1) in refrigerated units at a temperature not to exceed 45° F (7° C);
- (2) under potable running water of a temperature of 70° F (21° C), or below, with sufficient water velocity to agitate and float off loose food particles into the overflow;
- (3) as a part of the conventional cooking process; or
- (4) 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.

(d) Employees preparing food shall have used antibacterial soap, dips or hand sanitizers immediately prior to food preparation or shall use clean, plastic disposable gloves or sanitized utensils during food preparation. This requirement is in addition to all other handwashing requirements in this Section. Food shall be prepared with the least possible manual

contact, with utensils and on preparation surfaces that have been cleaned and rinsed prior to use. Preparation surfaces which come in contact with potentially hazardous foods shall be sanitized as provided in Rule .2618(c) of this Section. Raw fruits and raw vegetables shall be washed with potable water to remove soil and other contaminants 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 140° F (60° C) except as follows:

- (1) poultry, poultry stuffings, stuffed meats, and stuffings containing meat shall be cooked to heat all parts of the food to at least 165° F (74°C) with no interruption of the cooking process,
- (2) pork and any food containing pork shall be cooked to heat all parts of the food to at least 150° F (66° C),
- (3) ground beef and foods containing ground beef shall be cooked to an internal temperature of at least 155° F (68° C),
- (4) roast beef shall be cooked to an internal temperature of at least 130° F (54° C), and
- (5) beef steak shall be cooked to a temperature of 130° F (54° C) unless otherwise ordered by the immediate consumer.

(f) Liquid eggs, or uncooked frozen eggs, dry eggs and egg products shall be used only for cooking and baking purposes. This Paragraph does not apply to pasteurized products.

(g) Potentially hazardous foods that have been cooked and then refrigerated shall be reheated to 165° F (74° C) or higher throughout before being served or before being placed in a hot food storage facility except that, food in intact packages from processing plants that are regulated by the food regulatory agency that has jurisdiction over the plants may initially be reheated to 135° F (57° C). Reheating time shall not exceed two hours.

(h) All potentially hazardous foods shall be stored at temperatures of 135° F (57° C) or above; or 45° F (7° C) or below except during necessary periods of preparation and serving. However, roast beef, as described in Subparagraph (e)(4) of this Rule shall be stored at a temperature of at least 130° F (54° C) or above; or 45° F (7° C) or below.

(i) Time only, rather than the temperature requirements set forth in Paragraph (h) of this Rule may be used as the public health control for a working supply of potentially hazardous food before cooking, or for ready-to-eat potentially hazardous food that is displayed or held for service for immediate consumption if:

- (1) the food is marked or otherwise identified to indicate the time that is four hours past the point in time when the food is removed from temperature control;
- (2) the food is cooked and served, served if ready-to-eat, or discarded, within four hours from the point in time when the food is removed from required temperature control;
- (3) food in unmarked containers or packages or marked to exceed the four hour limit in

Subparagraph (1) of this Paragraph, is discarded; and

- (4) written procedures approved by the Department, as being in accordance with the rules of this Section, are maintained in the establishment for the handling of food from the time of completion of the cooking process or when the food is otherwise removed from required temperature control.

These procedures shall be made available to the Department upon request.

(j) Time only, rather than temperature requirements as set forth in Paragraph (h) of this Rule may be used as the public health control for a working supply of potentially hazardous food before cooking, or for ready-to-eat potentially hazardous food that is displayed or held for customer take-out, if:

- (1) the food is marked or otherwise identified to indicate the time that is two hours past the point in time when the food is removed from temperature control;
- (2) the food is cooked and served, served if ready-to-eat, or discarded, within two hours from the point in time when the food is removed from required temperature control;
- (3) food in unmarked containers or packages or marked to exceed the two hour limit in Subparagraph (1) of this Paragraph, is discarded; and
- (4) written procedures approved by the Department, as being in accordance with the Rules of this Section, are maintained in the establishment for the handling of food from the time of completion of the cooking process or when the food was otherwise removed from required temperature control.

These procedures shall be made available to the Department upon request.

(k) An establishment wishing to move foods controlled under Paragraphs (i) and (j) of this Rule for immediate consumption on the premises, shall have their written procedures for the handling of the food from the time of completion of the cooking process or when the food was otherwise removed from required temperature control, approved by the Department, as being in accordance with the rules of this Section, and shall maintain those approved procedures in the establishment.

(l) In a food establishment that serves a highly susceptible population, time only, rather than temperature, may not be used as the public health control for raw eggs.

(m) All potentially hazardous food that is transported must be maintained at temperatures as noted in Paragraph (h) of this Rule.

(n) A metal stem-type thermometer accurate to 2°F (1° C) shall be available to check food temperatures.

(o) Cooked potentially hazardous food shall be cooled:

- (1) from 135°F (57°C) to 70°F (21°C) within two hours; and
- (2) from 135°F (57°C) to 45°F (7°C) or less within a total of six hours.

(p) Potentially hazardous food shall be cooled to 45°F (7°C) or less within four hours, if prepared from ingredients at ambient temperature, such as reconstituted foods and canned tuna.

(q) Cooling shall be accomplished in accordance with the time and temperature criteria specified in Paragraphs (o) and (p) of this Rule by using one or more of the following methods based on the type of food being cooled:

- (1) placing the food in shallow pans;
- (2) separating the food into smaller or thinner portions;
- (3) using rapid cooling equipment;
- (4) stirring the food in a container placed in an ice water bath;
- (5) using containers that facilitate heat transfer;
- (6) adding ice as an ingredient; or
- (7) other effective methods.

(r) When placed in cooling or cold holding equipment, food containers in which food is being cooled shall be:

- (1) arranged in the equipment to provide maximum heat transfer through the container walls; and
- (2) loosely covered, or uncovered if protected from overhead contamination during the cooling period to facilitate heat transfer from the surface of the food.

*History Note: Authority G.S. 130A-248;*

*Eff. May 5, 1980;*

*Amended Eff. November 1, 2007; May 1, 2005; October 1, 2004; August 1, 1998; October 1, 1993; May 1, 1991; October 1, 1990.*

## **15A NCAC 18A .2620 STORAGE AND HANDLING OF UTENSILS AND EQUIPMENT**

(a) After bactericidal treatment, utensils in a food service establishment shall be air-dried and stored above the floor in a clean place. Wherever practicable, containers and utensils shall be covered or inverted or stored in tight, clean cabinets; and glasses and cups shall be stored inverted. It is not considered practicable to invert plates and bowls which slide when inverted or to cover plates and bowls positioned for immediate use during business hours. Utensils used in restaurants or food service establishments and equipment shall be handled in such a manner as to prevent contamination, and employees shall avoid handling clean surfaces that will come in contact with customers' mouths.

(b) Drain racks, trays, and shelves shall not be made of corrodible material, and shall be kept clean. These items are not required to be made of plastic.

(c) Spoons, spatulas, dippers, and other in-use utensils shall be stored between use in the food product with the handles extending out of the food, stored dry on a clean surface or in a container of water if the water is maintained at a temperature of at least 135°F (57°).

(d) When utensils are used to dispense frozen products or moist foods, the utensils may be stored in running water dipper wells only when the water has sufficient velocity to flush food residues into the overflow drain.

(e) Single-service utensils shall be purchased only in sanitary containers, shall be stored therein in a clean, dry place until

used, and shall be handled in a manner to prevent contamination of the utensils by hands. Single-service cup dispensers or similar devices shall be used when single-service cups are used. Nothing in the rules in this Section shall prohibit the use of plastic bags in which single-service cups or similar devices are received as the dispenser for those items.

*History Note:* Authority G.S. 130A-248;  
Eff. May 5, 1980;  
Amended Eff. November 1, 2007; February 1, 2004; August 1, 1998.

**15A NCAC 18A .2638 GENERAL REQUIREMENTS FOR PUSHCARTS AND MOBILE FOOD UNITS**

- (a) A permit shall be issued by the local health department which provides sanitation surveillance for the restaurant or commissary from which the pushcart or mobile food unit is to operate, if the local health department determines that the pushcart or mobile food unit complies with the rules of this Section.
- (b) The permit shall be posted on the pushcart or mobile food unit. Grade cards shall not be posted.
- (c) The local health department which issues the permit shall be provided by individuals receiving a permit a list of counties and locations where each pushcart or mobile food unit will operate.
- (d) Individuals receiving a permit to operate a pushcart or mobile food unit shall provide the local health department in each county in which food service operations are proposed a list of locations where they will operate. Such lists must be kept current.
- (e) Prior to initiating food service operations in a particular jurisdiction, the operator of the pushcart or mobile food unit shall submit to that particular jurisdiction such carts or units for inspection or reinspection to determine compliance with this Section.
- (f) Pushcarts or mobile food units shall operate in conjunction with a permitted restaurant or commissary and shall report at least daily to the restaurant or commissary for supplies, cleaning, and servicing. Facilities, in compliance with this Section, shall be provided at the restaurant or commissary for storage of all supplies. The pushcart shall also be stored in an area that protects it from dirt, debris, vermin and other contamination. Water faucets used to supply water for pushcarts and mobile food units shall be protected to prevent contact with chemicals, splash and other sources of contamination. Solid waste storage and liquid waste disposal facilities must also be provided on the restaurant or commissary premises.
- (g) All foods shall be obtained from approved sources and shall be handled in a manner so as to be clean, wholesome, and free from adulteration.
- (h) All potentially hazardous foods shall be maintained at 45° F (7° C) or below or 135° F (57° C) or above, or as required in Rule .2609 of this Section. A metal stem-type thermometer accurate to 2°F (1° C.) shall be available to check food temperatures.
- (i) Only single-service eating and drinking utensils shall be used in serving customers. Single-service items shall be purchased only in sanitary containers, shall be stored therein in a clean, dry

place until used, and shall be handled in a manner to prevent contamination.

- (j) All garbage and other solid waste shall be stored and disposed of in an approved manner.
- (k) Employees shall be clean as to their person and foodhandling practices. Clean outer clothing and hair restraints are required for employees engaged in the preparation or handling of food to prevent the contamination of food or food contact surfaces.
- (l) No person who has a communicable or infectious disease that can be transmitted by foods, or who is a carrier of organisms that cause such a disease, or who has a boil, infected wound, or an acute respiratory infection with cough and nasal discharge, shall work with a pushcart or mobile food unit in any capacity in which there is a likelihood of such person contaminating food or food-contact surfaces, with disease-causing organisms or transmitting the illness to other persons.
- (m) All equipment and utensils shall comply with the rules of this Section.
- (n) The pushcart or mobile food unit shall be kept in a clean and sanitary condition and be free of flies, roaches, rodents, and other vermin.

*History Note:* Authority G.S. 130A-248;  
Eff. May 5, 1980;  
Amended Eff. November 1, 2007; August 1, 1998; January 4, 1994; September 1, 1991; May 1, 1991.

**TITLE 18 – OFFICE OF SECRETARY OF STATE**

**18 NCAC 13 .0101 SCOPE**

The rules in this Chapter implement Article 42 of Chapter 66 of the General Statutes.

*History Note:* Authority G.S. 55D-5; 55D-10; 66-354(a);  
Temporary Adoption Eff. January 1, 2007;  
Eff. November 1, 2007.

**18 NCAC 13 .0102 DEFINITIONS**

The following terms and definitions apply to the rules in this Chapter:

- (1) "Act" means Article 42 of Chapter 66 of the North Carolina General Statutes entitled "State Franchise for Cable Television Service";
- (2) "Correspond" means to conform to or be obviously similar to, although not agreeing in every detail;
- (3) "Department" means the Department of the Secretary of State;
- (4) "Filed" means received by the Department and filed pursuant to G.S. 55D-15 and this Chapter;
- (5) "Filer" means a person submitting a filing pursuant to the Act and this Chapter;
- (6) "Filing" and "record" mean those forms, reports, attachments and information submitted in paper or electronic form; and

- (7) "Form" means a form or report promulgated by the Department and required or permitted to be filed pursuant to the Act.

*History Note: Authority G.S. 55D-5; 55D-10; 66-354(a);  
Temporary Adoption Eff. January 1, 2007;  
Eff. November 1, 2007.*

**18 NCAC 13 .0103 TIME**

Time periods are calculated according to the provisions of G.S. 1A-1, Rule 6.

*History Note: Authority G.S. 1A-1, Rule 6; 55D-5; 55D-10(b)(7); 66-354(a);  
Temporary Adoption Eff. January 1, 2007;  
Eff. November 1, 2007.*

**18 NCAC 13 .0201 FILING LOCATIONS AND METHODS**

Each required filing must be submitted to and received by the Department using one of the following methods:

- (1) By United States mail at the following address: Department of the Secretary of State, P.O. Box 29622, Raleigh, NC 27626-0622.
- (2) In person or by a designated delivery service authorized pursuant to G.S. 1A-1, Rule 04 at the following street address: Secretary of State's Office, 2 South Salisbury Street, Raleigh, NC 27601-2903.

*History Note: Authority G.S. 1A-1, Rule 4; 55D-5; 55D-10; 66-354(a);  
Temporary Adoption Eff. January 1, 2007;  
Eff. November 1, 2007.*

**18 NCAC 13 .0202 FILING USING DEPARTMENT'S FORMS**

- (a) Filers shall use forms promulgated by the Department.
- (b) For each filing, a filer shall submit an original consisting of:
  - (1) A completed and signed form;
  - (2) A map which complies with Section .0400 of this Chapter, if the filing of a map is required;
  - (3) Any attachments.
- (c) For each filing, a filer shall also submit three copies of the documents submitted to Paragraph (b) of this Rule.

*History Note: Authority G.S. 55D-5; 55D-10; 66-354(a);  
Temporary Adoption Eff. January 1, 2007;  
Eff. November 1, 2007.*

**18 NCAC 13 .0203 FORM COMPLETION REQUIREMENTS**

- (a) All information requested on a form shall be completed by the filer whether requested by means of a block to be marked or a line to be completed.
- (b) Notwithstanding the requirements of Paragraph (a) of this Rule, if the filer's mailing address is the same as the filer's physical address, the filer may leave the mailing address question or item blank.

- (c) A form is not complete unless it complies with all other applicable filing requirements in this Chapter and Article 2 of Chapter 55D of the General Statutes.

*History Note: Authority G.S. 55D-5; 55D-10; 55D-15; 66-354(a);  
Temporary Adoption Eff. January 1, 2007;  
Eff. November 1, 2007.*

**18 NCAC 13 .0204 FILING SUBMISSION DATE AND TIME**

A filing is submitted on the day it is received in paper form by the Department before 5:00 p.m. of that day.

*History Note: Authority G.S. 55D-5; 55D-10; 55D-15; 66-354(a);  
Temporary Adoption Eff. January 1, 2007;  
Eff. November 1, 2007.*

**18 NCAC 13 .0205 REJECTION OF INCOMPLETE FILING**

The Department shall reject any filing which is incomplete because the filing:

- (1) Lacks any required information; or
- (2) Is not signed as required by the Act; or
- (3) Is not submitted together with any required fee; or
- (4) Does not comply with the requirements of G.S. 55D-10.

*History Note: Authority G.S. 55D-5; 55D-10; 55D-15; 66-354(a);  
Temporary Adoption Eff. January 1, 2007;  
Eff. November 1, 2007.*

**18 NCAC 13 .0206 DEPARTMENTAL REFUSAL TO FILE**

The Department shall refuse to file a filing which is subject to rejection for any of the reasons stated in this Chapter or in Article 2 of Chapter 55D of the General Statutes.

*History Note: Authority G.S. 55D-5; 55D-10(b)(7); 66-354(a);  
Temporary Adoption Eff. January 1, 2007;  
Eff. November 1, 2007.*

**18 NCAC 13 .0207 EXPEDITED REVIEW OF FILING**

A filer may request expedited review of a filing pursuant to G.S. 55D-11 upon payment of the applicable expedited review fee.

*History Note: Authority G.S. 55D-5; 55D-10; 55D-11; 55D-15; 66-354(a);  
Temporary Adoption Eff. January 1, 2007;  
Eff. November 1, 2007.*

**18 NCAC 13 .0208 EFFECTIVE DATE OF FILING**

- (a) When the Department does not reject a filing under Rule .0205 or refuse to file a filing under Rule .0206 and accepts and



files a filing pursuant to G.S. 55D-15, the document is deemed filed on the date on which it was received by the Department.

(b) When the Department rejects a filing under Rule .0205 or refuses to file a filing under Rule .0206 and later accepts and files a subsequently submitted corrected filing pursuant to G.S. 55D-15, the document is deemed filed on the date on which the corrected filing was received by the Department.

*History Note:* Authority G.S. 55D-5; 55D-10; 55D-13; 55D-15; 66-354(a);

*Temporary Adoption Eff. January 1, 2007;*

*Eff. November 1, 2007.*

#### **18 NCAC 13 .0209 DEPARTMENT'S DELIVERY OF COPY TO FILER**

At the time of submission of a filing, a filer may request that the Department make the copy delivery required by G.S. 55D-15(b) by a delivery service authorized pursuant to G.S. 1A-1, Rule 4 if the filer has:

- (1) Made provision for the delivery service to visit the Department and pick up the copy; or
- (2) Provided a completed delivery envelope and made arrangements with the delivery service for payment of costs associated with the pickup and delivery of the copy.

*History Note:* Authority G.S. 1A-1, Rule 4; 55D-5; 55D-10; 55D-15; 66-354(a); 26 U.S.C. 7502(f)(2);

*Temporary Adoption Eff. January 1, 2007;*

*Eff. November 1, 2007.*

#### **18 NCAC 13 .0301 GENERAL REQUIREMENTS**

(a) A required fee shall be submitted together with the filing to which the fee applies.

(b) A fee must be paid by cash, warrant, uncertified check, certified check, money order, or another instrument freely negotiable at par through the Federal Reserve System. Checks, money orders, or other instruments shall be drawn on U.S. financial institutions in U.S. currency.

(c) A filing is void if a financial instrument listed in Paragraph (b) of this Rule and tendered for a required fee is returned by the institution upon which it was issued as "insufficient funds" or for other similar reason.

*History Note:* Authority G.S. 55D-5; 55D-10(b)(7); 66-354(a);

*Temporary Adoption Eff. January 1, 2007;*

*Eff. November 1, 2007.*

#### **18 NCAC 13 .0401 PURPOSE**

The rules in this Section establish basic standards for map and description filings.

*History Note:* Authority G.S. 55D-5; 55D-10; 55D-15; 66-352; 66-354(a);

*Temporary Adoption Eff. January 1, 2007;*

*Eff. November 1, 2007.*

#### **18 NCAC 13 .0403 DESCRIPTIONS OF SERVICE**

#### **AREAS**

(a) Service areas shall be described in a manner sufficient to enable a person to determine whether or not a particular location falls within the service area. NOTE: For example, any of the following descriptions would enable a person to determine whether a location fell within the described service area: the entirety of the State of North Carolina; the entirety of X county; all of X county north of Y highway; the city of Z; the A, B and C subdivisions of Q city; or, those portions of X county between river S and highway Y.

(b) If both a map and a description of a service area are required, then the description of the service area shall correspond to the map.

(c) A description shall not be sufficient if it merely refers to a map without a description of what the map represents.

*History Note:* Authority G.S. 55D-5; 55D-10; 66-354(a); *Temporary Adoption Eff. January 1, 2007 (18 NCAC 13 .0401); Eff. November 1, 2007.*

#### **18 NCAC 13 .0405 REQUIRED MAP COMPONENTS**

A map shall have three basic components combined and submitted as a single final map document or image. These basic components are:

- (1) The map depicting recognizable geographic territory,
- (2) The service area depicting the filer's franchise service area, and
- (3) Boundary clarity and detail sufficient to comply with the requirements of Rule .0408, .0409, .0410, or .0411 of this Section.

*History Note:* Authority G.S. 55D-5; 55D-10; 55D-15; 66-352; 66-354(a);

*Eff. November 1, 2007.*

#### **18 NCAC 13 .0407 GENERAL REQUIREMENTS FOR SERVICE AREA**

The service area for a submitted map shall:

- (1) Delineate the service area as one or more polygons. The polygon(s) shall be closed on all sides;
- (2) Identify area included in the service area polygon(s) through use of color fill, hash marks, hatching, or similar graphic depiction; and
- (3) Contain a legend or key to any symbols used to depict the service area. NOTE: For example, if hash marks are used to identify included areas of the service area, the legend or key would include that information.

*History Note:* Authority G.S. 55D-5; 55D-10; 55D-15; 66-352; 66-354(a);

*Temporary Adoption Eff. January 1, 2007 (18 NCAC 13 .0401);*

*Eff. November 1, 2007.*

#### **18 NCAC 13 .0408 MAP BOUNDARY DETAIL**

**REQUIREMENTS FOR SERVICE AREAS COVERING THE ENTIRE AREA OF ONE OR MORE MUNICIPALITIES OR COUNTIES**

(a) A map depicting a service area that covers the entire area of one or more municipalities provides sufficient boundary detail if the map depicts the official boundaries of the covered municipality or municipalities.

(b) A map depicting a service area that covers the entire area of one or more counties provides sufficient boundary detail if the map depicts the official boundaries of the covered county or counties.

(c) For the purposes of this Rule, "official boundaries" means those boundaries set or recognized by the municipalities or counties depicted on the submitted map.

*History Note:* Authority G.S. 55D-5; 55D-10; 55D-15; 66-352; 66-354(a);  
Temporary Adoption Eff. January 1, 2007 (18 NCAC 13 .0401);  
Eff. November 1, 2007.

**18 NCAC 13 .0409 MAP BOUNDARY DETAIL REQUIREMENTS FOR SERVICE AREAS COVERING THE ENTIRE AREA OF THE STATE**

A map depicting a service area that covers the entire area of the State provides sufficient boundary detail if the map depicts the official boundaries of the State.

*History Note:* Authority G.S. 55D-5; 55D-10; 55D-15; 66-352; 66-354(a);  
Temporary Adoption Eff. January 1, 2007 (18 NCAC 13 .0401);  
Eff. November 1, 2007.

**18 NCAC 13 .0410 INCREASED MAP BOUNDARY DETAIL REQUIREMENTS FOR SERVICE AREAS COVERING LESS THAN THE ENTIRE AREA OF A MUNICIPALITY OR COUNTY**

A map depicting any service area that covers less than the entire area of a municipality or a county shall provide boundary detail as is necessary to comply with the requirements of Rule .0402 of this Section.

*History Note:* Authority G.S. 55D-5; 55D-10; 55D-15; 66-352; 66-354(a);  
Eff. November 1, 2007.

**18 NCAC 13 .0411 MAP SOURCES**

Maps obtained from the following sources may be submitted and are acceptable so long as the map submitted complies with all service area requirements in this Section:

- (1) A map which is obtained either from a property mapper certified by the Department's Land Records Management Section or a county mapping office for the county in which the service area is located and which meets minimum State standards for creating base or cadastral maps established by G.S. 102-17 and G.S. 147-54.3, including any subsequent amendments to those standards. Copies of the standards may be viewed online using the

Department's Internet site at the following address: <http://www.secretary.state.nc.us/land/> or may be obtained by contacting the Land Records Management Section, NC Department of the Secretary of State, PO Box 29626, Raleigh, North Carolina 27626-0626, telephone number 919-807-2206, facsimile number 919-807-2210. The cost for receiving a paper copy of these materials is twenty cents (\$.20) per page; or

- (2) A map which is obtained from the website established by the NC Geographic Information Coordinating Council at: [www.nconemap.com](http://www.nconemap.com) at no cost to the user and which contains at least the following geo-referenced representation of the service area boundaries:

- (a) County boundaries;
- (b) City boundaries;
- (c) Township boundaries;
- (d) Roads and streets; or

- (3) A map which meets the requirements of the Utilities Commission as set forth in 04 NCAC 11 R09-04, including any subsequent amendments to those Rules. Copies of those Rules and the standards incorporated therein may be viewed online at: <http://reports.oah.state.nc.us/ncac.asp> or may be obtained by contacting the Corporations Division, NC Department of the Secretary of State; PO Box 29626, Raleigh, North Carolina 27626-0626, telephone number 919-807-2225; or
- (4) For maps concerning municipalities, a map which is obtained from the office of the clerk for the municipality depicted in the map.

*History Note:* Authority G.S. 55D-5; 55D-10; 55D-15; 66-352; 66-354(a);  
Temporary Adoption Eff. January 1, 2007 (18 NCAC 13 .0401);  
Eff. November 1, 2007.

**18 NCAC 13 .0413 ADDITIONAL MAP INFORMATION PERMITTED**

A map may contain additional information which will be useful to the customers of the franchise holder, the North Carolina Department of Revenue, local governments and others. Note: For example, a map may include geographical features such as waterways.

*History Note:* Authority G.S. 55D-5; 55D-10; 55D-15; 66-352; 66-354(a);  
Temporary Adoption Eff. January 1, 2007 (18 NCAC 13 .0401);  
Eff. November 1, 2007.

**18 NCAC 13 .0414 FILING OF MAPS**

A paper copy and an electronic copy of a map shall be submitted with each filing for which a map is required.

*History Note:* Authority G.S. 55D-5; 55D-10; 55D-15; 66-352; 66-353; 66-354(a);  
Eff. November 1, 2007.

**18 NCAC 13 .0415 ELECTRONIC MAP FORMAT REQUIREMENTS**

Any electronic copy of a map submitted under this Section shall be submitted either in Portable Document Format (PDF) or in a GIS "shapefile".

*History Note:* Authority G.S. 55D-5; 55D-10; 55D-15; 66-352; 66-353; 66-354(a);  
Eff. November 1, 2007.

**18 NCAC 13 .0416 ELECTRONIC MAP MEDIA REQUIREMENTS**

(a) Any electronic copy of a map submitted under this Section may be submitted using any of the following media:

- (1) A floppy disk;
- (2) A CD-Rom Disc, or
- (3) A DVD-Rom Disc.

(b) The medium containing the electronic map shall be labeled in a manner that identifies the filer, the filing type, and the date of submission.

*History Note:* Authority G.S. 55D-5; 55D-10; 55D-15; 66-352; 66-354(a);  
Eff. November 1, 2007.

**18 NCAC 13 .0417 AMENDMENTS TO SERVICE AREAS PROHIBITED**

(a) A franchise holder shall not file an amendment to a map or service area description which changes the service area boundaries.

(b) A new notice of franchise shall be filed if a filer seeks to change a franchise service area.

*History Note:* Authority G.S. 55D-5; 55D-10; 55D-15; 66-352; 66-354(a);  
Eff. Pending Legislative Review.

**18 NCAC 13 .0418 PERMITTED MAP AND DESCRIPTION AMENDMENTS**

(a) A filer may amend a map or service area description for reasons other than changes to the service area boundaries. NOTE: For example, a filer may amend a map or service area description to further identify landmarks within the described service area such as street names.

(b) An amended map or service area description shall:

- (1) Be titled "Amended"; and
- (2) Comply with Rule .0202 of this Chapter.

(c) If a map is amended pursuant to this Rule, an electronic copy shall be provided consistent with the requirements of this Section.

*History Note:* Authority G.S. 55D-5; 55D-10; 55D-15; 66-352; 66-354(a);  
Eff. November 1, 2007.

**18 NCAC 13 .0419 ANNUAL SERVICE REPORT MAP SUBMISSION**

For the purpose of complying with the map filing requirements for annual service reports under G.S. 66-353, a filer submitting an annual service report shall either:

- (1) Combine and submit the information required by G.S. 66-353(2) and G.S. 66-353(4) on a single map image, so long as the resulting single map image provides the visual depiction and information required by each provision of law; or
- (2) Submit two separate map images: one map image to depict the service area and one map image to depict households passed.

*History Note:* Authority G.S. 55D-5; 55D-10; 55D-15; 66-352; 66-353; 66-354(a);  
Eff. November 1, 2007.

**18 NCAC 13 .0501 SCHEDULES**

(a) A schedule shall set forth the proposed sequence and timing of the provision of service to the service area. Deviations from the proposed schedule shall be noted and explained in the annual service report as required in G.S. 66-353(8).

(b) If a franchise service area contains noncontiguous geographic areas, then the schedule in the notice of franchise shall specifically address each of the noncontiguous areas.

*History Note:* Authority G.S. 55D-5; 55D-10; 66-352; 66-354(a);  
Temporary Adoption Eff. January 1, 2007;  
Eff. November 1, 2007.

**18 NCAC 13 .0601 NOTICE OF COMMENCEMENT OF SERVICE**

A notice of commencement of service shall include:

- (1) The effective date of the notice of franchise for that service area as determined pursuant to Rule .0208 of this Chapter as noted on the copy of the notice of franchise returned by the Department to the filer and available on the Department's website;
- (2) The franchise number assigned by the Department;
- (3) Either verification that there have been no changes in the information on the notice of franchise with regard to the identity, address and contact information of the filer or amendment of that information;
- (4) A map of the service area which complies with Section .0400 of this Chapter;
- (5) A description of the service area which complies with Section .0400 of this Chapter;
- (6) A statement confirming that cable service has begun in the service area; and

- (7) The date on which cable service began.

*History Note:* Authority G.S. 55D-5; 55D-10; 66-352(b); 66-354(a);  
Eff. November 1, 2007.

**18 NCAC 13 .0701 MINIMUM REQUIREMENTS**

A notice of withdrawal must include:

- (1) The name of the franchisee as stated on the notice of franchise;
- (2) The date of the notice of franchise;
- (3) The cities and counties identified in the original notice of franchise;
- (4) The date upon which the franchisee will cease providing service; and
- (5) The franchise number assigned by the Department.

*History Note:* Authority G.S. 55D-5; 55D-10; 66-352(d); 66-354(a);  
Temporary Adoption Eff. January 1, 2007;  
Eff. November 1, 2007.

**18 NCAC 13 .0702 WITHDRAWAL NOTICE  
COVERS ENTIRE SERVICE AREA**

A withdrawal of a notice of franchise applies to the entire franchise service area.

*History Note:* Authority G.S. 55D-5; 55D-10; 66-352(d); 66-354(a);  
Temporary Adoption Eff. January 1, 2007;  
Eff. November 1, 2007.

**18 NCAC 13 .0802 ANNUAL SERVICE REPORT  
DESCRIPTION AND MAP INFORMATION**

Description and map information filed in an annual service report must correspond with description and map information in the notice of franchise to which the annual service report applies.

*History Note:* Authority G.S. 55D-5; 55D-10(b)(7); 66-353; 66-354(a);  
Temporary Adoption Eff. January 1, 2007;  
Eff. November 1, 2007.

**18 NCAC 13 .0803 ANNUAL SERVICE REPORT  
SCHEDULE**

The explanation included in an annual service report for a new schedule and the accompanying new schedule shall be linked to the description and map of the franchise service area in a manner which permits a person reading the explanation to determine whether or not the new schedule affects an area. Note: For example, an explanation and new schedule would be linked to the service area description if it stated: Households in the northern quadrant of the service area were scheduled to be passed in 2007. That schedule has now changed because flooding due to Hurricane XYZ prevented passing those households. Those households are now scheduled to be passed in 2008.

*History Note:* Authority G.S. 55D-5; 55D-10(b)(7); 66-353; 66-354(a);  
Eff. November 1, 2007.

**18 NCAC 13 .0804 REQUIRED CUSTOMER  
SERVICE INFORMATION**

An annual service report shall specify the extent to which the following requirements contained in 47 C.F.R. Part 76 have been met:

- (1) 47 C.F.R. 76.309 Customer service obligations;
- (2) 47 C.F.R. 76.1602 Customer service--general information;
- (3) 47 C.F.R. 76.1603 Customer service--rate and service changes; and
- (4) 47 C.F.R. 76.1604 Charges for customer service changes.

A cable service franchise holder may include additional information regarding compliance with customer service requirements in Part 76 of Title 47 of the Code of Federal Regulations in the annual report.

*History Note:* Authority G.S. 55D-5; 55D-10(b)(7); 66-353; 66-354(a); 66-356(b); 47 C.F.R. Part 76;  
Temporary Adoption Eff. January 1, 2007;  
Eff. November 1, 2007.

**18 NCAC 13 .0805 ANNUAL SERVICE REPORT  
PERCENTAGE OF HOUSEHOLDS PASSED**

When listing the percentage of households passed in the service area as of July 1 of any preceding year for which a report was required, a filer shall list the percentage that was set forth on the annual service report for the immediately preceding year. A filer is not required to list percentages for other prior years in which another annual service report was filed.

*History Note:* Authority G.S. 55D-5; 55D-10(b)(7); 66-353; 66-354(a);  
Eff. November 1, 2007.

**18 NCAC 13 .0901 ACCESSING PUBLIC RECORDS**

Records may be physically viewed at the Department by the public on weekdays during normal operating hours, except on State holidays. A list of State holidays may be viewed at: <http://www.osp.state.nc.us/holsched.htm>.

*History Note:* Authority G.S. 55D-5; 55D-10(b)(7); 66-354(a);  
Temporary Adoption Eff. January 1, 2007;  
Eff. November 1, 2007.

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**TITLE 21 – OCCUPATIONAL LICENSING BOARDS AND  
COMMISSIONS**

**CHAPTER 10 - BOARD OF CHIROPRACTIC  
EXAMINERS**

**21 NCAC 10 .0302 ADVERTISING AND PUBLICITY**

(a) General. Doctors of Chiropractic shall exercise restraint in matters of advertising and publicity so as to maintain the dignity of chiropractic as a recognized profession.

(b) Identification. The terms by which a licentiate may identify himself professionally are listed in G.S. 90-154.2(4). Terms which do not indicate that the licentiate is a chiropractor, such as "drugless physician" or "naturopath", shall not be used. Methods of professional identification may include:

- (1) Signs. Signs may be placed on exterior doors, windows or walls of the licentiate's office or at entrances to the building in which his office is located.
- (2) Stationery. A licentiate may identify himself on his stationery and mailing literature using the terms permitted by this Rule.

(c) Prohibited Advertising. The Board of Examiners deems the following to be false or misleading advertising in violation of G.S. 90-154(b)(1):

- (1) Advertising which purports to guarantee a beneficial result from chiropractic treatment.
- (2) Advertising which promotes a treatment, therapy or service which the Board of Examiners has found to be unacceptable care.
- (3) Advertising in which the licentiate is identified as a specialist, unless the licentiate has complied with the requirements of 21 NCAC 10 .0304 and any reference to the specialty is immediately preceded by the term "chiropractic." Illustrations: "pediatrics" standing alone is deemed false or misleading; "chiropractic pediatrics" conforms to this Rule. "Neurologist" standing alone is deemed false or misleading; "chiropractic neurologist" conforms to this Rule.

*History Note: Authority G.S. 90-142; 90-154; Eff. February 1, 1976; Readopted Eff. January 27, 1978; Amended Eff. January 1, 1983; May 8, 1979; Legislative Objection Lodged Eff. January 31, 1983; Curative Amended Eff. February 28, 1983; Curative Amended Eff. March 2, 1983; Amended Eff. November 1, 2007; December 1, 1988.*

**21 NCAC 10 .0304 DESIGNATION OF SPECIALTIES**

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

- (1) Claim of Specialization: any use of the designations listed in this Rule or any representation stating or implying that, by virtue of additional training, a licentiate possesses greater expertise in any aspect of health care than is possessed by chiropractic physicians who have not had additional training. The mere recitation of academic degrees awarded to a licentiate does not constitute a claim of specialization.

- (2) Publication: includes but is not limited to representations made in a licentiate's advertising, whether printed or broadcast; written representations appearing on professional stationery, business cards, curriculum vitae or office signage; and oral representations made in judicial proceedings.

(b) Recognized Specialties. The Board of Examiners recognizes only the specialties listed in this Rule. Any published claim of specialization outside the listed subject areas or any published claim of specialization made by or at the behest of a licentiate who has not satisfied all applicable provisions of this Rule constitutes false or misleading advertising.

(c) Chiropractic Orthopedics. This specialty is designated by the terms "Diplomate of the American Board of Chiropractic Orthopedics" ("DABCO"), "Diplomate of the Academy of Chiropractic Orthopedics" ("DACO"), "Fellow of the Academy of Chiropractic Orthopedics" ("FACO") or "Chiropractic Orthopedist." In order to claim chiropractic orthopedics as a specialty, a licentiate shall first:

- (1) Complete a post-graduate course of study in orthopedics at least 300 hours in length and offered by a college approved by the Council on Chiropractic Education; and
- (2) Pass all parts of the DABCO examination, or all parts of an examination deemed by the Board of Examiners to be the equivalent of the DABCO examination, and cause a copy of the DABCO diploma or its equivalent to be filed with the Board of Examiners.

(d) Chiropractic Radiology. This specialty is designated by the terms "Diplomate of the American Chiropractic Board of Radiology" ("DACBR") or "Chiropractic Radiologist." In order to claim chiropractic radiology as a specialty, a licentiate shall first:

- (1) Complete a post-graduate course of study in radiology at least 300 hours in length and offered by a college approved by the Council on Chiropractic Education; and
- (2) Pass all parts of the DACBR examination, or all parts of an examination deemed by the Board of Examiners to be the equivalent of the DACBR examination, and cause a copy of the DACBR diploma or its equivalent to be filed with the Board of Examiners.

(e) Chiropractic Neurology. This specialty is designated by the terms "Diplomate of the American Chiropractic Neurology Board" ("DACNB"), "Diplomate of the International Board of Chiropractic Neurology" ("DIBCN") or "Chiropractic Neurologist." In order to claim chiropractic neurology as a specialty, a licentiate shall first:

- (1) Complete a post-graduate course of study in neurology at least 300 hours in length and offered by a college approved by the Council on Chiropractic Education; and
- (2) Pass all parts of the DACNB or DIBCN examination, or all parts of an examination deemed by the Board of Examiners to be the equivalent of the DACNB or DIBCN

examinations, and cause a copy of the DACNB or DIBCN diploma or their equivalent to be filed with the Board of Examiners.

(f) Chiropractic Internal Disorders. This specialty is designated by the terms "Diplomate of the American Board of Chiropractic Internists" ("DABCI") or "Chiropractic Internist." In order to claim chiropractic internal disorders as a specialty, a licentiate shall first:

- (1) Complete a post-graduate course of study in internal disorders at least 300 hours in length and offered by a college approved by the Council on Chiropractic Education; and
- (2) Pass all parts of the DACBI examination, or all parts of an examination deemed by the Board of Examiners to be the equivalent of the DACBI examination, and cause a copy of the DACBI diploma or its equivalent to be filed with the Board of Examiners.

(g) Chiropractic Pediatrics. This specialty is designated by the terms "Diplomate of the International Council on Chiropractic Pediatrics" ("DICCP") or "Chiropractic Pediatrician." In order to claim chiropractic pediatrics as a specialty, a licentiate shall first:

- (1) Complete a post-graduate course of study in pediatrics at least 300 hours in length and offered by a college approved by the Council on Chiropractic Education; and
- (2) Pass all parts of the DICCP examination, or all parts of an examination deemed by the Board of Examiners to be the equivalent of the DICCP examination, and cause a copy of the DICCP diploma or its equivalent to be filed with the Board of Examiners.

(h) Chiropractic Sports Injuries. This specialty is designated by the terms "Diplomate of the American Chiropractic Board of Sports Physicians" ("DACBSP") or "Chiropractic Sports Physician." In order to claim chiropractic sports injuries as a specialty, a licentiate shall first:

- (1) Complete a post-graduate course of study in sports injuries at least 300 hours in length and offered by a college approved by the Council on Chiropractic Education; and
- (2) Pass all parts of the DACBSP examination, or all parts of an examination deemed by the Board of Examiners to be the equivalent of the DACBSP examination, and cause a copy of the DACBSP diploma or its equivalent to be filed with the Board of Examiners.

(i) Chiropractic Nutrition. This specialty is designated by the terms "Diplomate of the American Chiropractic Board of Nutrition" ("DACBN") or "Chiropractic Nutritionist." In order to claim chiropractic nutrition as a specialty, a licentiate shall first:

- (1) Complete a post-graduate course of study in nutrition at least 300 hours in length and offered by a college approved by the Council on Chiropractic Education; and
- (2) Pass all parts of the DACBN examination, or all parts of an examination deemed by the

Board of Examiners to be the equivalent of the DACBN examination, and cause a copy of the DACBN diploma or its equivalent to be filed with the Board of Examiners.

(j) Chiropractic Rehabilitation. This specialty is designated by the terms "Diplomate of the American Chiropractic Rehabilitation Board" ("DACRB") or "Chiropractic Rehabilitation Specialist." In order to claim chiropractic rehabilitation as a specialty, a licentiate shall first:

- (1) Complete a post-graduate course of study in rehabilitation at least 300 hours in length and offered by a college approved by the Council on Chiropractic Education; and
- (2) Pass all parts of the DACRB examination, or all parts of an examination deemed by the Board of Examiners to be the equivalent of the DACRB examination, and cause a copy of the DACRB diploma or its equivalent to be filed with the Board of Examiners.

*History Note: Authority G.S. 90-142; 90-154; Eff. November 1, 2007.*

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## **CHAPTER 29 – LOCKSMITH LICENSING BOARD**

### **21 NCAC 29 .0206 SPECIAL ADMINISTRATION**

Applicants with documented disabilities as defined by the Americans with Disabilities Act of 1990 (ADA) shall be administered the NC Locksmith Licensing Exam under conditions that shall minimize the effect of the disabilities on their performance. In general, those lifestyle accommodations which an individual uses to compensate for disabilities, and which have become accepted practice for the individual since the onset of the applicant's disability, shall be considered as the most appropriate accommodation for testing. Special test administrations shall be as comparable as possible to a standard administration.

*History Note: Authority G.S. 74F-6; 74F-7; Eff. November 1, 2007.*

### **21 NCAC 29 .0805 EXCEPTIONS**

A licensee shall be exempt from the continuing education requirement for one calendar year per renewal cycle for any of the following reasons:

- (1) A licensee serving on temporary active duty in the armed forces of the United States for a period exceeding 120 consecutive days within the year.
- (2) A licensee experiencing physical disability or illness if supporting documentation is approved by the Board. Such documentation shall be in the form of a statement from a physician, or medical records which show that the disability or illness prevented the licensee's participation in a course which the licensee had enrolled, or prevented the licensee's

participation in the continuing education program for at least 120 consecutive days in a year.

- (3) A licensee whose licensed apprentice passes the North Carolina Locksmith Licensing Exam and receives a North Carolina Locksmith License.

*History Note: Authority G.S. 74F-6;  
Eff. February 1, 2005;  
Amended Eff. November 1, 2007.*

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## **CHAPTER 30 - NC BOARD OF MESSAGE AND BODYWORK THERAPY**

### **21 NCAC 30 .0611 PROGRAM DIRECTOR QUALIFICATIONS AND ADMINISTRATIVE STAFF**

(a) A school shall designate one person as the program director. This person may be titled as director, or in the case of programs at post-secondary institutions, department chair or program coordinator. The director is the person directly responsible for all facets of the program's operation, including curriculum, methods of instruction, employment, training and evaluation of administrative and instructional staff, maintenance of administrative records, financial management, recruitment of students, and maintenance of school plant and equipment. The program director or department chair shall have the following qualifications:

- (1) be a graduate of an accredited college or university and hold a baccalaureate degree or have at least five years of professional experience in the field of massage and bodywork therapy; and have at least two years experience as a lead instructor in one or more of the core curriculum courses that are presented in the school's curriculum or have at least two years experience in education administration; or
- (2) possess qualifications that are equivalent to the requirements prescribed in Subparagraph (a)(1) of this Rule.

(b) If the program director does not have experience in either the professional practice of massage and bodywork therapy, or massage and bodywork therapy education, the school shall have a director of education on staff to manage the areas of curriculum and lesson plan development, instructional methods, and training and evaluation of instructional staff. The director of education shall have the following qualifications:

- (1) be a graduate of an accredited college or university and have at least five years of professional experience in the field of massage and bodywork therapy; or
- (2) have at least two years experience as a lead instructor in one or more of the school's core curriculum courses, or have at least two years experience in massage therapy education administration or teacher training.

(c) A school shall have administrative staff to support the number of students enrolled.

*History Note: Authority G.S. 90-626(9); 90-631;  
Eff. November 1, 2007.*

### **21 NCAC 30 .0613 APPROVAL PROCESS FOR INSTRUCTIONAL STAFF**

(a) Whenever instructors and teaching assistants, as defined in Rule .0602 are hired, all application documents as described in Paragraph (c) of this Rule must be sent to the Board within 30 days of the hire date.

(b) Instructors with the credentials described in Rule .0612(d)(4) must be approved by the Board according to these Rules before performing their job functions at a Board-approved school. The approval process requires submission of all documents in Paragraph (c) of this Rule and may take up to 30 days from the time the Board receives the documents.

(c) A school shall submit an application for each instructor and teaching assistant on a form provided by the Board, which shall be accompanied by the following documentation:

- (1) Copies of all academic diplomas or degrees;
- (2) Official school transcripts from all post-secondary institutions;
- (3) Copies of occupational licenses and certifications;
- (4) A record of work experience in the field; and
- (5) A record of training in teaching methods.

(d) A school shall demonstrate that each instructor and teaching assistant meets the qualifications set forth in Rule .0612 of this Section.

(e) The requirements of this Rule shall not apply to instructors who provide no more than eight hours of instruction in a program.

*History Note: Authority G.S. 90-626(9); 90-631;  
Eff. November 1, 2007.*

### **21 NCAC 30 .0614 MANAGEMENT OF INSTRUCTORS**

(a) A school shall have written job descriptions with performance standards for each instructional position on its staff.

(b) A school shall have an employment agreement or contract with each, instructor, whether such instructor works in a full-time or part-time capacity or is an employee or an independent contractor.

(c) A school shall conduct and document an annual performance review for each instructor.

(d) A school shall maintain a file for all instructors that shall contain their original application for Board approval with all accompanying documentation, current employment agreement or contract, and annual performance reviews. A school shall keep each file current, with copies of their most recent occupational licenses, certifications, documentation of continuing education, and academic transcripts.

*History Note: Authority G.S. 90-626(9); 90-631;  
Eff. November 1, 2007.*

**21 NCAC 30 .0615 SCHOOL PLANT AND EQUIPMENT**

- (a) A school plant, premises, and facilities shall be safe and sanitary and shall be in compliance with the statutory provisions and the rules and regulations of all local ordinances pertaining to fire, safety, health, and sanitation. Classrooms shall have sufficient lighting, ventilation, and temperature control to provide a comfortable learning environment for students.
- (b) The equipment, supplies, and instructional materials of the school shall be adequate in type, quality, and amount for each course offered by the school. These shall also meet all requirements of statutory provisions and rules and regulations of all local ordinances pertaining to fire, safety, health, and sanitation.
- (c) A school shall request an annual inspection from the city or county agencies that determine compliance with requirements for fire, safety, health, and sanitation in its jurisdiction.
- (d) For classes conducted in the practice of massage and bodywork therapy, the school shall provide at least 70 square feet of classroom space per treatment table, exclusive of fixed items in the classroom. There shall be one therapy treatment table, adjustable in height, for every two students in such classes.

*History Note: Authority G.S. 90-626(9); 90-631; Eff. November 1, 2007.*

**21 NCAC 30 .0619 TUITION, REFUNDS AND FINANCIAL AID**

- (a) A school shall disclose tuition, tuition refund policy, and all related program costs to prospective students.
- (b) Tuition policies shall be published in the school catalog or bulletin. Such policies shall address adjustment of charges in the case of:
- (1) cancellation of enrollment within 72 hours of signing a student enrollment agreement;
  - (2) student withdrawal before the program start date;
  - (3) student withdrawal after the program start date;
  - (4) student dismissal; and
  - (5) cancellation of program by the school.
- (c) All students who enroll in the same program shall be charged the same amount for tuition. This does not preclude the school from raising tuition, from granting scholarships, from granting cash discounts to students for advance payment of tuition, or in the case of public institutions, from charging differential rates to residents and non-residents.
- (d) A school shall maintain a refund policy that is in writing and clearly stated. Proprietary schools shall provide the refund policy to each student prior to payment of the tuition. Refunds shall be calculated from the last date of attendance and made within 30 days of the date of withdrawal or dismissal. Programs offered by post-secondary colleges or universities shall follow the refund policy set forth by the applicable governing body or regulatory agency.
- (e) The school catalog or bulletin shall accurately describe any financial aid programs in which the school participates, and shall distinguish in meaning between the terms "scholarship," "grant," "loan," and "financial aid." Schools that administer Title IV

funds shall also include in their catalog and all advertising an eligibility phrase such as, "Financial aid available for those who qualify." Schools that do not administer Title IV funds shall not use the term "financial aid."

*History Note: Authority G.S. 90-626(9); 90-631; Eff. November 1, 2007.*

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**CHAPTER 38 - BOARD OF OCCUPATIONAL THERAPISTS**

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|-------------------------|--|
| <b>21 NCAC 38 .1001</b> | <b>LIMITED PERMIT</b>                          |
| <b>21 NCAC 38 .1002</b> | <b>SUPERVISION OF LIMITED PERMITTEE</b>        |
| <b>21 NCAC 38 .1003</b> | <b>SERVICE COMPETENCY OF LIMITED PERMITTEE</b> |
| <b>21 NCAC 38 .1004</b> | <b>SIGNATURE OF LIMITED PERMITTEE</b>          |
| <b>21 NCAC 38 .1005</b> | <b>BOARD NOTIFICATION</b>                      |

*History Note: Authority G.S. 90-270-69; 90-270.74; Eff. July 1, 2007; Repealed Eff. November 1, 2007.*

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**CHAPTER 57 – REAL ESTATE APPRAISAL BOARD**

**21 NCAC 57A .0102 FILING AND FEES**

- (a) Each application for registration, licensure or certification must be filed in the proper form and must be accompanied by the required application fee. An additional fee may be charged to defray the cost of any competency examination administered by a private testing service. This additional fee shall be no more than the fee set by the private testing agency. The Board may reject and return to the applicant any application which is incomplete, not in proper form, or not accompanied by the required fee or fees. Application fees accompanying complete applications submitted in proper form are not refundable.
- (b) The application fee shall be that prescribed in G.S. 93E-1-6(b).
- (c) Payment of application fees shall be made by certified check, bank check or money order payable to the North Carolina Appraisal Board.

*History Note: Authority G.S. 93E-1-6; 93E-1-10; Eff. July 1, 1994; Amended Eff. January 1, 2008; August 1, 2002; April 1, 1999.*

**21 NCAC 57A .0203 REGISTRATION, LICENSE AND CERTIFICATE RENEWAL**

- (a) All registrations, licenses and certificates expire on June 30 of each year unless renewed before that time.
- (b) A holder of a trainee registration, an appraiser license or certificate desiring the renewal of such registration, license or certificate shall apply for same in writing upon the form provided by the Board and shall forward the renewal fee as



prescribed in G.S. 93E-1-7(a). Forms are available upon request to the Board. The renewal fee is not refundable under any circumstances.

(c) All trainees, licensees and certificate holders, either resident or non-resident, who are required by G.S. 93E-1-7 to complete continuing education as a condition of renewal, must satisfy the continuing education requirements set forth in Rule .0204 of this Section.

(d) An applicant for renewal who initially obtained his license or certificate by reciprocity may keep that license or certificate even if the applicant has moved to a different state, as long as the North Carolina license or certificate is continuously renewed pursuant to this section. Such an applicant for renewal does not have to maintain licensure with the appraiser regulatory authority of the state upon whose qualification requirements the reciprocal license or certificate was granted.

(e) Any person who acts or holds himself out as a registered trainee, licensed or certified real estate appraiser while his trainee registration, appraiser license or certificate is expired shall be subject to disciplinary action and penalties as prescribed in G.S. 93E.

*History Note Authority G.S. 93E-1-7(a),(b); 93E-1-10; Eff. July 1, 1994; Amended Eff. January 1, 2008; March 1, 2007; March 1, 2006; August 1, 2002; April 1, 1999.*

## **21 NCAC 57A .0204 CONTINUING EDUCATION**

(a) All registered trainees, real estate appraiser licensees and certificate holders shall, upon the renewal of their registration, license or certificate in every odd-numbered year, present evidence satisfactory to the Board of having obtained continuing education as required by this Section. Trainees and appraisers who initially registered with the Board after January 1 of an odd numbered year are not required to show continuing education credit for renewal of their registration in that odd numbered year.

(b) Each trainee, licensee and certificate holder who must complete continuing education pursuant to .0204(a) must complete 28 hours of continuing education before June 1 of every odd numbered year. Except as provided in Paragraphs (g) and (h) of this Rule, such education must have been obtained by taking courses approved by the Board for continuing education purposes, at schools approved by the Board to offer such courses. Such education must relate to real estate appraisal and must contribute to the goal of improving the knowledge, skill and competence of trainees, and licensed and certified real estate appraisers. There is no exemption from the continuing education requirement for trainees or appraisers whose registered, licensed or certified status has been upgraded to the level of licensed residential, certified residential or certified general appraiser since the issuance or most recent renewal of their registration, license or certificate, and courses taken to satisfy the requirements of a higher level of certification may not be applied toward the continuing education requirement. Trainees, licensees and certificate holders may not take the same continuing education course more than once during the two year continuing education cycle.

(c) Each appraisal continuing education course must involve a minimum of three and one-half classroom hours of instruction

on real estate appraisal or related topics such as the application of appraisal concepts and methodology to the appraisal of various types of property; specialized appraisal techniques; laws, rules or guidelines relating to appraisal; standards of practice and ethics; building construction; financial or investment analysis; land use planning or controls; feasibility analysis; statistics; accounting; or similar topics. The trainee, license or certificate holder must have attended at least 90 percent of the scheduled classroom hours for the course in order to receive credit for the course.

(d) Each trainee, licensee and certificate holder who is required to complete continuing education pursuant to .0204(a) must, as part of the 28 hours of continuing education required in .0204(b) of this section, complete the seven hour National USPAP update course, as required by the Appraiser Qualifications Board of the Appraisal Foundation, or its equivalent, prior to June 1 of every odd numbered year.

(e) A licensee who elects to take approved continuing education courses in excess of the requirement shall not carry over into the subsequent years any continuing education credit.

(f) Course sponsors must provide a certificate of course completion to each trainee, licensee and certificate holder satisfactorily completing a course. In addition, course sponsors must send directly to the Board a certified roster of all who successfully completed the course. This roster must be sent within 15 days of completion of the course, but not later than June 15 of each year. In order to renew a registration, license or certificate in a timely manner, the Board must receive proper proof of satisfaction of the continuing education requirement prior to processing a registration, license or certificate renewal application. If proper proof of having satisfied the continuing education requirement is not provided, the registration, license or certificate shall expire and the trainee, licensee or certificate holder shall be subject to the provisions of Rules .0203(e) and .0206 of this Section.

(g) A current or former trainee, licensee or certificate holder may request that the Board grant continuing education credit for a course taken by the trainee, licensee or certificate holder that is not approved by the Board, or for appraisal education activity equivalent to a Board-approved course, by making such request and submitting a non-refundable fee as prescribed in G.S. 93E-1-8(d) for each course or type of appraisal education activity to be evaluated. Continuing education credit for a non-approved course shall be granted only if the trainee, licensee or certificate holder provides satisfactory proof of course completion and the Board finds that the course satisfies the requirements for approval of appraisal continuing education courses with regard to subject matter, course length, instructor qualifications, and student attendance. Appraisal education activities for which credit may be awarded include, but are not limited to, teaching appraisal courses, authorship of appraisal textbooks, and development of instructional materials on appraisal subjects. Trainees or licensed or certified appraisers who have taught an appraisal course or courses approved by the Board for continuing education credit shall be deemed to have taken an equivalent course and shall not be subject to the fee prescribed in G.S. 93E-1-8 (d), provided they submit verification satisfactory to the Board of having taught the course(s). A trainee, licensee or certificate holder who teaches a Board-approved continuing

education course may not receive continuing education credit for the same course more than once every two years, regardless of how often he teaches the course. Requests for equivalent approval for continuing education credit must be received before June 15 of an odd-numbered year to be credited towards the continuing education requirement for that odd-numbered year.

(h) A trainee, licensee or certificate holder may receive continuing education credit by taking any of the Board-approved prelicensing or precertification courses or their approved equivalents. These courses cannot be used for both continuing education credit and for credit for licensing purposes. In order to receive continuing education credit for these courses, the examination must be taken. Trainee, licensees and certificate holders who wish to use a prelicensing course for continuing education credit must comply with the provisions of 21 NCAC 57B .0604.

(i) A trainee, licensee or certificate holder who resides in another state and is currently licensed by the appraiser certification board of that state may satisfy the requirements of this section by providing a current letter of good standing from the resident state showing that the licensee has met all continuing education requirements in the resident state. A trainee, licensee or certificate holder who resides in North Carolina must comply with the requirements of this section regardless of how the registration, license or certificate was obtained.

(j) A trainee, licensee or certificate holder who returns from active military duty on or after February 1 of an odd-numbered year will be allowed to renew his or her registration, license or certificate in that odd-numbered year even if the required continuing education is not completed before June 1 of that year. All required continuing education must be completed within 180 days of when the trainee, licensee or certificate holder returns from active duty. Failure to complete the required continuing education within 180 days will be grounds for revocation.

*History Note: Authority G.S. 93E-1-7(a); 93E-1-10; Eff. July 1, 1994; Amended Eff. January 1, 2008; March 1, 2007; March 1, 2006; July 1, 2005; July 1, 2003; August 1, 2002; April 1, 1999.*

**21 NCAC 57A .0208 REPLACEMENT  
REGISTRATION, LICENSE AND CERTIFICATE FEES**

A trainee, licensee or certificate holder may, by paying the fee prescribed in G.S. 93E-1-7(d) to the Board, obtain a duplicate trainee registration, appraiser license or certificate or pocket card to replace an original registration, license, certificate or pocket card which has been lost, damaged or destroyed or if the name of the trainee, licensee or certificate holder has been lawfully changed. The Board, at its discretion, may require a trainee, licensee or certificate holder requesting a duplicate registration, license or certificate to submit an affidavit stating the reason for the request.

*History Note: Authority G. S. 93E-1-7(d); 93E-1-10; Eff. July 1, 1994; Amended Eff. January 1, 2008; August 1, 2002; April 1, 1999.*

**21 NCAC 57A .0209 NATIONAL APPRAISER**

**REGISTRY**

Licensees and certificate holders who are qualified for enrollment in the national registry of licensed and certified real estate appraisers may apply for enrollment or for the renewal or reinstatement of such enrollment upon a Board form. The application form must be accompanied by the fee specified in G.S. 93E-1-11(d) plus any additional fee that may be required by the appropriate federal agency or instrumentality.

*History Note: Authority G.S. 93E-1-10; 93E-1-11(d); Eff. July 1, 1994; Amended Eff. January 1, 2008; March 1, 2007; August 1, 2002.*

**21 NCAC 57A .0210 TEMPORARY PRACTICE**

(a) A real estate appraiser who does not reside in North Carolina and who is licensed or certified by the appraiser licensing or certifying agency in another state may apply to receive temporary appraiser licensing or certification privileges in this State by filing a notarized application with the Board.

(b) Upon filing a completed application accompanied by the fee prescribed in G.S. 93E-1-9(c) and otherwise satisfying the Appraisal Board as to his or her qualifications and eligibility for temporary licensing or certification privileges, an applicant shall be granted a temporary practice permit by the Board authorizing the applicant to perform in this State the appraisal assignment described in such application, provided that the length of time projected by the applicant for completion of the assignment is reasonable given the scope and complexity of the assignment. The fee must be paid by money order, certified check or cashier's check. The Board may consider whether an applicant's trainee registration or appraiser license or certification is or has been subject to discipline in their resident state or any other state, and may consider all other information outlined in Rule .0202 of this Section.

(c) Privileges granted under the provisions of this Rule shall expire upon the expiration date set forth in the temporary practice permit. However, upon a showing by the permittee satisfactory to the Appraisal Board that, notwithstanding the permittee's attention to the appraisal assignment, additional time is needed to complete the assignment, the Board shall extend the temporary practice privileges granted under the permittee's temporary practice permit to afford him additional time to complete the appraisal assignment. Such request for extension must be received before the original temporary practice permit expires or it shall not be granted.

(d) Persons granted temporary practice privileges under this Rule shall not advertise or otherwise hold themselves out as being a North Carolina trainee or licensed or certified appraiser.

(e) A trainee may apply for a temporary practice permit and the provisions of Sections (a), (b), (c) and (d) above shall apply. The supervising appraiser for the trainee must be a North Carolina licensed or certified appraiser. If not, the supervising appraiser must be licensed or certified as a real estate appraiser in another state and must also receive a temporary practice permit for the same assignment as the trainee. The term "trainee" shall include apprentices and others who are licensed and regulated by a state agency to perform real estate appraisals under the supervision of a licensed or certified appraiser.

(f) An applicant for a temporary practice permit shall not begin performing any appraisal work in this State until the temporary practice permit has been issued by the Board. If an applicant does begin work before the permit is issued, the temporary practice permit shall be denied.

*History Note:* Authority G.S. 93E-1-9(c) and (d); 93E-1-10; Title XI, Section 1122(a); 12 U.S.C. 3351(a); Eff. July 1, 1994; Amended Eff. January 1, 2008; March 1, 2007; July 1, 2005; July 1, 2003; August 1, 2002; April 1, 1999.

**21 NCAC 57A .0211 NONRESIDENT TRAINEE REGISTRATION, APPRAISER LICENSURE AND CERTIFICATION**

(a) Applicants for registration, licensure or certification who are not residents of North Carolina must file an application as stated in Rule .0101 of this Subchapter. In addition, nonresident applicants must also consent to service of process in this state and file an affidavit of residency with the application. If the applicant is licensed by the appraiser licensing board of the applicant's resident state, the applicant must also file with the application a letter of good standing from the appraiser licensing board of the resident state, which was issued under seal by that licensing board no later than 30 days prior to the date application is made in this state

(b) Applicants who are licensed in another state and who are applying for the same level of licensure as they hold in their state of licensure shall not have to complete an experience log, take further education or take an examination provided the applicant is in good standing in the other state as evidenced by the letter of good standing from the appraiser licensing board of the other state.

*History Note:* Authority G.S. 93E-1-9(a) and (b); 93E-1-10; Title XI, Section 1122(a); 12 U.S.C. 3351(a); Eff. March 1, 2007; Amended Eff. January 1, 2008.

**21 NCAC 57A .0301 TIME AND PLACE**

(a) Applicants who have completed the education and experience requirements as set forth in 21 NCAC 57A .0201 shall be issued an examination approval form. The examination approval form is valid for three attempts at the examination or for one year from date of issuance, whichever comes first.

(b) Examinations for real estate trainee registrations, appraiser licenses and certificates shall be scheduled at such times and places as determined by the Executive Director and the Board-approved private testing service. Applicants for the examination shall be scheduled for examination based on their successful completion of appraiser educational qualification requirements stated in G.S. 93E-1-6 and filing an application with the Board. Violation of examination procedures and instructions shall be grounds for denial, suspension or revocation of a license or certificate.

(c) Examination results are valid for 24 months from the date the examination is successfully completed.

(d) Examinations successfully completed before January 1, 2008 will remain valid for 24 months from the date passed even if the application for upgrade is received after January 1, 2008.

*History Note:* Authority G.S. 93E-1-6(c); 93E-1-10; Eff. July 1, 1994; Amended Eff. January 1, 2008; April 1, 2006; July 1, 2005; August 1, 2002; April 1, 1999.

**21 NCAC 57A .0401 USE OF TITLES**

(a) A trainee shall utilize either the term "registered trainee" or the term "trainee real estate appraiser" when performing an appraisal of real estate or any interest therein, and when referring to himself as a trainee.

(b) A licensed residential real estate appraiser shall utilize the term "licensed residential real estate appraiser" and a certified residential real estate appraiser shall utilize the term "certified residential real estate appraiser" when performing an appraisal of real estate or any interest therein, and when referring to himself or herself as an appraiser. A certified general real estate appraiser shall utilize the term "certified general real estate appraiser" when performing appraisals of all types of real estate or any interest therein, and when referring to himself or herself as an appraiser.

(c) Trainee registration, licensure or certification as a real estate appraiser is granted only to persons and does not extend to a business entity operated by a trainee, licensed or certified real estate appraiser.

*History Note:* Authority G.S. 93E-1-10; Eff. July 1, 1994; Amended Eff. January 1, 2008; July 1, 2005; July 1, 2003; August 1, 2002; April 1, 1999.

**21 NCAC 57A .0403 ADVERTISING**

(a) When advertising or otherwise holding himself out as a trainee or real estate appraiser, a trainee shall identify himself or herself either as a "registered trainee" or as a "trainee real estate appraiser," a licensed residential real estate appraiser shall identify himself or herself as a "licensed residential real estate appraiser," a certified residential real estate appraiser shall identify himself or herself as a "certified residential real estate appraiser," and a certified general real estate appraiser shall identify himself or herself as a "certified general real estate appraiser".

(b) A registered trainee, licensed or certified real estate appraiser doing business as a partnership, association, corporation or other business entity shall not represent in any manner to the public that the partnership, association, corporation or other business entity is registered, licensed or certified by the State of North Carolina to engage in the business of real estate appraising.

(c) In the event that any trainee, licensee or certificate holder shall advertise in any manner using a firm name, corporate name, or an assumed name which does not set forth the surname of the trainee, licensee or certificate holder, he shall first notify the Board in writing of such name and furnish the Board with a copy of each registration of assumed name certificate filed with

the office of the county register of deeds in compliance with Section 66-68, North Carolina General Statutes.

*History Note:* Authority G.S. 93E-1-10;

*Eff. July 1, 1994;*

*Amended Eff. January 1, 2008; July 1, 2005; July 1, 2003; August 1, 2002; April 1, 1999.*

**21 NCAC 57A .0405 APPRAISAL REPORTS**

(a) Each written appraisal report prepared by or under the supervision of a licensed or certified real estate appraiser shall bear the signature of the licensed or certified appraiser, the license or certificate number of the licensee or certificate holder in whose name the appraisal report is issued, and the designation "licensed residential real estate appraiser," "certified residential real estate appraiser," or "certified general real estate appraiser," as applicable. Each such appraisal report shall also indicate whether or not the licensed or certified appraiser has personally inspected the property, and shall identify any other person who assists in the appraisal process other than by providing clerical assistance. Appraisers shall personally affix their signature to their appraisal reports and shall not allow any other person or entity to affix their signature. Trainees are not required to affix their signatures to appraisal reports, but if they do so, they must personally affix their signature and shall not allow any other person or entity to affix their signature.

(b) Every licensed and certified real estate appraiser shall affix or stamp to all appraisal reports a seal which shall set forth the name and license or certificate number of the appraiser in whose name the appraisal report is issued and shall identify the appraiser as a "licensed residential real estate appraiser", a "certified residential real estate appraiser", or as a "certified general real estate appraiser", as applicable. The seal must be legible, must conform to the seal authorized by the Board at time of initial licensure or certification, and must be a minimum of 1 inch in diameter. Appraisers shall personally affix their seal to their appraisal reports and shall not allow any other person or entity to affix their seal. Registered trainees are prohibited from using a seal on appraisal reports.

(c) A licensed or certified real estate appraiser who signs an appraisal report prepared by another person, in any capacity, shall be responsible for the content and conclusions of the report.

(d) A written appraisal report shall be issued on all real estate appraisals performed in connection with federally related transactions.

(e) Appraisers shall keep a log of all appraisals performed. The log shall contain, at a minimum, the appraiser's license or certificate number, the street address of the subject property, the date the report was signed, the name of anyone assisting in the preparation of the report and the name of the client. These logs shall be updated at least every 30 days.

*History Note:* Authority G.S. 93E-1-10;

*Eff. July 1, 1994;*

*Amended Eff. January 1, 2008; March 1, 2007; March 1, 2006; July 1, 2003; August 1, 2002; April 1, 1999.*

**21 NCAC 57A .0407 SUPERVISION OF TRAINEES**

(a) A licensed or certified real estate appraiser may engage a registered trainee to assist in the performance of real estate appraisals, provided that the licensed or certified real estate appraiser:

- (1) has been licensed or certified for at least two years;
- (2) has no more than one trainee working under his or her supervision at any one time, if the supervisor is a licensed real estate appraiser, or two trainees if the supervisor is a certified real estate appraiser. Prior to the date any trainee begins performing appraisals under his or her supervision, the supervisor must inform the Board of the name of the trainee. The supervisor must also inform the Board when a trainee is no longer working under his or her supervision;
- (3) actively and personally supervises the trainee. The supervisor must accompany the trainee on the inspections of the subject property on the first 50 appraisal assignments for which the trainee will perform more than 75% of the work. After that point, the trainee may perform the inspections without the presence of the supervisor provided that the trainee is competent to perform those inspections, and provided that the subject property is less than 50 miles from the supervisor's primary business location. The supervisor must accompany the trainee on all inspections of subject properties that are located more than 50 miles from the supervisor's primary business location;
- (4) reviews all appraisal reports and supporting data used in connection with appraisals in which the services of a trainee is utilized;
- (5) complies with all provisions of Rule .0405 of this Section regarding appraisal reports;
- (6) prepares and furnishes to each trainee, whose services were utilized in connection with the appraisal, a report describing the nature and extent of assistance rendered by the trainee in connection with the appraisal, and places a copy of such report in the supporting file for the appraisal within 30 days of the date the appraisal report was signed. In addition, the supervisor must make available to the trainee a copy of every appraisal report where the trainee performs more than 75% of the work on the appraisal; and
- (7) has not received any disciplinary action regarding his or her appraisal license or certificate from the State of North Carolina or any other state within the previous two years. For the purposes of this Section, disciplinary action means an active suspension or a revocation.

(b) The trainee must maintain a log on a form prescribed by the Board that includes, but is not limited to, each appraisal

performed by the trainee, the type of property appraised, type of appraisal performed, complete street address of the subject property, the date the report was signed, the points claimed, the name of the supervisor for that appraisal, the supervisor's license or certificate number, and whether the supervisor accompanied the trainee on the inspection of the subject. The log must show all appraisals performed by the trainee and must be updated at least every 30 days.

(c) An appraiser who wishes to supervise a trainee must attend an education program offered by the Appraisal Board regarding the role of a supervisor either before such supervision begins, or within 90 days after such supervision begins. If the supervisor does not take the class within 90 days after the supervision begins, the trainee may no longer work under the supervision of that supervisor until the class is taken, and the supervisor must take the course before he can begin supervising a trainee.

(d) Trainees must assure that the supervisor has properly completed and sent the Supervisor Declaration Form to the Appraisal Board on or before the day the trainee begins assisting the supervising appraiser. Trainees shall not receive appraisal experience credit for appraisals performed in violation of this Section.

(e) Supervising appraisers shall not be employed by a trainee or by a company, firm or partnership in which the trainee has a controlling interest.

*History Note:* Authority G.S. 93E-1-3(b); 93E-1-10; Eff. July 1, 1994;  
Amended Eff. January 1, 2008; March 1, 2007; March 1, 2006; July 1, 2005; August 1, 2002; April 1, 1999.

## **21 NCAC 57A .0501 APPRAISAL STANDARDS**

Every registered trainee, and licensed and certified real estate appraiser shall, in performing the acts and services of a registered trainee, or licensed or certified real estate appraiser, comply with the following provisions of the "Uniform Standards of Professional Appraisal Practice" promulgated by the Appraisal Standards Board of the Appraisal Foundation: Definitions, Preamble, Ethics Rule, Competency Rule, Scope of Work Rule, Jurisdictional Exception Rule, Statements on Appraisal Standards, and Standards Rules 1, 2 and 3, all of which are hereby incorporated by reference. This incorporation by reference includes subsequent amendments and editions of those provisions.

*History Note:* Authority G.S. 93E-1-10; Eff. July 1, 1994;  
Amended Eff. January 1, 2008; July 1, 2005; August 1, 2002; April 1, 1999.

## **21 NCAC 57B .0101 REGISTERED TRAINEE, AND LICENSED RESIDENTIAL REAL ESTATE APPRAISER COURSE REQUIREMENTS**

(a) Each applicant for registration as a trainee shall complete a minimum of 90 hours of prelicensing education, consisting of the following;

- (1) A minimum of 30 hours in Basic Appraisal Principles;

- (2) A minimum of 30 hours in Basic Appraisal Procedures;
- (3) A minimum of 15 hours in Residential Market Analysis and Highest and Best Use; and
- (4) A minimum of 15 hours in The Uniform Standards of Professional Appraisal Practice (USPAP).

(b) Each applicant for licensure as a licensed residential real estate appraisers shall complete a minimum of 150 hours of prelicensing education, consisting of the following;

- (1) A minimum of 30 hours in Basic Appraisal Principles;
- (2) A minimum of 30 hours in Basic Appraisal Procedures;
- (3) A minimum of 15 hours in Residential Market Analysis and Highest and Best Use;
- (4) A minimum of 15 hours in Residential Appraiser Site Valuation and Cost Approach;
- (5) A minimum of 30 Hours in Residential Sales Comparison and Income Approaches;
- (6) A minimum of 15 hours in Residential Report Writing and Case Studies; and
- (7) A minimum of 15 hours in The Uniform Standards of Professional Appraisal Practice (USPAP).

(c) Credit for these courses must be earned from a Board-approved course sponsor or school and all course content shall be approved by the Appraisal Board in accordance with these rules. These courses must be completed within the five-year period immediately preceding the date when application for registration, licensure or certification is made to the Board.

(d) Basic Appraisal Principles shall be a prerequisite to taking Basic Appraisal Procedures, and Basic Appraisal Procedures shall be a prerequisite to taking Residential Market Analysis and Highest and Best Use. The 15 hour USPAP course may be taken any time after the successful completion of Basic Appraisal Procedures.

(e) An applicant who is not currently registered by the Board as a trainee must have completed all required courses within the five-year period immediately preceding the date application is made to the Board.

(f) An applicant who is currently registered by the Board as a trainee must have completed all courses required beyond those required for his registration within the five-year period immediately preceding the date application is made to the Board.

*History Note:* Authority G.S. 93E-1-6(a); 93E-1-8(a); 93E-1-10; Eff. July 1, 1994;  
Amended Eff. January 1, 2008; July 1, 2005; July 1, 2003; August 1, 2002.

## **21 NCAC 57B .0102 CERTIFIED RESIDENTIAL REAL ESTATE APPRAISER COURSE REQUIREMENTS**

(a) Each applicant for certification as a certified residential real estate appraisers shall complete a minimum of 200 hours of prelicensing education, consisting of the following:

- (1) A minimum of 30 hours in Basic Appraisal Principles;

- (2) A minimum of 30 hours in Basic Appraisal Procedures;
- (3) A minimum of 15 hours in Residential Market Analysis and Highest and Best Use;
- (4) A minimum of 15 hours in Residential Appraiser Site Valuation and Cost Approach;
- (5) A minimum of 30 Hours in Residential Sales Comparison and Income Approaches;
- (6) A minimum of 15 hours in Residential Report Writing and Case Studies; and
- (7) A minimum of 15 hours in The Uniform Standards of Professional Appraisal Practice (USPAP).
- (8) A minimum of 15 hours in Statistics, Modeling and Finance;
- (9) A minimum of 15 hours in Advanced Residential Applications and Case Studies; and
- (10) A minimum of 20 hours of appraisal subject matter electives.

Credit for these courses must be earned from a Board-approved course sponsor or school.

(b) An applicant who is not currently registered by the Board as a trainee or who is not currently licensed by the Board as a licensed residential real estate appraiser must have completed all required courses within the five-year period immediately preceding the date application is made to the Board.

(c) An applicant who is currently registered by the Board as a trainee or who is currently licensed by the Board as a licensed residential real estate appraiser must have completed all courses required beyond those required for his current registration, licensure or certification within the five-year period immediately preceding the date application is made to the Board.

*History Note: Authority G.S. 93E-1-6(b); 93E-1-8(a); 93E-1-10; Eff. July 1, 1994; Amended Eff. January 1, 2008; March 1, 2007; July 1, 2003; August 1, 2002.*

**21 NCAC 57B .0103 CERTIFIED GENERAL REAL ESTATE APPRAISER COURSE REQUIREMENTS**

(a) An applicant for certification as a certified general real estate appraiser is required to complete the following precertification courses;

- (1) A minimum of 30 hours in Basic Appraisal Principles;
- (2) A minimum of 30 hours in Basic Appraisal Procedures;
- (3) A minimum of 30 hours in General Appraiser Market Analysis and Highest and Best Use;
- (4) A minimum of 15 hours in Statistics, Modeling and Finance;
- (5) A minimum of 30 hours in General Appraiser Sales Comparison Approach;

- (6) A minimum of 30 hours in General Appraiser Site Valuation and Cost Approach;
- (7) A minimum of 60 hours in General Appraiser Income Approach;
- (8) A minimum of 30 hours in General Appraiser Report Writing and Case Studies;
- (9) A minimum of 30 hours of appraisal subject matter electives; and
- (10) A minimum of 15 hours in The Uniform Standards of Professional Appraisal Practice (USPAP).

These courses must be commenced and completed after the applicant's successful completion of the courses specified in Rules .0101 and .0102 of this Section. Income Property Appraisal (G-1) shall be a prerequisite for Advanced Income Capitalization (G-2), and Advanced Income Capitalization (G-2), shall be a prerequisite to Applied Income Property Valuation (G-3). Basic Appraisal Principles shall be a prerequisite to taking Basic Appraisal Procedures, and Basic Appraisal Procedures shall be a prerequisite to taking any of the other courses. Credit for all courses must be earned from a Board-approved course sponsor or school, and all courses shall comply with the course content standards prescribed in Rule .0302 of this Subchapter.

(b) An applicant who is currently registered with the Board as a trainee may satisfy the educational requirements to become a general real estate appraiser by completing the following education:

- (1) A minimum of 30 hours in General Appraiser Market Analysis and Highest and Best Use;
- (2) A minimum of 15 hours in Statistics, Modeling and Finance;
- (3) A minimum of 30 hours in General Appraiser Sales Comparison Approach;
- (4) A minimum of 30 hours in General Appraiser Site Valuation and Cost Approach;
- (5) A minimum of 60 hours in General Appraiser Income Approach; and
- (6) A minimum of 30 hours in General Appraiser Report Writing and Case Studies; and
- (7) A minimum of 30 hours of appraisal subject matter electives.

(c) An applicant who is currently licensed with the Board as a licensed residential real estate appraiser may satisfy the educational requirements to become a general real estate appraiser by completing the following education:

- (1) A minimum of 15 hours in General Appraiser Market Analysis and Highest and Best Use;
- (2) A minimum of 15 hours in Statistics, Modeling and Finance;
- (3) A minimum of 15 hours in General Appraiser Sales Comparison Approach;
- (4) A minimum of 15 hours in General Appraiser Site Valuation and Cost Approach;
- (5) A minimum of 45 hours in General Appraiser Income Approach;
- (6) A minimum of 15 hours in General Appraiser Report Writing and Case Studies; and

- (7) A minimum of 30 hours of appraisal subject matter electives.

(d) An applicant who is currently certified with the Board as a certified residential real estate appraiser may satisfy the educational requirements to become a general real estate appraiser by completing the following education:

- (1) A minimum of 15 hours in General Appraiser Market Analysis and Highest and Best Use;
- (2) A minimum of 15 hours in General Appraiser Sales Comparison Approach;
- (3) A minimum of 15 hours in General Appraiser Site Valuation and Cost Approach;
- (4) A minimum of 45 hours in General Appraiser Income Approach; and
- (5) A minimum of 10 hours in General Appraiser Report Writing and Case Studies.

(e) An applicant who is not currently registered by the Board as a trainee or who is not currently licensed or certified by the Board as a licensed residential or certified residential real estate appraiser must have completed all the required courses within the five-year period immediately preceding the date application is made to the Board.

(f) An applicant who is currently registered by the Board as a trainee or who is not currently licensed or certified by the Board as a licensed residential or certified residential real estate appraiser must have completed all courses required beyond those required for his current registration, licensure or certification within the five-year period immediately preceding the date application is made to the Board.

*History Note:* Authority G.S. 93E-1-6(c); 93E-1-8(a); 93E-1-10;

*Eff.* July 1, 1994;

*Amended Eff.* January 1, 2008; March 1, 2007; July 1, 2003; August 1, 2002.

#### **21 NCAC 57B .0204 FACILITIES AND EQUIPMENT**

(a) Classrooms shall be of sufficient size to accommodate comfortably all students enrolled in a course, shall have adequate light, heat, cooling and ventilation and shall be free of distractions which would disrupt class sessions.

(b) Classrooms shall contain a student desk or worktable space for each student that contains sufficient area for each student.

(c) Sponsors are required to comply with all applicable local, state and federal laws and regulations regarding safety, health and sanitation. Sponsors shall furnish the Board with inspection reports from appropriate local building, health and fire inspectors upon the request of the Board.

(d) Sponsors must supply separate restroom facilities for males and females.

(e) Classes may not be held in a personal residence under any circumstances.

*History Note:* Authority G.S. 93E-1-8(a); 93E-1-10;

*Eff.* July 1, 1994;

*Amended Eff.* January 1, 2008; August 1, 2002.

#### **21 NCAC 57B .0209 CERTIFICATION OF COURSE COMPLETION**

Approved schools or course sponsors must provide each passing student with a course completion certificate. Certificates of course completion must be on a document bearing the letterhead or insignia of the school or course sponsor and must have the signature or signature stamp of the school or course sponsor director.

*History Note:* Authority G.S. 93E-1-8(a); 93E-1-10;

*Eff.* July 1, 1994;

*Amended Eff.* January 1, 2008; July 1, 2005; August 1, 2002.

#### **21 NCAC 57B .0210 COURSE RECORDS**

Schools and course sponsors must:

- (1) retain on file for five years copies of all grade and attendance records for each approved course and must make such records available to the Board upon request;
- (2) retain on file for two years a master copy of each final course examination, and such file copy shall indicate the answer key, course title, course dates and name of instructor. Examination file copies shall be made available to the Board upon request;
- (3) within 15 days of course completion, but not later than June 15 of each year, submit to the Board a roster of all students who satisfactorily completed the course along with the course evaluations. Rosters and evaluations must be sent together by mail, not by fax or other electronic means; and
- (4) participate in the Board's course and instructor evaluation program. Schools and course sponsors shall provide each student with a course evaluation form upon completion of the course, and shall tally the results of the evaluation forms onto one form. Schools and course sponsors shall send the completed course evaluation forms and the tally to the Board within 15 days of course completion.

*History Note:* Authority G.S. 93E-1-8(a); 93E-1-10;

*Eff.* July 1, 1994;

*Amended Eff.* January 1, 2008; March 1, 2007; July 1, 2005; July 1, 2003; August 1, 2002.

#### **21 NCAC 57B .0302 COURSE CONTENT**

(a) All courses shall consist of instruction in the subject areas outlined in the Appraiser Qualification Board's Guide Note 1.

(b) Courses may also include coverage of additional related subject areas; however, any such course must provide additional class time above the minimum required classroom hours specified in 57B .0101, .0102, and .0103 and the minimum requirement of 15 hours for USPAP for the coverage of such additional subject areas.

*History Note:* Authority G.S. 93E-1-6; 93E-1-8(a); 93E-1-10;

*Eff.* July 1, 1994;

*Amended Eff.* January 1, 2008; July 1, 2005; August 1, 2002.

**21 NCAC 57B .0304 COURSE SCHEDULING**

(a) All courses must have fixed beginning and ending dates, and schools and course sponsors may not utilize a scheduling system that allows students to enroll late for a course and then complete their course work in a subsequently scheduled course. Late enrollment is permitted only if the enrolling student can satisfy the minimum attendance requirement set forth in Paragraphs (c) and (d) of Rule .0303 of this Section.

(b) Courses may be scheduled in a manner that provides for class meetings of up to eight classroom hours in any given day; however credit for courses shall be limited to 30 classroom hours per seven-day period.

(c) A classroom hour consists of 50 minutes of classroom instruction and ten minutes of break time. For any class meeting that exceeds 50 minutes in duration, breaks at the rate of 10 minutes per hour must be scheduled and taken at reasonable times.

(d) Instruction must be given for the minimum hours specified in 57B .0101, .0102, and .0103. Instructors shall not accumulate unused break time to end the class early.

(e) All courses must have a minimum number of five students enrolled in order for the course to be held.

*History Note: Authority G.S. 93E-1-8(a); 93E-1-10; Eff. July 1, 1994; Amended Eff. January 1, 2008; July 1, 2005; August 1, 2002.*

**21 NCAC 57B .0306 INSTRUCTOR REQUIREMENTS**

(a) Except as indicated in Paragraph (b) of this Rule, all appraisal preclicensing and precertification courses or courses deemed equivalent by the Board shall be taught by instructors who possess the fitness for licensure required of applicants for trainee registration or real estate appraiser licensure or certification and either the minimum appraisal education and experience qualifications listed in this Rule or other qualifications that are found by the Board to be equivalent to those listed. These qualification requirements shall be met on a continuing basis. The minimum qualifications are as follows:

- (1) Residential appraiser courses: 200 classroom hours of real estate appraisal education equivalent to the residential appraiser education courses prescribed in Rules .0101 and .0102 of this Subchapter and two years' full-time experience as a certified residential or general real estate appraiser within the previous five years. At least one-half of such experience must be in residential property appraising. Instructors must have been certified as a residential or general real estate appraiser for at least five years.
- (2) General appraiser courses: 300 classroom hours of real estate appraisal education equivalent to the general appraiser education courses prescribed in Rules .0101, .0102 and .0103 of this Subchapter and three years' full-time experience as a general real estate appraiser within the previous five years. At least one-half of such experience must be in

income property appraising. Instructors must also be a certified general real estate appraiser and have been so certified for at least five years.

- (3) USPAP: certification by the Appraiser Qualifications Board of the Appraisal Foundation as an instructor for the National USPAP Course.

- (4) Statistics, modeling and finance: must have previously completed this class, or must have completed three semester hours of statistics in an accredited college or university.

(b) Guest lecturers who do not possess the qualifications stated in Paragraph (a) of this Rule may be utilized to teach collectively up to one-fourth of any course, provided that each guest lecturer possesses education and experience directly related to the particular subject area the lecturer is teaching.

(c) Instructors shall conduct themselves in a professional manner when performing their instructional duties and shall conduct their classes in a manner that demonstrates knowledge of the subject matter being taught and mastery of the following basic teaching skills:

- (1) The ability to communicate effectively through speech, including the ability to speak clearly at an appropriate rate of speed and with appropriate grammar and vocabulary;
- (2) The ability to present instruction in a thorough, accurate, logical, orderly, and understandable manner, to utilize illustrative examples as appropriate, and to respond appropriately to questions from students;
- (3) The ability to effectively utilize varied instructive techniques other than straight lecture, such as class discussion or other techniques;
- (4) The ability to effectively utilize instructional aids to enhance learning;
- (5) The ability to maintain an effective learning environment and control of a class; and
- (6) The ability to interact with adult students in a manner that encourages students to learn, that demonstrates an understanding of students' backgrounds, that avoids offending the sensibilities of students, and that avoids personal criticism of any other person, agency or organization.

(d) Upon request of the Board, an instructor or proposed instructor must submit to the Board a videotape or DVD in a manner and format which depicts the instructor teaching portions of a preclicensing course specified by the Board and which demonstrates that the instructor possesses the basic teaching skills described in Paragraph (c) of this Rule.

(e) The inquiry into fitness shall include consideration of whether the instructor has ever had any disciplinary action taken on his or her appraisal license or certificate or any other professional license or certificate in North Carolina or any other state, or whether the instructor has ever been convicted of or pleaded guilty to any criminal act. This inquiry may include



consideration of whether disciplinary action or criminal charges are pending.

(f) Instructors shall not have received any disciplinary action regarding his or her appraisal license or certificate or any other professional license from the State of North Carolina or any other state within the previous two years, and shall not have been convicted of or pleaded guilty to any criminal act. For the purposes of this Section, disciplinary action means a reprimand, suspension (whether active or inactive) or a voluntary surrender or a revocation.

(g) Proposed prelicensing or precertification instructors who do not meet the minimum appraisal education and experience qualifications listed in Paragraph (a) of this Rule, and who seek to have their qualifications determined by the Board to be equivalent to the qualifications listed in Paragraph (a) of this Rule, must supply the Board with copies of sample appraisal reports or other evidence of experience.

(h) Persons desiring to become instructors for prelicensing and precertification courses must file an application for approval with the Board. There is no fee for application for instructor approval. Once an instructor has been approved to teach a specific prelicensing or precertification course, that person may teach the course at any school or for any course sponsor approved by the Appraisal Board to offer prelicensing and precertification courses. An approved instructor must report to the Board within 15 business days if any disciplinary action has been taken on his or her appraisal license or any other professional license in North Carolina or any other state, or whether the instructor has been convicted of or pleaded guilty to any criminal act.

*History Note: Authority G.S. 93E-1-8(a); 93E-1-10; Eff. July 1, 1994; Amended Eff. January 1, 2008; March 1, 2007; March 1, 2006; July 1, 2005; July 1, 2003; August 1, 2002.*

**21 NCAC 57B .0307 CRITERIA FOR COURSE RECOGNITION**

(a) Schools and course sponsors seeking to offer appraiser prelicensing or precertification courses must make written application to the Board and pay applicable fees as required by G.S. 93E-1-8(b).

(b) Appraisal subject matter electives offered for prelicensing or precertification credit must meet all other requirements of this Chapter. The content of these electives must be directly related to the appraisal of real property to be approved for prelicensing or precertification credit.

(c) Various combinations of courses may be recognized as equivalent to the appraiser prelicensing and precertification courses specified in 57B .0101, .0102 and .0103.

(d) The 15 hour USPAP course must be the 15-hour National USPAP Course approved by the Appraiser Qualifications Board of the Appraisal Foundation, or its equivalent.

(e) The application must state the name of the instructor for the course. All instructors must be approved by the Board pursuant to 57B .0306(h).

*History Note: Authority G.S. 93E-1-8(a); 93E-1-10; Eff. July 1, 1994;*

*Amended Eff. January 1, 2008; August 1, 2002.*

**21 NCAC 57B .0401 APPLICABILITY**

This Section applies to private real estate appraisal schools offering prelicensing and precertification courses, appraisal trade organizations and to all other course sponsors other than North Carolina colleges, universities, junior colleges, community or technical colleges accredited by the Southern Association of Colleges and Schools, and agencies of the federal, State or local government.

*History Note: Authority G.S. 93E-1-8(a), (b); 93E-1-10; Eff. July 1, 1994;*

*Amended Eff. January 1, 2008; August 1, 2002.*

**21 NCAC 57B .0402 ORIGINAL COURSE APPROVAL FEE**

The original application fee shall be that specified in G.S. 93E-1-8(b). The fee shall be paid by certified check, bank check or money order payable to the North Carolina Appraisal Board and is non-refundable. Schools and course sponsors may offer approved courses as frequently as is desired during the period for which approval is granted without paying additional course fees.

*History Note: Authority G.S. 93E-1-8(b); 93E-1-10; Eff. July 1, 1994;*

*Amended Eff. January 1, 2008.*

**21 NCAC 57B .0403 FEE FOR RENEWAL OF COURSE APPROVAL**

(a) Board approval of courses expires on the next December 31 following the date of issuance. In order to assure continuous approval of courses, applications for renewal of Board approval, accompanied by the renewal fee specified in G.S. 93E-1-8(b), must be filed with the Board annually on or before December 1. Applications which are incomplete, as well as all applications for renewal of course approval submitted after December 1, shall be treated as original course approval applications.

(b) The fee is non-refundable.

*History Note: Authority G.S. 93E-1-8(a),(b); 93E-1-10; Eff. July 1, 1994;*

*Amended Eff. January 1, 2008; March 1, 2006; August 1, 2002.*

**21 NCAC 57B .0501 APPLICABILITY**

**21 NCAC 57B .0502 ORIGINAL COURSE APPROVAL FEE**

**21 NCAC 57B .0503 FEE FOR RENEWAL OF COURSE APPROVAL**

*History Note: Authority G.S. 93E-1-8(a),(b); 93E-1-10; Eff. July 1, 1994;*

*Amended Eff. March 1, 2006; August 1, 2002;*

*Repealed Eff. January 1, 2008.*

**21 NCAC 57B .0602 APPLICATION AND FEE**

(a) Course sponsors seeking approval of their courses as appraisal continuing education courses must make written

application to the Board. A course sponsor must be the owner of the proprietary rights to the course for which approval is sought or must have the permission of the course owner to seek course approval. If the course for which approval is sought is one that may be offered outside North Carolina, and the course owner wants the Board to approve such course when it is conducted outside North Carolina, application must be made by the course owner. After receipt of a properly completed application, the Board will review the application pursuant to the criteria set forth in 21 NCAC 57B .0603 and shall notify the sponsor of its decision.

(b) The original application fee shall as prescribed in G.S. 93E-1-8(d) for each course for which approval is sought, provided that no fee is required if the course sponsor is an accredited North Carolina college, university, junior college, or community or technical college, or if the course sponsor is an agency of the federal, state or local government. The fee is non-refundable. A course sponsor may offer approved courses as frequently as is desired during the period for which approval is granted without paying additional fees.

(c) Each application must be accompanied by copies of all course materials, including handbooks, slides, overheads, and other non-published materials. The application must also include the title, author, publisher and edition for each published textbook. Each application must also have a timed outline for the course.

(d) The application must state the name of the instructor for the course.

*History Note: Authority G.S. 93E-1-8(c),(d);  
Eff. July 1, 1994;*

*Amended Eff. January 1, 2008; March 1, 2006; August 1, 2002.*

## **21 NCAC 57B .0603 CRITERIA FOR COURSE APPROVAL**

The following requirements must be satisfied in order for course sponsors to obtain approval of a course for appraiser continuing education credit:

- (1) The subject matter of the course must comply with the requirements of Rule .0204 of Subchapter 57A and the information to be provided in the course must be both accurate and current.
- (2) The course must involve a minimum of three and one-half classroom hours of instruction on acceptable subject matter. A classroom hour consists of 50 minutes of classroom instruction and 10 minutes of break time. Instruction must be given for the full number of hours for which credit is given. Instructors may not accumulate unused break time to end the class early.
- (3) The course instructor(s) must:
  - (a) possess the fitness for licensure required of applicants for trainee registration, real estate appraiser licensure or certification; and
  - (b) either:
    - (i) two years' full-time experience that is directly related to the subject matter to be taught;
    - (ii) a baccalaureate or higher degree in a field that is directly related to the subject matter to be taught;
    - (iii) two years' full-time experience teaching the subject matter to be taught;
    - (iv) an equivalent combination of such education and experience; or
    - (v) be approved by the Board pursuant to 57B. 0606(11).

- (4) If two or more instructors shall be utilized to teach a course during the approval period and the course shall be taught in states other than North Carolina, it is sufficient for the course sponsor to show that it has minimum instructor requirements comparable to these requirements. The inquiry into fitness shall include consideration of whether the instructor has had any disciplinary action taken on his or her appraisal license or any other professional license in North Carolina or any other state, or whether the instructor has been convicted of or pleaded guilty to any criminal act.
- (5) The course must be one involving a qualified instructor who, except as noted in Item (6) of this Rule, shall be physically present in the classroom at all times and who shall personally provide the instruction for the course. The course instructor may utilize videotape instruction, remote television instruction or similar types of instruction by other persons to enhance or supplement his personal instruction; however, such other persons shall not be considered to be the course instructor and the course instructor must be physically present when such indirect instruction by other persons is being utilized. No portion of the course may consist of correspondence instruction. The instructor must comply with Rule .0306(c) of this Subchapter. Instructors for the National USPAP courses must be certified by the Appraiser Qualifications Board of the Appraisal Foundation.
- (6) A trainee or appraiser may receive up to 14 hours of credit every two years in the period ending on June 1 of each odd numbered year for participation in a course on a computer disk or on-line via the Internet. A sponsor seeking approval of a computer-based education course must submit a complete copy of the course on the medium that is to be utilized and must make available at the

sponsor's expense all hardware and software necessary for the Board to review the submitted course. In the case of an internet-based course, the Board must be provided access to the course via the internet at a date and time satisfactory to the Board and shall not be charged any fee for such access. To be approved for credit, a computer-based continuing education course must meet all of the conditions imposed by the Rules in this Subchapter in advance, except where otherwise noted. The course must be interactive, permitting the participant to communicate, via telephone, electronic mail, or a website bulletin board, with the presenter and other participants. The sponsor of an on-line course must have a reliable method for recording and verifying attendance. The sponsor of a course on a computer disk must demonstrate that there is a reliable method for the user or the sponsor to record and verify participation in the course. A participant may periodically log on and off of a computer-based continuing education course provided the total time spent participating in the course is equal to or exceeds the credit hours assigned to the program. The course design and delivery mechanism for an on-line course offered on the Internet must have received approval from the International Distance Education Certification Center (IDECC). A course completion certificate must be forwarded to the student as stated in Rule .0607 of this Section, and a course roster must be sent to the Appraisal Board in accordance with Rule .0608 of this Section.

- (7) The course must be an educational program intended to improve the knowledge, skill and competence of trainees, and licensed and certified real estate appraisers. Activities not eligible for approval as a continuing education course include in-house training programs of a firm, organization or agency, trade conferences or similar activities.
- (8) The course sponsor must certify that the course shall be conducted in accordance with the operational requirements stated in Rule .0606 of this Section and that the course sponsor will comply with all other applicable rules contained in this Section.
- (9) The course title may not include the words "Uniform Standards of Professional Appraisal Practice" or "USPAP" unless the course is either the 15 hour National USPAP course or the 7 hour National USPAP update course. If the course is the 7 hour National USPAP course, the course title must state which edition of USPAP will be taught in that specific course.

- (10) Each course must utilize a textbook or course materials that have been approved by the Board.
- (11) If the course content is related to technology, such as software, hardware, electronic devices, manuals, or databases, the course shall be developed specifically for utilization in the real estate appraisal business in order to be approved for continuing education credit. Such courses shall not require the student to purchase specific products, and shall not use the course to sell or advertise particular products or software.

*History Note: Authority G.S. 93E-1-8(c); 93E-1-10; Eff. July 1, 1994; Amended Eff. January 1, 2008; March 1, 2007; March 1, 2006; July 1, 2005; July 1, 2003; August 1, 2002.*

## **21 NCAC 57B .0606 COURSE OPERATIONAL REQUIREMENTS**

Course sponsors must at all times assure compliance with the criteria for course approval stated in Rule .0603 of this Section and must also comply with the following requirements relating to scheduling, advertising and conducting approved appraisal continuing education courses:

- (1) Courses must be scheduled and conducted in a manner that limits class sessions to a maximum of eight classroom hours in any given day and that includes appropriate breaks for each class session. A classroom hour consists of 50 minutes of classroom instruction and ten minutes of break time. For any class meeting that exceeds 50 minutes in duration, breaks at the rate of ten minutes per hour must be scheduled and taken at reasonable times.
- (2) Course sponsors must not utilize advertising of any type that is false or misleading in any respect. If the number of continuing education credit hours awarded by the Board for a course is less than the number of scheduled classroom hours for the course, any course advertisement or promotional materials which indicate that the course is approved for appraiser continuing education credit in North Carolina must specify the number of continuing education credit hours awarded by the Board for the course.
- (3) Course sponsors must, upon request, provide any prospective student a description of the course content sufficient to give the prospective student a general understanding of the instruction to be provided in the course.
- (4) Courses must be conducted in a facility that provides an appropriate learning environment. At a minimum, the classroom must be of sufficient size to accommodate comfortably all enrolled students, must contain a student desk or sufficient worktable space for each student,

- must have adequate light, heat, cooling and ventilation, and must be free of distractions that would disrupt class sessions. Sponsors are required to comply with all applicable local, state and federal laws and regulations regarding safety, health and sanitation. Sponsors shall furnish the Board with inspection reports from appropriate local building, health and fire inspectors upon the request of the Board. Sponsors must supply separate restroom facilities for males and females. Classes may not be held in a personal residence under any circumstances.
- (5) The course sponsor must require students to attend at least 90 percent of the scheduled classroom hours in order to satisfactorily complete the course, even if the number of continuing education credit hours awarded by the Board for the course is less than the number of scheduled classroom hours. Attendance must be monitored during all class sessions to assure compliance with the attendance requirement. Instruction must be given for the number of hours for which credit is given. Instructors may not accumulate unused break time to end the class early.
  - (6) Instructors must require reasonable student attentiveness during class sessions. Students must not be permitted to engage in activities that are not related to the instruction being provided.
  - (7) Course sponsors for which an application fee is required by Rules .0602(b) and .0611(b) of this Section must fairly administer course cancellation and fee refund policies. In the event a scheduled course is canceled, reasonable efforts must be made to notify preregistered students of the cancellation and all prepaid fees received from such preregistered students must be refunded within 30 days of the date of cancellation or, with the student's permission, applied toward the fees for another course.
  - (8) Upon request of the Board, the course sponsor must submit to the Board a videotape in a manner and format which depicts the instructor teaching portions of any continuing education course specified by the Board and which demonstrates that the instructor possesses the basic teaching skills described in Rule .0306(c) of this Section.
  - (9) Course sponsors shall provide the Board with the dates and locations of all classes the sponsor is or will be offering in the State of North Carolina at least 30 calendar days before such class is offered, unless circumstances beyond the control of the course sponsor require that the course be rescheduled. If the dates or location of the classes change after such information is provided to the Board, the course sponsor must notify the Board of such changes.
  - (10) Course sponsors must participate in the Board's course and instructor evaluation program. Course sponsors must require that students complete a course evaluation form upon completion of the course, and shall tally the results of the evaluations onto one form. Course sponsors must also send the completed course evaluation forms and the tally to the Board together with the roster required pursuant to 21 NCAC 57B .0608.
  - (11) Persons desiring to become instructors for continuing education courses must file an application for approval with the Board. There is no fee for application for instructor approval. Once an instructor has been approved to teach a specific course, that person may teach the course for any course sponsor approved by the Appraisal Board to offer continuing education courses. An approved instructor must report to the Board within 15 business days if any disciplinary action has been taken on his or her appraisal license or any other professional license in North Carolina or any other state, or whether the instructor has been convicted of or pleaded guilty to any criminal act.
  - (12) All courses, except those taught on computer disk or on-line via the Internet, must have a minimum number of five students enrolled in the course.

*History Note: Authority G.S. 93E-1-8(c); 93E-1-10; Eff. July 1, 1994; Amended Eff. January 1, 2008; March 1, 2007; July 1, 2005; August 1, 2002.*

#### **21 NCAC 57B .0607 CERTIFICATION OF COURSE COMPLETION**

Course sponsors must issue a certificate of course completion within 15 days of completion of the course to all students who satisfactorily complete an approved course. If the course sponsor is located in North Carolina, the certificate, which the student must retain for a period of 5 years, must bear the signature or signature stamp of a person designated by the course sponsor to sign such certificate. North Carolina-based course sponsor must notify the Board in advance of the person(s) designated to sign certificates of course completion for courses conducted in North Carolina. If the course sponsor is not located in North Carolina, the certificate of course completion must show the name of the course sponsor, the name of the course, the number of classroom hours, the course dates, the state or city where the course was conducted, and the full name of the student.

*History Note: Authority G.S. 93E-1-8(c); 93E-1-10; Eff. July 1, 1994;*

*Amended Eff. January 1, 2008; July 1, 2003; August 1, 2002.*

**21 NCAC 57B .0608 SPONSOR REPORTING OF CONTINUING EDUCATION CREDIT**

Course sponsors must, within 15 days of course completion but no later than June 15 of each year, submit to the Board a roster of all North Carolina registered trainees, licensed and certified appraisers who satisfactorily completed the course. The roster must be sent by regular mail together with the course evaluation forms required by 21 NCAC 57B .0606(10). Rosters sent by fax or other electronic means shall not be accepted. Rosters from on-line courses only may be sent by fax or by other electronic means.

*History Note: Authority G.S. 93E-1-8(c); 93E-1-1;*

*Eff. July 1, 1994;*

*Amended Eff. January 1, 2008; July 1, 2005; August 1, 2002.*

**21 NCAC 57B .0611 RENEWAL OF APPROVAL AND FEES**

(a) Board approval of appraisal continuing education courses expires on the next December 31 following the date of issuance. In order to assure continuous approval, applications for renewal of Board approval, accompanied by the prescribed renewal fee, must be filed with the Board annually on or before December 1. All applications for renewal of course approval received on or before December 1, which are incomplete as of that date, as well as all applications for renewal of course approval submitted after December 1, shall be treated as original applications for approval of continuing education courses.

(b) The annual fee for renewal of Board approval shall be that specified in G.S. 93E-1-8(d) for each course for which renewal of approval is requested, provided that no fee is required for course sponsors that are exempted from original application fees by Rule .0602(b) of this Section. The fee is non-refundable.

*History Note: Authority G.S. 93E-1-8(c),(d); 93E-1-10;*

*Eff. July 1, 1994;*

*Amended Eff. January 1, 2008; March 1, 2007; August 1, 2002.*

**21 NCAC 57B .0612 WITHDRAWAL OR DENIAL OF APPROVAL**

The Board may deny or withdraw approval of any course upon finding that:

- (1) the course sponsor has made any false statements or presented any false information in connection with an application for course approval or renewal of course approval;
- (2) the course sponsor has refused or failed to comply with any of the provisions of this Section;
- (3) the course sponsor has engaged in a pattern of consistently canceling scheduled courses;

- (4) the school or course sponsor has offered or held a continuing education course stating that the students will receive continuing education credit from the North Carolina Appraisal Board when it is not approved to do so;
- (5) the instruction provided in a course is of unsatisfactory quality; or
- (6) the instructor failed to demonstrate effective teaching skills.
- (7) the instructor has had disciplinary action taken on his or her appraisal license or any other professional license in North Carolina or any other state, or has been convicted of or pleaded guilty to any criminal act.

*History Note: Authority G.S. 93E-1-8(c); 93E-1-10;*

*Eff. July 1, 1994;*

*Amended Eff. January 1, 2008; March 1, 2006; August 1, 2002.*

**TITLE 26 – OFFICE OF ADMINISTRATIVE HEARINGS**

**26 NCAC 02C .0303 AVAILABILITY OF THE NORTH CAROLINA REGISTER**

(a) A print subscription to the Register is available from LexisNexis Matthew Bender and may be ordered directly from LexisNexis by calling 1-800-833-9844, ordering from the online store at [www.lexisnexis.com/bookstorelink/](http://www.lexisnexis.com/bookstorelink/), or by writing to LexisNexis Matthew Bender, Order Fulfillment, 1275 Broadway, Albany, NY 12204.

(b) The Register is available at no charge on the OAH website: <http://www.ncoah.com>.

*History Note: Authority G.S. 150B-21.25;*

*Temporary Adoption Eff. November 1, 1995;*

*Eff. April 1, 1996;*

*Amended Eff. August 1, 2000; December 1, 1999;*

*Temporary Amendment Eff. January 1, 2003;*

*Amended Eff. November 1, 2007; August 1, 2004.*

**26 NCAC 02C .0307 OTHER NOTICES FOR PUBLICATION**

OAH may publish any document or notice that is not statutorily required if an agency submits a written request. Factors OAH shall use in determining whether to grant the request are:

- (1) degree of disruption to OAH publication and work schedule; and
- (2) degree of benefit to the public.

*History Note: Authority G.S. 150B-21.17(6); 150B-19(5)(a); 150B-21.25;*

*Eff. April 1, 1997;*

*Amended Eff. November 1, 2007.*

*This Section contains information for the meeting of the Rules Review Commission on Thursday November 15 & December 13, 2007, 10:00 a.m. at 1307 Glenwood Avenue, Assembly Room, Raleigh, NC. Anyone wishing to submit written comment on any rule before the Commission should submit those comments to the RRC staff, the agency, and the individual Commissioners. Specific instructions and addresses may be obtained from the Rules Review Commission at 919-733-2721. Anyone wishing to address the Commission should notify the RRC staff and the agency at least 24 hours prior to the meeting.*

**RULES REVIEW COMMISSION MEMBERS****Appointed by Senate**

Jim R. Funderburke - 1st Vice Chair  
David Twiddy - 2nd Vice Chair  
Keith O. Gregory  
Jerry R. Crisp  
Jeffrey P. Gray

**Appointed by House**

Jennie J. Hayman - Chairman  
John B. Lewis  
Mary Beach Shuping  
Clarence E. Horton, Jr.  
Daniel F. McLawhorn

**RULES REVIEW COMMISSION MEETING DATES**

December 13, 2007      January 17, 2008  
February 21, 2008      March 20, 2008

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**RULES REVIEW COMMISSION****November 15, 2007****MINUTES**

The Rules Review Commission met on Thursday, November 15, 2007, in the Assembly Room of the Methodist Building, 1307 Glenwood Avenue, Raleigh, North Carolina. Commissioners present were: Jerry Crisp, Jim Funderburk, Jeff Gray, Keith Gregory, Jennie Hayman, John Lewis, Dan McLawhorn, and Mary Shuping.

Staff members present were: Joseph DeLuca and Bobby Bryan, Commission Counsel and Dana Vojtko, Publications Coordinator.

The following people were among those attending the meeting:

Felicia Williams	Office of Administrative Hearings
Molly Masich	Office of Administrative Hearings
Nancy Pate	Department of Environment and Natural Resources
Julie Edwards	Office of Administrative Hearings
Barry Gupton	NCDOI-Building Code Council
Will Crumbley	Office of State Budget and Management
Perry Newson	Ethics Commission
Cheri Myers	Secretary of State
Jimmy Miller	Cemetery Commission
Julia Lohman	Sheriffs' Commission
Bob Potter	Department of Insurance
Walter James	Department of Insurance
Ellie Sprenkel	Department of Insurance
Rose Williams	Department of Insurance
Robbie Brooks	Board of Examiners for Electrical Contractors
Roberta Ouellette	Appraisal Board
Peggy Oliver	Office of State Personnel
Susan Harmuth	Department of Health and Human Services
Lisa Johnson	DHHS/Division of Social Services
Sue Lundberg	Ethics Commission
Chris Hoke	DHHS/Public Health
Sid Harrell	DENR/Environmental Health
Robin Peele	DENR/Environmental Health

Nick Fountain	Board of Examiners for Electrical Contractors
Dedra Alston	DHHS/Division of Child Development
Karen Cochrane-Brown	General Assembly
Joal Hall Broun	Secretary of State
Ann Wall	Secretary of State
Barbara Geiger	Board of Landscape Architects
Bob Upton	Board of Landscape Architects
Delores Joyner	Office of State Personnel
David McLeod	Department of Agriculture and Consumer Services
David Williams	DENR/Soil and Water Conservation

## **APPROVAL OF MINUTES**

The meeting was called to order at 10:11 a.m. with Ms. Hayman presiding. She reminded the Commission that all members have a duty to avoid conflicts of interest and the appearances of conflicts as required by NCGS 138A-15(e). Chairman Hayman asked for any discussion, comments, or corrections concerning the minutes of the October 18, 2007 meeting. There were none and the minutes were approved as distributed.

## **FOLLOW-UP MATTERS**

10A NCAC 09 .0604, .0805, .2704 – Child Care Commission. The Commission approved the rewritten rules submitted by the agency. Rule .0805 was submitted as a repeal.

10A NCAC 41A .0102 – Commission for Public Health. This rule was submitted to the Commission to insert text that had been inadvertently removed from the rule when it was before the Commission in October. The Commission approved the rule.

12 NCAC 07D .0601 – Private Protective Services Board. No rewritten rule has been submitted and no action was taken.

12 NCAC 09A .0206 – Criminal Justice Education and Training Standards Commission. The Commission approved the rewritten rule submitted by the agency.

12 NCAC 09B .0303 – Criminal Justice Education and Training Standards Commission. This rule was submitted to the Commission to insert text that had been inadvertently removed from the rule when it was before the Commission in October. The Commission approved the rule.

15A NCAC 03O .0503 – Marine Fisheries Commission. The Commission approved the rewritten rule submitted by the agency.

15A NCAC 07J .0701, .0703 – Coastal Resources Commission. No rewritten rules have been submitted and no action was taken.

18 NCAC 13 .0402, .0406, .0801 – Secretary of State. The rewritten rules for .0402 and .0406 were approved by the Commission. Rule .0801 is being returned to the agency at the agency's request.

21 NCAC 26 .0207, .0301 – Board of Landscape Architects. No rewritten rules have been submitted and no action was taken. Mr. DeLuca indicated that the Board is working on these rules and expects to file rules for review next month.

21 NCAC 57A .0201 – Appraisal Board. The Commission approved the rewritten rule submitted by the agency.

21 NCAC 57B .0209 – Appraisal Board. This rule was submitted to the Commission to insert text that had been inadvertently removed from the rule when it was before the Commission in October. The Commission approved the rule.

## **LOG OF FILINGS**

Chairman Haymen presided over the review of the log of permanent rules.

Prior to the review of the Secretary of State's lobbying rules, Commissioner Gray recused himself and did not participate in any discussion or vote concerning these rules because he is a registered lobbyist subject to these rules. His written explanation is part of the record of the meeting.

Prior to the review of the Secretary of State's cable franchise rules, Commissioner Gray recused himself and did not participate in any discussion or vote concerning these rules because his law firm represents the City of Wilson, which has had a cable franchise agreement and he was, personally, retained by the City to monitor the legislation that enabled these rules. His written explanation is part of the record of the meeting.

Prior to the review of the rules from the Private Protective Services Board (PPSB), Commissioner Gray recused himself and did not participate in any discussion or vote concerning these rules because he teaches the Firearms Instructor Training Course for the PPSB that is the subject of rules 07D .0901, .0908, .0909 and .0911. His written explanation is part of the record of the meeting.

All rules were approved unanimously with the following exceptions:

18 NCAC 12: Secretary of State, Lobbying Rules – All rules were approved with the exception of rules .0409, .0420, .0534, .0546, .0702, .0704, .0804, .0908, .0909, .1101, .1205, and .1402. These rules were withdrawn by the agency.

02 NCAC 58 .0104: Commissioner of Agriculture - The Commission objected to this rule because it is unnecessary. This rule adds nothing to what is already in G.S. 106-774(c1).

02 NCAC 58 .0105: Commissioner of Agriculture - The Commission objected to this rule based on ambiguity and a lack of statutory authority. In (g), it is not clear what is meant by "criteria score." While there does appear to be authority for the agency to adopt rules establishing a scoring system, there is no scoring system set out in the rules, and there is no authority cited to set it outside rulemaking.

02 NCAC 58 .0106: Commissioner of Agriculture - The Commission objected to this rule based on ambiguity. In (f), it is not clear what is meant by "'back-up' holder."

02 NCAC 58 .0107: Commissioner of Agriculture – The Commission objected to this rule based on ambiguity. In (a), it is not clear what is meant by "approved budget." There are no requirements in the rules that a budget be approved.

12 NCAC 07D .0901, .0908, .0909, .0911: Private Protective Services Board – The Commission objected to these rules based on lack of statutory authority. G.S. 74C-13 gives the Private Protective Services Board and the Attorney General authority to adopt these rules. There is no indication that the Attorney General has had any role in the amendment of these rules, or whether he concurs in the amendments. There is no authority cited for the Board to amend these rules without the Attorney General's concurrence.

12 NCAC 10B .0103: Sheriffs' Education and Training Standards Commission - The Commission objected to this rule because of ambiguity. There are several ambiguities in Item (6) in this Rule. It is not clear what is meant by "North Carolina Course of Study Graduation Requirements in this state as set forth in G.S. 115C." The courses required for graduation from public schools in North Carolina are set by the State Board of Education by rule and not by statute. It is not clear if the State Board of Education rule is what is meant or something else from the statute. Nothing in either has the exact title. As written the rule appears to require students outside of the North Carolina to meet North Carolina graduation requirements, it is not clear that is what is meant. It is not clear how this rule applies to non-public schools who may have different graduation requirements than the public schools. The rule appears to say that students who have graduated from such schools are not high school graduates; however, if the schools have more strenuous requirements that have not all been met, such that the school does not consider the student a graduate, the Sheriffs' Education and Training Standards Commission will still consider them graduates if they have met the public school requirements. It is not clear that is what is intended. It is not clear if graduation means satisfying the State Board of Education requirements in effect at the time the student finished high school or at the time seeking certification. It is also not clear if the Item also requires passing of competency testing required by the State Board of Education of public school students. Non-public school students take different tests.

15A NCAC 01N .0101, .0102, .0103, .0201, .0202, .0301, .0303, .0401, .0402, .0403, .0502, .0601, .0602, .0603, .0604, .0605, .0606, .0701, .0704, .0801, .0902: Department of Environment and Natural Resources – The Commission extended the period of review for these rules. The RRC needs more information and study to determine the necessity for these rules in light of the statutory requirement to negotiate and adhere to the operating agreement between the agency and the U.S. Environmental Protection Agency. There is also the question of whether the agency has the authority to establish these standards outside rulemaking and not have them as part of the N.C. Administrative Code. The RRC would like to conduct this additional study in consultation with either the Department's general counsel or its attorneys from the Attorney General's office. While the RRC and the agency are pursuing this study the agency should also address concerns the Commission has about ambiguous language in two rules. In 01N .0502 it is unclear what constitutes "greatest financial need" in (b) line 11 or how that is determined, especially since the rule which currently is used to determine "greatest financial need" is proposed to be repealed. It is also unclear in (c) of that same rule what is the status of the "ineligible segments" that do not receive a priority rating.



15A NCAC 06I .0103: Soil and Water Conservation Commission - The Commission objected to this rule because of ambiguity. In (c) and (d), it is not clear how the division will determine how many points to assign to each district for each parameter. In (d), it is not clear what is meant by "matching funds...shall be approved." This may just mean that the Commission is satisfied that the matching funds are available, but that is not clear. In (d)(4)(B) and (C), it is not clear what is meant by "normalized to 1 to 100 scale."

#### **TEMPORARY RULES**

Chairman Hayman presided over the review of the log of temporary rules. The rule was approved with Dan McLawhorn, John Lewis, Jerry Crisp and Mary Shuping voting for approval and Jim Funderbuck and Keith Gregory in opposition.

#### **COMMISSION PROCEDURES AND OTHER BUSINESS**

The chairman reported that at the rules committee meeting it was decided that the Commission would go through the normal rulemaking process. The rules committee will meet again at 9:00 a.m. prior to the regularly scheduled meeting on December 13, 2007.

The meeting adjourned at 11:56 a.m.

The next scheduled meeting of the Commission is Thursday, December 13, 2007 at 10:00 a.m.

Respectfully Submitted,  
Dana Vojtko  
Publications Coordinator

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#### **LIST OF APPROVED PERMANENT RULES November 15, 2007 Meeting**

##### **AGRICULTURE, COMMISSIONER OF**

<u>Purpose</u>	02 NCAC 58 .0101
<u>Funding Priorities</u>	02 NCAC 58 .0102
<u>Definitions</u>	02 NCAC 58 .0103
<u>Records</u>	02 NCAC 58 .0108

##### **CEMETERY COMMISSION**

<u>Application and Filing Fee</u>	04 NCAC 05C .0301
<u>Renewal</u>	04 NCAC 05C .0307

##### **HEALTH AND HUMAN SERVICES, DEPARTMENT OF**

<u>Process Review</u>	10A NCAC 01G .0103
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##### **CHILD CARE COMMISSION**

<u>General Safety Requirements</u>	10A NCAC 09 .0604
<u>Sanitary Food Service</u>	10A NCAC 09 .0805
<u>Criminal Record Check Requirements for Nonlicensed Home P...</u>	10A NCAC 09 .2704

##### **HEALTH SERVICES, COMMISSION FOR**

<u>Method of Reporting</u>	10A NCAC 41A .0102
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##### **SOCIAL SERVICES COMMISSION**

<u>Forms</u>	10A NCAC 67A .0107
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**INSURANCE, DEPARTMENT OF**

<u>Form F</u>	11	NCAC 10	.0711
<u>"Form F" Report</u>	11	NCAC 10	.0718
<u>Limited Use of Anticipated Withdrawal Rates</u>	11	NCAC 11F	.0406
<u>Small Employer Group Health Insurance Actuarial Certifica...</u>	11	NCAC 16	.0801

**CRIMINAL JUSTICE EDUCATION AND TRAINING STANDARDS COMMISSION**

<u>Summary Suspension</u>	12	NCAC 09A	.0206
<u>Terms and Conditions of General Instructor Certification</u>	12	NCAC 09B	.0303

**SHERIFFS EDUCATION AND TRAINING STANDARDS COMMISSION**

<u>Suspension: Revocation: or Denial of Certification</u>	12	NCAC 10B	.0204
<u>Period of Suspension: Revocation: or Denial</u>	12	NCAC 10B	.0205
<u>Summary Suspensions: or Denials</u>	12	NCAC 10B	.0206
<u>Documentation of Educational Requirements</u>	12	NCAC 10B	.0302
<u>Minimum Training Requirements</u>	12	NCAC 10B	.2005
<u>Sheriff/Agency head Responsibilities</u>	12	NCAC 10B	.2007

**MARINE FISHERIES COMMISSION**

<u>Permit Conditions Specific (Striped Bass)</u>	15A	NCAC 03O	.0503
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**SOIL AND WATER CONSERVATION COMMISSION**

<u>Purpose</u>	15A	NCAC 06I	.0101
<u>Definitions for Subchapter 06I</u>	15A	NCAC 06I	.0102
<u>Best Management Practices Eligible for Cost Share Payments</u>	15A	NCAC 06I	.0104
<u>Cost Share and Incentive Payments</u>	15A	NCAC 06I	.0105
<u>Technical Assistance Funds</u>	15A	NCAC 06I	.0106

**SECRETARY OF STATE, DEPARTMENT OF**

<u>Scope</u>	18	NCAC 12	.0101
<u>Calculation of Time Periods</u>	18	NCAC 12	.0102
<u>Calculation of Quarterly Reporting Period</u>	18	NCAC 12	.0103
<u>Calculation of Monthly Reporting Period</u>	18	NCAC 12	.0104
<u>Waiver</u>	18	NCAC 12	.0105
<u>Factors for Waivers</u>	18	NCAC 12	.0106
<u>Mandatory Use of Departmental Forms</u>	18	NCAC 12	.0201
<u>Filing May Be Electronic or Paper</u>	18	NCAC 12	.0202
<u>Document Completion Requirements</u>	18	NCAC 12	.0203
<u>Signature Required</u>	18	NCAC 12	.0204
<u>Legal Name of Person or Entity Required</u>	18	NCAC 12	.0205
<u>Document Signature Required</u>	18	NCAC 12	.0206
<u>Signature for Entity</u>	18	NCAC 12	.0207
<u>Electronic Signature</u>	18	NCAC 12	.0208
<u>For Preparer Signature Required</u>	18	NCAC 12	.0209
<u>When Form Preparer Signature Not Required</u>	18	NCAC 12	.0210

<u>Signing Pursuant to Power of Attorney</u>	18	NCAC 12	.0211
<u>Signing and Executing a Form Under Oath</u>	18	NCAC 12	.0212
<u>Signature Verifies Information is True</u>	18	NCAC 12	.0213
<u>Signature and Execution Under Oath of an Electronically F...</u>	18	NCAC 12	.0214
<u>Contents of Affidavit for Electronic Filing Without Elect...</u>	18	NCAC 12	.0215
<u>Consequence of Failure to Deliver Affidavit</u>	18	NCAC 12	.0216
<u>General Submission Locations and Methods</u>	18	NCAC 12	.0301
<u>Filing by United States Mail</u>	18	NCAC 12	.0302
<u>Filing by Hand-Delivery or by Designated Delivery Service</u>	18	NCAC 12	.0303
<u>Filing by Electronic Mail</u>	18	NCAC 12	.0304
<u>Filing Electronically on the Department's Website</u>	18	NCAC 12	.0305
<u>No Filing by Facsimile if Fee Required</u>	18	NCAC 12	.0306
<u>Circumstances in Which Filing by Fax Permitted</u>	18	NCAC 12	.0307
<u>Submission of Original After Filing by Fax</u>	18	NCAC 12	.0308
<u>Rejection of Incomplete Forms</u>	18	NCAC 12	.0309
<u>Document Submission Date and Time</u>	18	NCAC 12	.0310
<u>Document Received</u>	18	NCAC 12	.0311
<u>Proof of Submission</u>	18	NCAC 12	.0312
<u>Grounds for Department Rejection of Submitted Document</u>	18	NCAC 12	.0313
<u>Principal's Authorization Statement Omissions Requiring C...</u>	18	NCAC 12	.0314
<u>Omissions From Report Under Oath Requiring Correction Wit...</u>	18	NCAC 12	.0315
<u>Omissions Requiring Correction Within Seven Days</u>	18	NCAC 12	.0316
<u>Effective Date of Complete Submission or Document</u>	18	NCAC 12	.0317
<u>Rejected Documents</u>	18	NCAC 12	.0318
<u>Effective Date of Late Document</u>	18	NCAC 12	.0319
<u>Process for Amending a Document</u>	18	NCAC 12	.0320
<u>Notarization of Amended Quarterly Document</u>	18	NCAC 12	.0321
<u>Effect of Amended Document</u>	18	NCAC 12	.0322
<u>General</u>	18	NCAC 12	.0401
<u>Form of Payment</u>	18	NCAC 12	.0402
<u>Return of Fee Instrument by Issuing Institution</u>	18	NCAC 12	.0403
<u>Limitation on Fee Reduction or Waiver</u>	18	NCAC 12	.0404
<u>Non-Profits to Which No Fee Reduction or Waiver Shall be ...</u>	18	NCAC 12	.0405
<u>Non-Profit Fee Reduction Procedure</u>	18	NCAC 12	.0406
<u>Submission of Reduced Fee</u>	18	NCAC 12	.0407
<u>Submission of Documentation Supporting Fee Reduction Request</u>	18	NCAC 12	.0408
<u>Fee Reduction Applies to Both Lobbyist and Principal</u>	18	NCAC 12	.0409
<u>Payment of Remainder of Fee if Reduction Denied</u>	18	NCAC 12	.0410
<u>Consequences of Failure to Pay Remainder of Fee</u>	18	NCAC 12	.0411
<u>Nonprofit Fee Waiver Procedure</u>	18	NCAC 12	.0412
<u>Submission of Fee With Request for Waiver</u>	18	NCAC 12	.0413
<u>Refund of Fee if Request for Waiver Granted</u>	18	NCAC 12	.0414
<u>Submission of Documentation Supporting Fee Waiver Request</u>	18	NCAC 12	.0415
<u>Fee Waiver Applies to Both Lobbyist and Principal</u>	18	NCAC 12	.0416
<u>General Proof of Nonprofit Status</u>	18	NCAC 12	.0417
<u>Officer Authorized to Demonstrate Non-Profit Status of No...</u>	18	NCAC 12	.0418

<u>Submission of Federal Tax-Exempt Determination Letter</u>	18	NCAC 12	.0421
<u>Documents to be Submitted by Nonprofit Principals Without...</u>	18	NCAC 12	.0422
<u>Additional Information for Fee Reduction for Nonprofit Wi...</u>	18	NCAC 12	.0423
<u>Additional Information for Fee Reduction for Nonprofit Wi...</u>	18	NCAC 12	.0424
<u>Contents for Fee Reduction Request for Nonprofit Without ...</u>	18	NCAC 12	.0425
<u>Additional Information for Fee Waiver</u>	18	NCAC 12	.0426
<u>Request for Protection of Confidentiality</u>	18	NCAC 12	.0501
<u>Timing of Submission of Request for Protection of Confide...</u>	18	NCAC 12	.0502
<u>Consequences of Failure to Request Protection of Confiden...</u>	18	NCAC 12	.0503
<u>One Designation Form per Activity</u>	18	NCAC 12	.0504
<u>Economic Information Protection Forms Shall be Used to Re...</u>	18	NCAC 12	.0505
<u>Principal's Economic Information Protection Authorization...</u>	18	NCAC 12	.0506
<u>Principal's Economic Information Protection Registration ...</u>	18	NCAC 12	.0507
<u>Principal's Economic Information Protection Monthly or Qu...</u>	18	NCAC 12	.0508
<u>Lobbyist's Economic Information Protection Monthly or Qua...</u>	18	NCAC 12	.0509
<u>Principal's Authorization for Lobbying Unrelated to Econo...</u>	18	NCAC 12	.0510
<u>Lobbyist Registration for Lobbying Unrelated to Economic ...</u>	18	NCAC 12	.0511
<u>Principal's Documents Unrelated to Economic Information P...</u>	18	NCAC 12	.0512
<u>Lobbyist's Documents Unrelated to Economic Information Pr...</u>	18	NCAC 12	.0513
<u>Rejection of Non-Economic Designation Information - General</u>	18	NCAC 12	.0514
<u>Correction Within Seven Business Days of Economic Informa...</u>	18	NCAC 12	.0515
<u>Method of Correcting Document Containing Information Not ...</u>	18	NCAC 12	.0516
<u>Rejection of Uncorrected Document Containing Information ...</u>	18	NCAC 12	.0517
<u>Contents of Economic Information Protection Request</u>	18	NCAC 12	.0518
<u>Description of the Economic Development Activity Entitled...</u>	18	NCAC 12	.0519
<u>Identification of Authorized Individual</u>	18	NCAC 12	.0520
<u>Designation of Authorized State or Local Government Emplo...</u>	18	NCAC 12	.0521
<u>Confirmation Signature</u>	18	NCAC 12	.0522
<u>Verification by Government Official Signature</u>	18	NCAC 12	.0523
<u>Verification by Authorized Official Signature</u>	18	NCAC 12	.0524
<u>Department Action Upon Receipt of Release</u>	18	NCAC 12	.0525
<u>Department Action Upon Receipt of Information Indicating ...</u>	18	NCAC 12	.0526
<u>Principal and Authorized Government Official Response</u>	18	NCAC 12	.0527
<u>Confirmation of Announcement by Principal and Authorized ...</u>	18	NCAC 12	.0528
<u>Confirmation that Release is Authorized</u>	18	NCAC 12	.0529
<u>Conditions When Response to Department Contact Results in...</u>	18	NCAC 12	.0530
<u>Conditions When Response to Department Contact Results in...</u>	18	NCAC 12	.0531
<u>Conditions when Response to Department Contact May Result...</u>	18	NCAC 12	.0532
<u>Secretary of Commerce Designation by Principal</u>	18	NCAC 12	.0533
<u>Secretary of Commerce Default Designation</u>	18	NCAC 12	.0535
<u>Continuation of Economic Information Protection from Prem...</u>	18	NCAC 12	.0536
<u>Release of Information to the Department of Commerce</u>	18	NCAC 12	.0537
<u>Certification Process Involving the Department of Commerce</u>	18	NCAC 12	.0538
<u>Department of Commerce Certification of Status</u>	18	NCAC 12	.0539
<u>Continuation Shall Include Certification</u>	18	NCAC 12	.0540
<u>Annual Certification of Economic Protection Designation</u>	18	NCAC 12	.0541

<u>Extension of Recertification Without Re-registration</u>	18	NCAC 12	.0542
<u>Authorized Government Official can Extend Certification</u>	18	NCAC 12	.0543
<u>Authorized Government Official File Release Form</u>	18	NCAC 12	.0544
<u>Contents of Release</u>	18	NCAC 12	.0545
<u>Calculation of Time to Determine Registration Requirements</u>	18	NCAC 12	.0601
<u>Reported Changes in Matters on Which the Registrant Expec...</u>	18	NCAC 12	.0602
<u>End of Lobbyist and Principal Relationship</u>	18	NCAC 12	.0603
<u>Termination of Registration</u>	18	NCAC 12	.0604
<u>Resignation</u>	18	NCAC 12	.0605
<u>Ending of Lobbyist-Principal Relationship Does Not End Re...</u>	18	NCAC 12	.0606
<u>Lobbyist Disclosure of Identity of Principal to Department</u>	18	NCAC 12	.0701
<u>Consequences of Failure to Disclose the Principal in Fact...</u>	18	NCAC 12	.0703
<u>Lobbyist Identification</u>	18	NCAC 12	.0705
<u>Disclosure to a Designated Individual of the Identity of ...</u>	18	NCAC 12	.0706
<u>Disclosure to a Designated Individual of the Identity of ...</u>	18	NCAC 12	.0707
<u>Contents of Disclosure of the Identity of the Specific Pr...</u>	18	NCAC 12	.0708
<u>Quarterly Report May Include Last Month of Quarter</u>	18	NCAC 12	.0801
<u>Quarterly Report may Incorporate Separately Filed Monthly...</u>	18	NCAC 12	.0802
<u>Quarterly Report Verification of Monthly Report Information</u>	18	NCAC 12	.0803
<u>Reporting of Contracts in the Normal Conduct of Daily Life</u>	18	NCAC 12	.0805
<u>Method of Reporting Compensation</u>	18	NCAC 12	.0901
<u>Compensation</u>	18	NCAC 12	.0902
<u>Separate Lobbyist Compensation Reports may be Included on...</u>	18	NCAC 12	.0903
<u>Lobbyist Compensation shall be Separately Reported</u>	18	NCAC 12	.0904
<u>Quarterly Report May Include Last Month of Quarter Report</u>	18	NCAC 12	.0905
<u>Quarterly Report May Incorporate Separately Filed Monthly...</u>	18	NCAC 12	.0906
<u>Quarterly Report Verification of Monthly Report Information</u>	18	NCAC 12	.0907
<u>Reporting of Contracts in the Normal Conduct of Daily Life</u>	18	NCAC 12	.0910
<u>Solicitor Registration</u>	18	NCAC 12	.1001
<u>When Registration with the Department is Required</u>	18	NCAC 12	.1002
<u>Calculation of Production Costs in Order to Determine Reg...</u>	18	NCAC 12	.1003
<u>Calculation of Transmission Costs in Order to Determine R...</u>	18	NCAC 12	.1004
<u>Calculation of Event Costs in Order to Determine Registra...</u>	18	NCAC 12	.1005
<u>Reporting for Remainder of Year of Registration as Solicitor</u>	18	NCAC 12	.1006
<u>Report Contents</u>	18	NCAC 12	.1007
<u>Contracts Reportable</u>	18	NCAC 12	.1008
<u>Reporting of Confidential Information</u>	18	NCAC 12	.1201
<u>General Requirements Relating to Protective Order Payees ...</u>	18	NCAC 12	.1202
<u>Confidentiality Request Contents</u>	18	NCAC 12	.1203
<u>Disclosure of Confidential Information for which There is...</u>	18	NCAC 12	.1204
<u>General Requirements</u>	18	NCAC 12	.1301
<u>Record Retention Requirement if Investigation Open</u>	18	NCAC 12	.1302
<u>Three Year Time Period for Maintenance of Records Related...</u>	18	NCAC 12	.1303
<u>Requirement for Original or Equivalent</u>	18	NCAC 12	.1304
<u>Lobbyist's Compensation Records</u>	18	NCAC 12	.1305
<u>Principal's Records of Lobbyist's Compensation</u>	18	NCAC 12	.1306

<u>Maintenance of Method of Principal's Records Related to E...</u>	18	NCAC 12	.1307
<u>Lobbyist's Maintenance of Records Related to Expenditure ...</u>	18	NCAC 12	.1308
<u>Solicitor's Maintenance of Records Related to Expenditure...</u>	18	NCAC 12	.1309
<u>Principal's Maintenance of Records Reallocation of Lobbyi...</u>	18	NCAC 12	.1310
<u>Lobbyist's Maintenance of Records Reallocation of Lobbyin...</u>	18	NCAC 12	.1311
<u>Liaison's Records</u>	18	NCAC 12	.1312
<u>Records of Filers Pursuant to G.S. 120C-800(a) or G.S. 12...</u>	18	NCAC 12	.1313
<u>Record Retention by Filers Pursuant to G.S. 120C-800(a) o...</u>	18	NCAC 12	.1314
<u>Three Year Time Period for Maintenance of Records Related...</u>	18	NCAC 12	.1315
<u>Requirement for Original or Equivalent for Persons Who Ar...</u>	18	NCAC 12	.1316
<u>Records of Persons Permitted to File Pursuant to G.S. 120...</u>	18	NCAC 12	.1317
<u>Record Retention Requirement of Filers Pursuant To G.S. 1...</u>	18	NCAC 12	.1318
<u>Three Year Time Period for Maintenance of Records Related to Investigations....</u>	18	NCAC 12	.1319
<u>Requirement for Original or Equivalent for Persons Who Ar...</u>	18	NCAC 12	.1320
<u>Furnishing Lobbyist Lists to Designated Individuals for W...</u>	18	NCAC 12	.1401
<u>Rejection of Electronically Furnished List</u>	18	NCAC 12	.1403
<u>Content Sufficiency Requirements for Submitted Maps</u>	18	NCAC 13	.0402
<u>General Requirements for Map</u>	18	NCAC 13	.0406

**ELECTRICAL CONTRACTORS, BOARD OF EXAMINERS FOR**

<u>Fees</u>	21	NCAC 18B	.0209
<u>Electrical Installation: Project: Project Value-Limitation</u>	21	NCAC 18B	.0303
<u>Annual License Fees</u>	21	NCAC 18B	.0404

**APPRAISAL BOARD**

<u>Qualifications for Trainee Registration, Appraiser Licens...</u>	21	NCAC 57A	.0201
<u>Certificate of Course Completion</u>	21	NCAC 57B	.0209

**STATE PERSONNEL COMMISSION**

<u>Separation Payment of Vacation Leave</u>	25	NCAC 01E	.0210
<u>Separation</u>	25	NCAC 01E	.0311
<u>Administration</u>	25	NCAC 01E	.1303
<u>Qualifying to Participate in Voluntary Shared Leave Program</u>	25	NCAC 01E	.1304
<u>Donor Guidelines</u>	25	NCAC 01E	.1305
<u>Leave Accounting Procedures</u>	25	NCAC 01E	.1306
<u>Purpose and Scope</u>	25	NCAC 01E	.1401
<u>Other Contagious Disease</u>	25	NCAC 01E	.1702
<u>Purpose</u>	25	NCAC 01N	.0401
<u>Reporting Communicable Diseases</u>	25	NCAC 01N	.0402
<u>Actions During a Pandemic</u>	25	NCAC 01N	.0403
<u>Mandatory Employees</u>	25	NCAC 01N	.0404
<u>Compensation of Mandatory Employees</u>	25	NCAC 01N	.0405
<u>Leave</u>	25	NCAC 01N	.0406
<u>Verification</u>	25	NCAC 01N	.0407
<u>Review of Policy</u>	25	NCAC 01N	.0408
<u>Emergency Lay-Off</u>	25	NCAC 01N	.0409

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**RULES REVIEW COMMISSION**

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Waiver of Policies

25 NCAC 01N .0410

**BUILDING CODE COUNCIL**

NC Fire Code - Installation standards, standpipe systems

905.2

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**LIST OF APPROVED TEMPORARY RULES  
November 15, 2007 Meeting**

**PUBLIC HEALTH, COMMISSION FOR**

Vaccine for Providers Other than Local Health Departments

10A NCAC 41A .0502

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**AGENDA  
RULES REVIEW COMMISSION  
Thursday, December 13, 2007, 10:00 A.M.**

- 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. Commissioner of Agriculture – 02 NCAC .0104, .0105, .0106, .0107 (Bryan)
    - B. Private Protective Services Board – 12 NCAC 07D .0601, .0901, .0908, .0909, .0911 (Bryan)
    - C. Sheriffs Education and Training Standards Commission – 12 NCAC 10B .0103 (Bryan)
    - D. Environment and Natural Resources – 15A NCAC 01N .0101, .0102, .0103, .0201, .0202, .0301, .0303, .0401, .0402, .0403, .0502, .0601, .0602, .0603, .0604, .0605, .0606, .0701, .0704, .0801, .0902 (DeLuca)
    - E. Soil and Water Conservation Commission – 15A NCAC 06I .0103 (Bryan)
    - F. Coastal Resources Commission – 15A NCAC 07J .0701, .0703 (Bryan)
    - G. Board of Landscape Architects – 21 NCAC 26 .0207, .0301 (DeLuca)
  - IV. Review of Log of Permanent Rule filings for RRC review filed between October 23 and November 20, 2007 (attached)
  - V. Review of Temporary Rules
  - VI. Commission Business
    - Next meeting: January 17, 2008
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**Commission Review  
Log of Permanent Rule Filings  
October 23, 2007 through November 20, 2007**

**BANKS, OFFICE OF THE COMMISSIONER**

The rules in Chapter 3 are from the Banking Commission and the Commissioner of Banks. The rules in Subchapter 3M concern mortgage lending including general mortgage lending (.0100); licensing (.0200); education and examinations (.0300); reporting and

notification requirements (.0400); and record and bookkeeping requirements (.0500).

<u>Definitions</u>	04	NCAC 03M .0101
Amend/*		
<u>Experience</u>	04	NCAC 03M .0204
Amend/*		
<u>Financial Responsibility</u>	04	NCAC 03M .0205
Adopt/*		
<u>Surety Bond</u>	04	NCAC 03M .0206
Adopt/*		
<u>Approval of Providers and Programs</u>	04	NCAC 03M .0301
Amend/*		
<u>Annual Reporting Requirements</u>	04	NCAC 03M .0401
Amend/*		
<u>Amendments to Information on File With the Commissioner</u>	04	NCAC 03M .0402
Amend/*		
<u>Termination of Operations</u>	04	NCAC 03M .0403
Amend/*		
<u>Records to be Maintained</u>	04	NCAC 03M .0501
Amend/*		

## **PUBLIC HEALTH, COMMISSION FOR**

The rules in Chapter 41 concern epidemiology health.

The rules in Subchapter 41A deal with communicable disease control and include reporting of communicable diseases (.0100); control measures for communicable diseases including special control measures (.0200-.0300); immunization (.0400); purchase and distribution of vaccine (.0500); special program/project funding (.0600); licensed nursing home services (.0700); communicable disease grants and contracts (.0800); and biological agent registry (.0900).

<u>Dosage &amp; Age Requirements for Immunization</u>	10A	NCAC 41A .0401
Amend/*		

The rules in Chapter 43 are from the Department of Health and Human Services and concern personal health. The rules in Subchapter 43D concern WIC/Nutrition including definitions (.0100); WIC program general information (.0200); selection of local WIC agencies (.0300); eligibility for WIC program participation (.0400); WIC program food package (.0500); WIC program nutrition education (.0600); WIC program food distribution system (.0700); WIC program administrative appeals (.0800); WIC program participant fair hearings (.0900); consultation services (.1000); and maternal and child health block grant nutrition program (.1200).

<u>Authorized WIC Vendors</u>	10A	NCAC 43D .0706
Amend/*		

## **HOME INSPECTOR LICENSURE BOARD**

The rules in Chapter 8 are the engineering and building codes including the approval of school maintenance electricians (.0400); qualification board-limited certificate (.0500); qualification board-probationary certificate (.0600); qualification board-standard certificate (.0700); disciplinary actions and other contested matters (.0800); manufactured housing board (.0900); NC Home Inspector Licensure Board (.1000); home inspector standards of practice and code of ethics (.1100); disciplinary actions (.1200); home inspector continuing education (.1300); and Manufactured Housing Board continuing education (.1400).

<u>Fee Schedule</u>	11	NCAC 08 .1011
Amend/*		
<u>Application for Original Approval of an Elective Coarse</u>	11	NCAC 08 .1319



Amend/\*

## **JUSTICE, DEPARTMENT OF**

The rules in Chapter 2 are from the Office of the Attorney General.

The rules in Subchapter 02I concern company and railroad police including general provisions (.0100); commissioning (.0200); conduct of commissioner policemen (.0300); procedural rules (.0400) and agency record retention (.0500).

<u>Minimum Standards for Company Police Officers</u> Amend/*	12	NCAC 02I	.0202
<u>Application for Company Police Agency</u> Amend/*	12	NCAC 02I	.0203
<u>Liability Insurance</u> Amend/*	12	NCAC 02I	.0210
<u>Suspension or Denial of Agency Certification</u> Amend/*	12	NCAC 02I	.0211
<u>Suspension, Revocation or Denial of Officer Commission</u> Amend/*	12	NCAC 02I	.0212
<u>Summary Suspensions</u> Amend/*	12	NCAC 02I	.0214
<u>Tenure</u> Amend/*	12	NCAC 02I	.0301
<u>Prohibited Acts</u> Amend/*	12	NCAC 02I	.0304
<u>Transfers</u> Amend/*	12	NCAC 02I	.0305
<u>Badges, Uniforms, Vehicles and Officer Identification</u> Amend/*	12	NCAC 02I	.0306
<u>Agency Retention of Records of Commission</u> Adopt/*	12	NCAC 02I	.0501

## **WILDLIFE RESOURCES COMMISSION**

The rules in Subchapter 10F cover motorboats and water safety including boat registration (.0100); safety equipment and accident reports (.0200); and local water safety regulations covering speed limits, no-wake restrictions, restrictions on swimming and other activities, and placement of markers for designated counties or municipalities (.0300).

<u>Alcoa Power Generating Inc. Hydroelectric Station Safety ...</u> Adopt/*	15A	NCAC 10F	.0374
<u>Duke Energy Corporation Hydroelectric Station Safety Zones</u> Adopt/*	15A	NCAC 10F	.0375

## **SECRETARY OF STATE, DEPARTMENT OF**

The rules in Subchapter 7B are rules covering traditional notary publics and include general provisions (.0100); the application process (.0200); initial appointment as a notary (.0300); renewal or reappointment as a notary (.0400); commissioning and term of office (.0500); notary public certified instructor (.0700); enforcement and disciplinary actions (.0900); and public records and requests for information (.1000).

<u>Instructor Certification - Scope</u> Adopt/*	18	NCAC 07B	.0701
<u>Instructor Certification - General</u> Adopt/*	18	NCAC 07B	.0702

<u>Timing of Instructor Certification Application</u> Adopt/*	18 NCAC 07B .0703
<u>Department Rejection of Applications</u> Adopt/*	18 NCAC 07B .0704
<u>Fees</u> Adopt/*	18 NCAC 07B .0705
<u>Verification that Applicant Continues to Meet Requirement...</u> Adopt/*	18 NCAC 07B .0706
<u>Other Verifications</u> Adopt/*	18 NCAC 07B .0707
<u>Evidence of Minimum Experience</u> Adopt/*	18 NCAC 07B .0708
<u>Journal as Evidence of Experience</u> Adopt/*	18 NCAC 07B .0709
<u>Employer Affidavit as Evidence of Experience</u> Adopt/*	18 NCAC 07B .0710
<u>Alternative Evidence of Experience</u> Adopt/*	18 NCAC 07B .0711
<u>Recommendations</u> Adopt/*	18 NCAC 07B .0712
<u>Oral Presentation Requirement for Applicant</u> Adopt/*	18 NCAC 07B .0713
<u>Notary Public Instructor Certification and Recertificatio...</u> Adopt/*	18 NCAC 07B .0714
<u>Additional Requirements</u> Adopt/*	18 NCAC 07B .0715
<u>Minimum Instructional Duties of Certified Notary Public I...</u> Adopt/*	18 NCAC 07B .0716
<u>Evaluations of Instruction</u> Adopt/*	18 NCAC 07B .0717
<u>Eligibility for Recertification as Notary Public Instructor</u> Adopt/*	18 NCAC 07B .0718
<u>Notary Public Instructors Recertification Requirements</u> Adopt/*	18 NCAC 07B .0719
<u>Denial of Notary Public Instructor Certification or Recer...</u> Adopt/*	18 NCAC 07B .0720

## TRANSPORTATION, DEPARTMENT OF

The rules in Chapter 2 are from the Division of Highways.

The rules in Subchapter 2D concern highway operations including standards for design and construction (.0100); landscape (.0200); field operations-maintenance and equipment (.0400); ferry operations (.0500); oversize-overweight permits (.0600); highway design branch (.0700); prequalification advertising and bidding regulations (.0800); regulations for informal construction and repair contracts (.0900); adopt-a-highway program (.1000); and disadvantaged business enterprise, minority business enterprise and women business enterprise programs for highway and bridge construction contracts (.1100).

<u>Prequalifying to Bid: Requalification</u> Amend/*	19A NCAC 02D .0801
<u>Invitation to Bid</u> Repeal/*	19A NCAC 02D .0802
<u>Advertisement and Invitation for Bids</u> Amend/*	19A NCAC 02D .0803

<u>Contents of Proposal Forms</u>	19A NCAC 02D .0804
Repeal/*	
<u>Combination Bids</u>	19A NCAC 02D .0805
Amend/*	
<u>Interpretation of Quantities in Proposal Form</u>	19A NCAC 02D .0806
Amend/*	
<u>Examination of Plans: Specs: Contract: and Site of Work</u>	19A NCAC 02D .0807
Amend/*	
<u>Preparation and Submission of Bids</u>	19A NCAC 02D .0808
Repeal/*	
<u>Bid Bond or Bid Deposit</u>	19A NCAC 02D .0809
Repeal/*	
<u>Delivery of Bids</u>	19A NCAC 02D .0810
Amend/*	
<u>Withdrawal or Revision of Bids</u>	19A NCAC 02D .0811
Repeal/*	
<u>Receipt and Opening of Bids</u>	19A NCAC 02D .0812
Amend/*	
<u>Withdraw of Bids - Mistake</u>	19A NCAC 02D .0813
Repeal/*	
<u>Correction of Bid Errors</u>	19A NCAC 02D .0814
Repeal/*	
<u>Rejection of Bids</u>	19A NCAC 02D .0815
Repeal/*	
<u>Disqualification of Bidders</u>	19A NCAC 02D .0816
Repeal/*	
<u>Consideration of Bids</u>	19A NCAC 02D .0817
Repeal/*	
<u>Non-Collusion Affidavit and Certification</u>	19A NCAC 02D .0818
Amend/*	
<u>Award of Contract</u>	19A NCAC 02D .0819
Repeal/*	
<u>Return of Bid Bond or Bid Deposit</u>	19A NCAC 02D .0821
Repeal/*	
<u>Contract Bonds</u>	19A NCAC 02D .0822
Repeal/*	
<u>Execution of Contract</u>	19A NCAC 02D .0823
Repeal/*	
<u>Failure to Furnish Contract Bonds</u>	19A NCAC 02D .0824
Repeal/*	
<u>Confidentiality of Cost Estimates</u>	19A NCAC 02D .0825
Amend/*	
<u>Subsurface Information</u>	19A NCAC 02D .0827
Amend/*	
<u>Computer Bid Preparation</u>	19A NCAC 02D .0828
Repeal/*	
<u>Definitions</u>	19A NCAC 02D .0830
Amend/*	

**COSMETIC ART EXAMINERS, BOARD OF**

Subchapter 14A are the Costmetic Art Board of Examiners structure and organization rules. The rules in Section .0100 are the organizational rules.

Definitions 21 NCAC 14A .0101  
Amend/\*

The rules in Subchapter 14H are sanitation rules for both operators and facilities.

Cleanliness of Operators 21 NCAC 14H .0111  
Amend/\*

Cleanliness of Scissors, Shears, Razors and Other Equipment 21 NCAC 14H .0113  
Amend/\*

Prohibited Practices 21 NCAC 14H .0121  
Amend/\*

## **LANDSCAPE CONTRACTORS REGISTRATION BOARD**

Chapter 28 contains rules for the Registration Board of Landscape Contractors including statutory and administrative provisions (.0100); practice as a landscape contractor (.0200); examination and licensing procedures (.0300); and rules: petitions: hearings (.0400); declaratory rulings (.0500); administrative hearings: procedures (.0600).

Fees 21 NCAC 28 .0107  
Amend/\*

## **MEDICAL BOARD**

The rules in Subchapter 32B concern license to practice medicine including general provisions (.0100); license by written examination (.0200); license by endorsement (.0300); temporary license by endorsement of credentials (.0400); resident's training license (.0500); special limited license (.0600); certificate of registration for visiting professors (.0700); medical school facility license (.0800); special volunteer license (.0900) prescribing (.1000); reactivation of full license (.1100); and reinstatement of full license (.1200).

Application Forms 21 NCAC 32B .1101  
Adopt/\*

Fee 21 NCAC 32B .1102  
Adopt/\*

Personal Interview 21 NCAC 32B .1103  
Adopt/\*

Routine Inquiries 21 NCAC 32B .1104  
Adopt/\*

CME 21 NCAC 32B .1105  
Adopt/\*

Application Forms 21 NCAC 32B .1201  
Adopt/\*

Letters of Recommendation 21 NCAC 32B .1202  
Adopt/\*

Fee 21 NCAC 32B .1203  
Adopt/\*

Personal Interview 21 NCAC 32B .1204  
Adopt/\*

Routine Inquiries 21 NCAC 32B .1205  
Adopt/\*

ECFMG Certification 21 NCAC 32B .1206

Ten-Year Qualification  
Adopt/\*

21 NCAC 32B .1207

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

**OFFICE OF ADMINISTRATIVE HEARINGS**

**Chief Administrative Law Judge**  
**JULIAN MANN, III**

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

**ADMINISTRATIVE LAW JUDGES**

Sammie Chess Jr.  
Selina Brooks  
Melissa Owens Lassiter  
Don Overby

Beecher R. Gray  
A. B. Elkins II  
Joe Webster  
Shannon Joseph

<u>AGENCY</u>	<u>CASE NUMBER</u>	<u>ALJ</u>	<u>DATE OF DECISION</u>	<u>PUBLISHED DECISION REGISTER CITATION</u>
<b><u>ALCOHOL BEVERAGE CONTROL COMMISSION</u></b>				
ABC Commission v. Agustin Zeferino Hernandez, T/A El Pujido	06 ABC 2275	Chess	10/09/07	
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Kristen Valerie Kennedy v. Div. of Mental Health/Development Disabilities/ Substance Abuse Services at Dix	06 DHR 0984	Mann	05/08/07	
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Nidal Dahir, DHHS, Division of Public Health	06 DHR 1916	Lassiter	05/14/07	
Mary K. Short for Kathryn M. Short v. DHHS, Division of Mental Health, Developmental Disabilities and Substance Abuse	06 DHR 2282	Gray	05/18/07	
Egusta Ford v. DMA, Third Party Recovery	06 DHR 2364	Gray	05/14/07	
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STATE OF NORTH CAROLINA  
COUNTY OF WAKE

2007 OCT 19 PM 1:20

IN THE OFFICE OF  
ADMINISTRATIVE HEARINGS  
07 INS 0037

Office of  
Administrative Hearings

PHILLIP J. ADLER and BENJAMIN F. ADLER,  
Petitioner,

v.

NORTH CAROLINA TEACHERS' AND  
STATE EMPLOYEES' COMPREHENSIVE  
MAJOR MEDICAL PLAN,  
Respondent.

**ORDER GRANTING PETITIONER'S  
MOTION FOR SUMMARY  
JUDGMENT**

THIS MATTER comes on before the Honorable Donald W. Overby, Administrative Law Judge presiding, for consideration of Respondent's Motion for Summary Judgment pursuant to N.C. Gen. Stat. § 1A-1, Rule 56 of the North Carolina Rules of Civil Procedure and Petitioner's Response and Cross Motion for Summary Judgment, and for good cause shown, the undersigned finds that there is no genuine issue of material fact remaining in this case, and the movant is entitled to judgment as a matter of law, and, therefore, summary judgment is granted for the Petitioner.

Based upon the matters contained in the file and after reviewing the record proper, the Undersigned hereby makes the following:

**CONCLUSIONS OF LAW**

1. The Comprehensive Omnibus Budget Reconciliation Act ("COBRA"), 29 U.S.C. § 1161, *et seq.*, provides that a dependent child is a qualified beneficiary if he was a beneficiary under the plan on the day before the COBRA qualifying event. See 29 U.S.C. § 1167(3)(A).

2. When a beneficiary's coverage is being terminated upon the occurrence of a "qualifying event," COBRA places notice obligations on both the employee and the employer. The employee is required to notify the employer, as follows:

(3) each covered employee or qualified beneficiary is responsible for notifying the administrator of the occurrence of any qualifying event described in paragraph (3) or (5) . . . of section 1163 of this title, [dependent child ceasing to be a dependent child], within 60 days after the date of the qualifying event . . .

29 U.S.C. § 1166(a)(3).

The employee's notice to the employer then obligates the employer to notify the beneficiary whose coverage is being terminated. COBRA states:

(4) the administrator **shall** notify-

...  
(B) in the case of [dependent child ceasing to be a dependent child] where the covered employee notifies the administrator . . . , any qualified beneficiary with respect to such event, of such beneficiary's rights under [COBRA].

29 U.S.C. § 1166(a)(4)(B) (emphasis added).

3. Notwithstanding Petitioner's full disclosure of Petitioner's status as married in his May 2002 application, Respondent erroneously deemed Petitioner a qualified participant or beneficiary of the group health care plan of Respondent. Respondent accepted dependent coverage for Petitioner for a period of four years.

4. Respondent is estopped from cancelling Petitioner's coverage and from denying his right to continuation coverage under COBRA.

5. The essential elements of estoppel are "(1) conduct on the part of the party sought to be estopped which amounts to a false representation or concealment of material facts; (2) the intention that such conduct will be acted on by the other party; and (3) knowledge, actual or constructive, of the real facts." State ex rel. Easley v. Rich Food Servs., Inc., 139 N.C. App. 691, 703, 535 S.E.2d 84, 92 (2000).

6. Generally, governmental entities may not be estopped in the performance of a governmental function; however, a governmental entity may be estopped while acting in a governmental capacity, only if it is necessary to prevent a loss to another and the estoppel will not impair the exercise of governmental powers. Land of Sky Regional Council v. Co. of Henderson, 78 N.C. App. 85, 91, 336 S.E.2d 653, 657 (1985) (allowing estoppel where plaintiff relied upon government's prior conduct in making budgetary decisions), *disc. review denied*, 316 N.C. 553, 344 S.E.2d 7 (1986); *see also* Fike v. Bd. of Trustees, 53 N.C. App. 78, 279 S.E.2d 910 (allowing estoppel where plaintiff relied on government publications and the assertions of a retirement representative for the proper procedure to obtain disability retirement benefits), *disc. review denied*, 304 N.C. 194, 285 S.E.2d 98 (1981); Meacham v. Bd. of Educ., 47 N.C. App. 271, 267 S.E.2d 349 (1980) (allowing estoppel where plaintiff relied on government's assertions that disability retirement status would not affect plaintiff's status as a career teacher).

7. Estoppel is necessary in this case to prevent loss to Petitioner and it will not impair the exercise of governmental powers. Petitioner fully disclosed his status as married in his application for initial coverage believing that he would be eligible for coverage based on instructions and information received from Respondent despite the fact that he was married. Whether erroneous or not, Respondent accepted dependent

coverage for Petitioner and he relied on this determination to his detriment by allowing his other insurance to lapse once coverage with Respondent was accepted. As the result of Respondent's determination, Petitioner was substantially prejudiced.

8. Once the Respondent accepted Petitioner's dependent coverage, the Respondent was nonetheless obligated to provide the Petitioner notice and the opportunity to elect COBRA coverage when it subsequently made the decision to terminate coverage on discovering his previously overlooked marital status. "[E]ach qualified beneficiary who would lose coverage under the plan as a result of a qualifying event is entitled, under the plan, to elect, within the election period, continuation coverage under the plan." 29 U.S.C. § 1161. Therefore, when a dependent loses his or her dependent status, the dependent must be given the opportunity to elect COBRA coverage after their coverage under the plan would otherwise cease.

9. Notice required by COBRA, 29 U.S.C. §§ 1161 *et seq.*, is compulsory and cannot be waived. Simpson v. T.D. Williamson, Inc., 321 F. Supp. 2d 1247, 2004 U.S. Dist. LEXIS 11596 (ND Okla. 2004), *aff'd*. 414 F.3d 1203, 2005 U.S. App. LEXIS 13909 (10th Cir., 2005). Respondent failed to notify Petitioner of his right to elect continuation coverage as required by 29 U.S.C. § 1166(a)(4)(B) prior to terminating Petitioner's insurance coverage. There is no basis to deny Petitioner the right to receive proper notification and the right to elect continuation coverage.

10. The period of time that a qualified beneficiary has to elect continuation coverage under the COBRA is tolled until he or she has received notice of the right to purchase said coverage. Middleton v. Russell Group, 126 N.C. App. 1, 483 S.E.2d 727 (1997) (citing ERISA: A Comprehensive Guide 362 (Martin Wald and David E. Kenty eds., 1991)).

11. To date, Respondent has failed to provide Petitioner adequate notice of his right to elect continuation coverage.

12. Respondent cannot retroactively consider Petitioner's prior coverage to have fulfilled the continuation coverage period in the absence of proper notice and in an attempt to cure prior errors.

### **DECISION**

BASED UPON the fact that there are no genuine issues of material fact and based upon the foregoing Conclusions of Law, **IT IS THEREFORE ORDERED** that the Petitioner's Motion for Summary Judgment is **ALLOWED**, and the Petitioner is entitled to reinstatement of his coverage under Respondent plan.

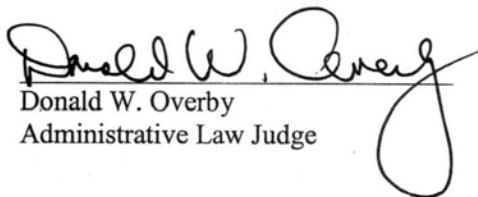
IT IS SO ORDERED.

**NOTICE**

The agency making the final decision in this contested case is required to give each party an opportunity to file exceptions to this decision issued by the Undersigned, and to present written arguments to those in the agency who will make the final decision. N.C. Gen. Stat. § 150B-36(a).

In accordance with N.C. Gen. Stat. § 150B-36 the agency shall adopt each finding of fact contained in the Administrative Law Judge's decision unless the finding is clearly contrary to the preponderance of the admissible evidence. For each finding of fact not adopted by the agency, the agency shall set forth separately and in detail the reasons for not adopting the finding of fact and the evidence in the record relied upon by the agency in not adopting the finding of fact. For each new finding of fact made by the agency that is not contained in the Administrative Law Judge's decision, the agency shall set forth separately and in detail the evidence in the record relied upon by the agency in making the finding of fact.

This the 19 day of October, 2007.

  
Donald W. Overby  
Administrative Law Judge