

# ***NORTH CAROLINA REGISTER***

**VOLUME 36 • ISSUE 22 • Pages 1765 – 1815**

**May 16, 2022**

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**PUBLISHED BY**

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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.**

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Raleigh, North Carolina 27603-8005

Contact: Carrie Hollis, Economic Analyst

osbmruleanalysis@osbm.nc.gov

984-236-0689

NC Association of County Commissioners

215 North Dawson Street

Raleigh, North Carolina 27603

contact: Amy Bason

919-715-2893

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Raleigh, North Carolina 27601

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### **Legislative Process Concerning Rulemaking**

545 Legislative Office Building

300 North Salisbury Street

Raleigh, North Carolina 27611

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Jason Moran-Bates, Staff Attorney

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

FILING DEADLINES			NOTICE OF TEXT		PERMANENT RULE			TEMPORARY RULES
Volume & issue number	Issue date	Last day for filing	Earliest date for public hearing	End of required comment Period	Deadline to submit to RRC for review at next meeting	RRC Meeting Date	Earliest Eff. Date of Permanent Rule	270 <sup>th</sup> day from publication in the Register
36:13	01/03/22	12/08/21	01/18/22	03/04/22	03/21/22	04/21/2022	05/01/22	09/30/22
36:14	01/18/22	12/22/21	02/02/22	03/21/22	04/20/22	05/19/2022	06/01/22	10/15/22
36:15	02/01/22	01/10/22	02/16/22	04/04/22	04/20/22	05/19/2022	06/01/22	10/29/22
36:16	02/15/22	01/25/22	03/02/22	04/18/22	04/20/22	05/19/2022	06/01/22	11/12/22
36:17	03/01/22	02/08/22	03/16/22	05/02/22	05/20/22	06/16/2022	07/01/22	11/26/22
36:18	03/15/22	02/22/22	03/30/22	05/16/22	05/20/22	06/16/2022	07/01/22	12/10/22
36:19	04/01/22	03/11/22	04/16/22	05/31/22	06/20/22	07/21/2022	08/01/22	12/27/22
36:20	04/18/22	03/25/22	05/03/22	06/17/22	06/20/22	07/21/2022	08/01/22	01/13/23
36:21	05/02/22	04/08/22	05/17/22	07/01/22	07/20/22	08/18/2022	09/01/22	01/27/23
36:22	05/16/22	04/25/22	05/31/22	07/15/22	07/20/22	08/18/2022	09/01/22	02/10/23
36:23	06/01/22	05/10/22	06/16/22	08/01/22	08/22/22	09/15/2022	10/01/22	02/26/23
36:24	06/15/22	05/24/22	06/30/22	08/15/22	08/22/22	09/15/2022	10/01/22	03/12/23
37:01	07/01/22	06/10/22	07/16/22	08/30/22	09/20/22	10/20/2022	11/01/22	03/28/23
37:02	07/15/22	06/23/22	07/30/22	09/13/22	09/20/22	10/20/2022	11/01/22	04/11/23
37:03	08/01/22	07/11/22	08/16/22	09/30/22	10/20/22	11/17/2022	12/01/22	04/28/23
37:04	08/15/22	07/25/22	08/30/22	10/14/22	10/20/22	11/17/2022	12/01/22	05/12/23
37:05	09/01/22	08/11/22	09/16/22	10/31/22	11/21/22	12/15/2022	01/01/23	05/29/23
37:06	09/15/22	08/24/22	09/30/22	11/14/22	11/21/22	12/15/2022	01/01/23	06/12/23
37:07	10/03/22	09/12/22	10/18/22	12/02/22	12/20/22	01/19/2023	02/01/23	06/30/23
37:08	10/17/22	09/26/22	11/01/22	12/16/22	12/20/22	01/19/2023	02/01/23	07/14/23
37:09	11/01/22	10/11/22	11/16/22	01/03/23	01/20/23	02/16/2023	03/01/23	07/29/23
37:10	11/15/22	10/24/22	11/30/22	01/17/23	01/20/23	02/16/2023	03/01/23	08/12/23
37:11	12/01/22	11/07/22	12/16/22	01/30/23	02/20/23	03/16/2023	04/01/23	08/28/23
37:12	12/15/22	11/22/22	12/30/22	02/13/23	02/20/23	03/16/2023	04/01/23	09/11/23

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

## EXPLANATION OF THE PUBLICATION SCHEDULE

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

### GENERAL

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

- (1) temporary rules;
- (2) text of proposed rules;
- (3) text of permanent rules approved by the Rules Review Commission;
- (4) emergency rules
- (5) Executive Orders of the Governor;
- (6) final decision letters from the U.S. Attorney General concerning changes in laws affecting voting in a jurisdiction subject of Section 5 of the Voting Rights Act of 1965, as required by G.S. 120-30.9H; and
- (7) other information the Codifier of Rules determines to be helpful to the public.

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

### FILING DEADLINES

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

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

### NOTICE OF TEXT

**EARLIEST DATE FOR PUBLIC HEARING:** The hearing date shall be at least 15 days after the date a notice of the hearing is published.

**END OF REQUIRED COMMENT PERIOD**  
An agency shall accept comments on the text of a proposed rule for at least 60 days after the text is published or until the date of any public hearings held on the proposed rule, whichever is longer.

**DEADLINE TO SUBMIT TO THE RULES REVIEW COMMISSION:** The Commission shall review a rule submitted to it on or before the twentieth of a month by the last day of the next month.

1                   NOTICE OF RULE MAKING PROCEEDINGS AND PUBLIC HEARING

2  
3                                   NORTH CAROLINA BUILDING CODE COUNCIL

4  
5   **Notice of Rule-making Proceedings** is hereby given by NC Building Code Council in accordance with  
6   G.S. 150B-21.5(d).

7  
8   **Citation to Existing Rule Affected by this Rule-Making:** *North Carolina, Administrative, and*  
9   *Residential, Code amendments.*

10  
11   **Authority for Rule-making:** *G.S. 143-136; 143-138.*

12  
13   **Reason for Proposed Action:** *To incorporate changes in the NC State Building Codes as a result of*  
14   *rulemaking petitions filed with the NC Building Code Council and to incorporate changes proposed by the*  
15   *Council.*

16  
17   **Public Hearing:** *Tuesday, June 14, 2022, 9:00AM, Albemarle Building, 325 North Salisbury Street,*  
18   *Raleigh, NC 27603, 2<sup>nd</sup> Floor Training Room 240. Comments on both the proposed rule and any fiscal*  
19   *impact will be accepted.*

20  
21   **Comment Procedures:** *Written comments may be sent to Carl Martin, Secretary, NC Building Code*  
22   *Council, NC Department of Insurance, 1202 Mail Service Center, Raleigh, NC 27699-1202 (email*  
23   *carl.martin@ncdoi.gov). Comments on both the proposed rule and any fiscal impact will be accepted.*  
24   *Comment period expires on July 15, 2022.*

25  
26   **Link to Agency Notice:**  
27   <https://www.ncosfm.gov/codes/building-code-council-bcc/bcc-hearing-notices>

28  
29   **Statement of Subject Matter:**

30  
31   **1. Request by Carl Martin representing NC Department of Insurance to amend the 2018 NC**  
32   **Residential Code, Sections R101.2 and R202 as follows:**

33  
34   **R101.2 Scope.**

35   The provisions of the *International Residential Code for One- and Two-family Dwellings* shall apply to the  
36   construction, *alteration*, movement, enlargement, replacement, repair, *equipment*, use and occupancy,  
37   location, removal and demolition of detached one- and two-family dwellings and *townhouses* not more than

1 three stories above *grade plane* in height with a separate means of egress, and their *accessory structures*  
2 not more than three stories above *grade plane* in height. Single family dwellings otherwise permitted by  
3 this code shall include *bed and breakfast homes*.

4 **Exceptions:**

- 5 1. Live/work units ~~located in townhouses~~ and complying with the requirements of Section 419 of the  
6 *International Building Code* shall be permitted to be built as one- and two- family *dwellings* or townhouses.  
7 Fire suppression required by Section 419.5 of the *International Building Code* where constructed under the  
8 *International Residential Code for One- and Two-family Dwellings* shall conform to Section P2904.  
9 2. Deleted.

10

11 **Section R202 DEFINITIONS**

12 **LIVE/WORK UNIT.** A *dwelling unit* in which more than 10 percent and less than 50 percent of the space  
13 includes a nonresidential use that is operated by the tenant.

14

15 **Motion/Second/Approved** – The request was granted. The proposed effective date of this rule is  
16 September 1, 2022 (earliest through RRC), unless the BCC assigns a delayed effective date (January 1,  
17 2023).

18 **Reason Given** – The purpose of the amendment is to define the term “live/work” unit and how the term  
19 applies to the NC Residential Code. Because this amendment is a clarification of code intent there would be  
20 no additional cost or savings.

21 **Fiscal Statement** – This rule is anticipated to provide equivalent compliance with no net decrease/increase  
22 in cost. This rule is not expected to either have a substantial economic impact or increase local and state  
23 funds. A fiscal note has not been prepared.

24

25

26 **2. Request from Carl Martin representing NC Department of Insurance to amend the 2018 NC**  
27 **Residential Code, Section R101.2 and Table R302.1; the 2018 NC Building Code Table 602 and**  
28 **Section 903.2.8; and the 2018 NC Fire Code, Section 903.2.8 as follows:**

29

30 **NCRC:**

31 **R101.2 Scope.**

32 The provisions of the *International Residential Code for One- and Two-family Dwellings* shall apply to the  
33 construction, *alteration*, movement, enlargement, replacement, repair, *equipment*, use and occupancy,  
34 location, removal and demolition of one or more detached one- and two-family dwellings and *townhouses*  
35 located on a parcel not more than three stories above *grade plane* in height with a separate means of egress,  
36 and their *accessory structures* not more than three stories above *grade plane* in height. Single family  
37 dwellings otherwise permitted by this code shall include *bed and breakfast homes*.

1 **Exceptions:**

2 1. Live/work units located in *townhouses* and complying with the requirements of Section 419 of the  
 3 *International Building Code* shall be permitted to be built as one- and two- family *dwelling*s or townhouses.  
 4 Fire suppression required by Section 419.5 of the *International Building Code* where constructed under the  
 5 *International Residential Code for One- and Two-family Dwellings* shall conform to Section P2904.

6 2. Deleted.

7

8 **NCRC:**

9 **Section R202 DEFINITIONS**

10 **TOWNHOUSE.** A single-family *dwelling unit* constructed in a group of two or more attached units  
 11 separated by property lines or assumed property lines in which each unit extends from foundation to roof  
 12 and with yard or public way on not less than two sides.

13

14 **NCRC:**

15 **TABLE R302.1**

16 **EXTERIOR WALLS**

17

EXTERIOR WALL ELEMENT		MINIMUM FIRE-RESISTANCE RATING	MINIMUM FIRE SEPARATION DISTANCE
Walls	Fire-resistance rated	1 hour—tested in accordance with ASTM E 119 or UL 263 with exposure from both sides	< 3 feet < 5 feet <sup>a</sup>
	Not fire-resistance rated	0 hours	≥ 3 feet ≥ 5 feet <sup>a</sup>
Projections	Fire-resistance rated	1 hour on the underside	< 3 feet < 5 feet <sup>a</sup>
	Not fire-resistance rated	0 hours	≥ 3 feet ≥ 5 feet <sup>a</sup>
Openings in walls	Not allowed	N/A	< 3 feet < 5 feet <sup>a</sup>
	Unlimited	0 hours	≥ 3 feet ≥ 5 feet <sup>a</sup>
Penetrations	All	Comply with Section R302.4	< 3 feet < 5 feet <sup>a</sup>
		None required	≥ 3 feet ≥ 5 feet <sup>a</sup>

18 For SI: 1 foot = 304.8 mm.

19 N/A = Not Applicable.

20 a. Fire separation distance requirement for multiple dwellings on a single parcel.

21

22 **NCBC:**

1 **TABLE 602**  
 2 **FIRE-RESISTANCE RATING REQUIREMENTS FOR EXTERIOR WALLS BASED ON FIRE**  
 3 **SEPARATION DISTANCE<sup>a,d,g</sup>**  
 4

FIRE SEPARATION DISTANCE = X (feet)	TYPE OF CONSTRUCTION	OCCUPANCY GROUP H <sup>e</sup>	OCCUPANCY GROUP F-1, M, S-1 <sup>f</sup>	OCCUPANCY GROUP A, B, E, F-2, I, R <sup>h</sup> , S-2, U <sup>h</sup>
$X < 5^b$	All	3	2	1
$5 \leq X < 10$	IA Others	3 2	2 1	1 1
$10 \leq X < 30$	IA, IB IIB, VB Others	2 1 1	1 0 1	1 <sup>c</sup> 0 1 <sup>c</sup>
$X \geq 30$	All	0	0	0

- 5 For SI: 1 foot = 304.8 mm.
- 6 a. Load-bearing exterior walls shall also comply with the fire-resistance rating requirements of Table 601.
- 7 b. See Section 706.1.1 for party walls.
- 8 c. Open parking garages complying with Section 406 shall not be required to have a fire-resistance rating.
- 9 d. The fire-resistance rating of an exterior wall is determined based upon the fire separation distance of the
- 10 exterior wall and the story in which the wall is located.
- 11 e. For special requirements for Group H occupancies, see Section 415.6.
- 12 f. For special requirements for Group S aircraft hangars, see Section 412.4.1.
- 13 g. Where Table 705.8 permits nonbearing exterior walls with unlimited area of unprotected openings, the
- 14 required fire-resistance rating for the exterior walls is 0 hours.
- 15 h. For a building containing only a Group U occupancy private garage or carport, the exterior wall shall not
- 16 be required to have a fire-resistance rating where the fire separation distance is 5 feet (1523 mm) or greater.
- 17 ~~i. For Group R-3 detached one- and two-family dwellings of any construction type and not more than three~~
- 18 ~~stories above grade plane in height with a separate means of egress, a fire separation distance of 5 feet or~~
- 19 ~~less shall be 1-hour fire resistant rated and shall be 0-hour fire resistant rated for distances greater than 5~~
- 20 ~~feet.~~
- 21 ~~j. For Group R-3 attached one- and two-family dwellings of any construction type separated with fire walls~~
- 22 ~~complying with Section 706, containing no other occupancy classification, and not more than three stories~~
- 23 ~~above grade plane in height with a separate means of egress, a fire separation distance of 5 feet or less shall~~
- 24 ~~be 1-hour fire resistant rated and shall be 0-hour fire resistant rated for distances greater than 5 feet.~~
- 25
- 26 **NCBC:**



1 **903.2.8 Group R.** An *automatic sprinkler system* installed in accordance with Section 903.3 shall be  
2 provided throughout all buildings with a Group R *fire area*, except as provided for in Section 903.2.8.5.

3 **Exceptions:**

4 1. An *automatic sprinkler system* is not required in new adult and child day care facilities located in  
5 existing Group R-3 and R-4 occupancies.

6 2. An *automatic sprinkler system* is not required in *temporary overflow shelters*.

7 3. An *automatic sprinkler system* is not required in camping units located within a campground where all of  
8 the following conditions exist.

9 3.1. The camping unit is limited to one story in height.

10 3.2. The camping unit is less than 400 square feet (37 m2) in area.

11 3.3. The camping unit does not have a kitchen.

12 4. An automatic sprinkler system is not required in an *open air camp cabin* that complies with the  
13 following:

14 4.1. The *open air camp cabin* shall have at least two remote unimpeded exits. Lighted exit signs shall not  
15 be required.

16 4.2. The *open air camp cabin* shall not be required to have plumbing or electrical systems, but if the cabin  
17 has these systems, then the provisions of the code otherwise applicable to those systems shall apply.

18 4.3. Smoke alarms and portable fire extinguishers may be required as otherwise provided in the code.

19 ~~5. An *automatic sprinkler system* is not required in the following Group R 3 buildings not more than three  
20 stories above grade plane in height with a separate means of egress:~~

21 ~~5.1. Detached one and two family dwellings.~~

22 ~~5.2. Attached one and two family dwellings separated with fire walls complying with Section 706 and  
23 containing no other occupancy classification.~~

24

25 **NCFC:**

26 **903.2.8 Group R.** An *automatic sprinkler system* installed in accordance with Section 903.3 shall be  
27 provided throughout all buildings with a Group R *fire area*.

28 **Exceptions:**

29 1. An *automatic sprinkler system* is not required in new adult and child day care facilities located in  
30 existing Group R-3 and R-4 occupancies.

31 2. An *automatic sprinkler system* is not required in *temporary overflow shelters*.

32 3. An *automatic sprinkler system* is not required in camping units located within a campground where all of  
33 the following conditions exist.

34 3.1. The camping unit is limited to one story in height.

35 3.2. The camping unit is less than 400 square feet (37 m2) in area.

36 3.3. The camping unit does not have a kitchen.

1 4. An automatic sprinkler system is not required in an *open air camp cabin* that complies with the  
2 following:

3 4.1. The *open air camp cabin* shall have at least two remote unimpeded exits. Lighted exit signs shall not  
4 be required.

5 4.2. The *open air camp cabin* shall not be required to have plumbing or electrical systems, but if the cabin  
6 has these systems, then the provisions of the code otherwise applicable to those systems shall apply.

7 4.3. Smoke alarms and portable fire extinguishers shall be installed as required by other sections of this  
8 code.

9 ~~5. An automatic sprinkler system is not required in the following Group R-3 buildings not more than three~~  
10 ~~stories above grade plane in height with a separate means of egress:~~

11 ~~5.1. Detached one- and two-family dwellings.~~

12 ~~5.2. Attached one- and two-family dwellings separated with fire walls complying with NC Building Code,~~  
13 ~~Section 706 and containing no other occupancy classification.~~

14

15 **Motion/Second/Approved** – The request was granted. The proposed effective date of this rule is  
16 September 1, 2022 (earliest through RRC), unless the BCC assigns a delayed effective date (January 1,  
17 2023).

18 **Reason Given** – Clarification and simplification of application of the NCRC and NCBC to multiple  
19 dwellings on a single parcel of land. This change will help keep designers and contractors in one book  
20 instead of relying on cross references between the NCBC and the NCRC. Because the use of the NCRC for  
21 construction of multiple dwellings on a single lot can currently be achieved by use of an alternate method  
22 there is no added cost or savings for this amendment.

23 **Fiscal Statement** – This rule is anticipated to provide equivalent compliance with no net decrease/increase  
24 in cost. This rule is not expected to either have a substantial economic impact or increase local and state  
25 funds. A fiscal note has not been prepared.

26

27 **3. Request by Kim Wooten representing self to amend the 2020 National Electrical Code, Article 100**

28 **Definitions as follows:**

29

30 **2020 NEC text:**

31 **Article 100 - Definitions**

32 **Coordination, Selective (Selective Coordination)**

33

34 Localization of an overcurrent condition to restrict outages to the circuit or equipment affected,  
35 accomplished by the selection and installation of overcurrent protective devices and their ratings or settings  
36 for the range of available overcurrents, ~~from overload to the available fault current~~, and for the full range of  
37 overcurrent protective device opening times ~~associated with those overcurrents~~.

1 **Replace via Amendment with:**

2 **Article 100 – Definitions**

3 **Coordination, Selective (Selective Coordination)**

4

5 Localization of an overcurrent condition to restrict outages to the circuit or equipment affected for fault  
6 current events that extend beyond 0.1 second, and accomplished by the selection and installation of  
7 overcurrent protective devices and their ratings or settings for the range of available overcurrents under  
8 such conditions, whether originating from overload, ground-fault or short circuit, and for the full range of  
9 overcurrent protective device opening times applicable to such events.

10

11 **Motion/Second/Approved** – The request was granted. The proposed effective date of this rule is  
12 September 1, 2022 (earliest through RRC), unless the BCC assigns a delayed effective date (January 1,  
13 2023).

14 **Reason Given** – Consistency in the design approach will result in better projects, whether the occupancy is  
15 healthcare or non-healthcare.

16 **Fiscal Statement** – This rule is anticipated to provide equivalent compliance with no net decrease/increase  
17 in cost. This rule is not expected to either have a substantial economic impact or increase local and state  
18 funds. A fiscal note has not been prepared.

19

20 **4. Request from Carl Martin representing NC Department of Insurance to amend the 2018 NC**  
21 **Administrative Code, Section 204.3.5 as follows:**

22

23 **204.3.5 Design professional seal required.** Where the General Statutes, North Carolina Board of  
24 Architecture and Registered Interior Designers, or the North Carolina Board of Examiners for Engineers  
25 and Land Surveyors require, no permit shall be issued unless the construction documents (drawings and  
26 specifications), bear the North Carolina seal of a registered design professional. Construction documents  
27 shall include the name and address of the business entity (individual, corporation or partnership) with  
28 whom the registered design professional is affiliated. Questions concerning this section should be directed  
29 to the North Carolina Board of Architecture and Registered Interior Designers or the North Carolina Board  
30 of Examiners for Engineers and Land Surveyors.

31 **Exceptions:** ~~For permitting purposes, the seal of a registered design professional is not required when the~~  
32 ~~building, structure or project involved is in one of the categories listed below, unless otherwise required~~  
33 ~~pursuant to the provisions of the General Statutes or the technical codes:~~

34 ~~1. A family residence, up to eight units attached with grade level exit, which is not a part of or physically~~  
35 ~~connected with any other buildings or residential units;~~

36 ~~2. A building upon any farm that is for the use of any farmer, unless the building is of such nature and~~  
37 ~~intended for such use as to substantially involve the health or safety of the public;~~

- 1 ~~3. An institutional or commercial building if it does not have a total cost of construction exceeding~~  
2 ~~\$90,000;~~
- 3 ~~4. An institutional or commercial building if the total building area does not exceed 2,500 square feet (232~~  
4 ~~m<sup>2</sup>) in gross floor area;~~
- 5 ~~5. Alteration, remodeling or renovation of an existing building that is exempt under this section, or~~  
6 ~~alteration, remodeling or renovation of an existing building or building site that does not alter or affect the~~  
7 ~~structural system of the building; change the building's access or exit pattern; or change the live or dead~~  
8 ~~load on the building's structural system. This subdivision shall not limit or change any other exemptions to~~  
9 ~~this chapter or to the practice of engineering under Chapter 89C of the General Statutes.~~
- 10 ~~6. The preparation and use of details and shop drawings, assembly or erection drawings, or graphic~~  
11 ~~descriptions utilized to detail or illustrate a portion of the work required to construct the project in~~  
12 ~~accordance with the plans and specifications prepared or to be prepared under the requirements or~~  
13 ~~exemptions of this chapter.~~
- 14 ~~7. Nothing in this chapter shall be construed to prevent any individual from making plans or data for~~  
15 ~~buildings for himself or herself. This exemption does not apply to plans for places of religious~~  
16 ~~worship.~~
- 17 ~~(General Statute 83A-13)~~

18

19 **Motion/Second/Approved** – The request was granted. The proposed effective date of this rule is  
20 September 1, 2022 (earliest through RRC), unless the BCC assigns a delayed effective date (January 1,  
21 2023).

22 **Reason Given** – To update the 2018 NC Administrative Code and Policies to reflect changes in NC  
23 Statutes 83A-13.

24 **Fiscal Statement** – This rule is anticipated to provide equivalent compliance with no net decrease/increase  
25 in cost. This rule is not expected to either have a substantial economic impact or increase local and state  
26 funds. A fiscal note has not been prepared.

27

28 **NOTICE:**

29 **Appeals and Interpretations** of the North Carolina State Building Codes are published online at the  
30 following link.

31 <https://www.ncosfm.gov/codes/codes-current-and-past>

32

33 **NOTICE:**

34 **Objections and Legislative Review** requests may be made to the NC Office of Administrative Hearings in  
35 accordance with G.S. 150B-21.3(b2) after Rules are adopted by the Building Code Council.

36 <http://www.ncoah.com/rules/>

37

## PUBLIC NOTICE STATE OF NORTH CAROLINA ENVIRONMENTAL MANAGEMENT COMMISSION

The Division of Energy, Mineral, and Land Resources (DEMLR) invites public comment on, or objections to, the following NPDES Industrial Stormwater General Permits to be revised and re-issued. The public comment period begins at 9:00 am on 05/13/2022 and ends at 5:00 pm on 06/13/2022. Persons wishing to comment on or object may submit written comments to the address below during the public comment period. All comments received during the public comment period will be considered in the final determinations regarding permit issuance. Public comments may result in changes to the proposed permitting actions. All comments should reference the specific permit numbers listed below.

- NCG140000 for Ready Mix Concrete Operations, proposed issuance date 7/01/2022
- NCG150000 for Airports, proposed issuance date 7/01/2022
- NCG240000 for Composting Operations, proposed issuance date 7/01/2022

The General Permits and Fact Sheets may be viewed at: <https://deq.nc.gov/about/divisions/energy-mineral-and-land-resources/stormwater/stormwater-program/stormwater-public-notice>. Please direct comments or questions to: Danny Smith, Stormwater Program, NC Division of Energy, Mineral, and Land Resources, 1612 Mail Service Center Raleigh, NC 27699-1612, Telephone number: (919) 707-3639, [danny.smith@ncdenr.gov](mailto:danny.smith@ncdenr.gov).

**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 01 – DEPARTMENT OF ADMINISTRATION**

*Notice is hereby given in accordance with G.S. 150B-21.2 that the Department of Administration intends to amend the rule cited as 01 NCAC 05B .1519.*

**Link to agency website pursuant to G.S. 150B-19.1(e):**  
<https://ncadmin.nc.gov/about-doa/administrative-rules-review/proposed-rules-and-public-comment>

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

**Public Hearing:**

**Date:** June 2, 2022

**Time:** 1:00 - 2:00 p.m.

**Location:**

<https://ncgov.webex.com/ncgov/j.php?MTID=m3142caffe54e35ea8aee1fe3dbf8032>

Meeting number (access code): 2433 746 6675

Meeting password: mcRuJiMN378

**Tap to join from a mobile device (attendees only)**

+1-415-655-0003,,24337466675## US Toll

+1-904-900-2303,,24337466675## United States Toll (Jacksonville)

**Reason for Proposed Action:** Revisions to 01 NCAC 05B .1918 are required in order to comply with amendments made to 01 NCAC 05B .0301, .0314, .0318-.0321 that became effective on March 1, 2022.

**Comments may be submitted to:** Donya Strong, 1301 Mail, Raleigh, NC 27699-1301; phone (984) 236-0003; fax (919) 733-9571; email [adminrules@doa.nc.gov](mailto:adminrules@doa.nc.gov)

**Comment period ends:** July 15, 2022

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

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

Commission, please call a Commission staff attorney at 984-236-1850.

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

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

**CHAPTER 05 - PURCHASE AND CONTRACT**

**SUBCHAPTER 05B - PURCHASE PROCEDURES**

**SECTION .1500 - MISCELLANEOUS PROVISIONS**

**01 NCAC 05B .1519 PROTEST PROCEDURES**

(a) When a Vendor wants to protest a Contract awarded by a Purchasing Agency valued at less than the amount set forth in G.S. 143-53, Bid Value Benchmark established under G.S. 116-31.10, G.S. 115D-58.14, or the General Delegation established by the SPO under G.S. 143-53(a)(2) and G.S. 143-53.1, the Purchasing Agency and Vendor shall comply with the following:

- (1) The Vendor shall submit a written request for a protest meeting to the Agency's executive officer or his or her designee within 30 calendar days from the date of the Contract award. The executive officer shall furnish a copy of this letter to the SPO within five calendar days of receipt. The Vendor's request shall contain reasons why it has a concern with the award and any supporting documentation. If the request does not contain this information, or if the executive officer determines that the protest is meritless so that a meeting would serve no purpose, then the executive officer may, within ~~10~~ 15 calendar days from the date of receipt of the request, respond in writing to the Vendor and refuse the protest meeting request. A copy of the executive officer's decision letter shall be forwarded to the SPO.
- (2) If the protest meeting is granted, the executive officer shall schedule the meeting within 30 calendar days after receipt of the request, unless mutually agreed. Within 10 calendar days from the date of the protest meeting, the executive officer shall respond to the Vendor in writing with the executive officer's decision and appeal rights under Article 3 of G.S. 150B. A copy of the executive officer's decision letter shall be forwarded to the SPO.

(3) The Purchasing Agency shall notify the SPO in writing of any further administrative or judicial review of the Contract award.

(b) When a Vendor wants to protest a Contract awarded by the Secretary valued over the amount set forth in G.S. 143-53, valued, including the amounts of any Extension and Renewals, equal to or in excess of the Bid Value Benchmark established under G.S. 116-31.10, G.S. 115D-58.14, or the General Delegation established by the SPO under G.S. 143-53(a)(2) and G.S. 143-53.1, the SPO and Vendor shall comply with the following:

- (1) The Vendor shall submit a written request for a protest meeting to the SPO within 30 calendar days from the date of the Contract award. The Vendor's request shall contain reasons why it has a concern with the award and any supporting documentation. If the request does not contain this information, or if the SPO determines that the protest is meritless so that a meeting would serve no purpose, then the SPO may, within 10 15 calendar days from the date of receipt of the request, respond in writing to the Vendor and refuse the protest meeting request.
(2) If the protest meeting is granted, the SPO shall schedule the meeting within 30 calendar days after receipt of the request, unless mutually agreed. Within 10 calendar days from the date of the protest meeting, the SPO shall respond to the Vendor in writing with the SPO's decision and appeal rights under Article 3 of G.S. 150B.
(3) The SPO shall notify the Secretary of any further administrative or judicial review of the Contract award.

Authority G.S. 143-53.

TITLE 02 – DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Notice is hereby given in accordance with G.S. 150B-21.2 that the Board of Agriculture intends to adopt the rule cited as 02 NCAC 52B .0214 with changes from the proposed text noticed in the Register, Volume 36 Issue 19.

Link to agency website pursuant to G.S. 150B-19.1(c): http://www.ncagr.gov/AdministrativeRules/ProposedRules/index.htm

Proposed Effective Date: September 1, 2022

Instructions on How to Demand a Public Hearing: (must be requested in writing within 15 days of notice): Submit a written request by email by 5/31/22 to Rule-Making Coordinator, Anna Hayworth, at Anna.Hayworth@ncagr.gov.

Reason for Proposed Action: The Board of Agriculture previously approved emergency and temporary rules governing rabbit importation. These rules are concerned with preventing the

introduction of Rabbit Hemorrhagic Disease Virus - 2 into the State of North Carolina. The Board of Agriculture is now following through to make the current temporary rule on rabbit importation permanent with a few substantive changes. Specifically, the proposed permanent rule will expand the import requirements to cover rabbits and species in the order of Lagomorpha, including hares and pikas.

Comments may be submitted to: Anna Hayworth, Rule-Making Coordinator, 1002 Mail Service Center, Raleigh, NC 27699; phone (984) 236-4509; email rulesreview@ncagr.gov

Comment period ends: July 15, 2022

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

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

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

CHAPTER 52 - VETERINARY

SUBCHAPTER 52B - ANIMAL DISEASE

SECTION .0200 - ADMISSION OF LIVESTOCK TO NORTH CAROLINA

02 NCAC 52B .0214 IMPORTATION REQUIREMENTS: RABBITS RABBITS, OR ANY SPECIES IN THE ORDER LAGOMORPHA, INCLUDING HARES AND PIKAS

(a) An import permit from the State Veterinarian is required for the importation of a rabbit rabbit, or any species in the order of Lagomorpha, including hare and pika, into the State of North Carolina originating from:

- (1) any country or state with Rabbit Hemorrhagic Disease Virus-2 ("RHDV-2") detected; or
(2) a state or country without RHDV-2 if the rabbit animal makes any intervening stop in a country or state with RHDV-2 detected, if the rabbit

animal is commingled or exposed to any other ~~rabbit~~ animal in the order of Lagomorpha not being shipped directly from the point of origin together, or if the imported rabbit is exposed to materials such as cages, beddings, and supplies that have been in contact with another ~~rabbit~~ animal in the order of Lagomorpha not shipped directly from the point of origin together.

(b) The ~~rabbit~~ import permit application shall be accompanied by an official health certificate certifying the ~~rabbit~~ animal to be free from any contagious animal disease, including RHDV-2, as follows:

- (1) If the ~~rabbit~~ animal is shipped directly without any intervening stops, without commingling or exposure to any other ~~rabbit~~ animal in the order of Lagomorpha not being shipped directly from the point of origin together, and without exposure to materials such as cages, beddings, and supplies that have been in contact with another ~~rabbit~~ animal in the order of Lagomorpha not shipped directly from the point of origin together, then the official health certificate shall be obtained within seven days of the date of importation into North Carolina.
- (2) If the ~~rabbit~~ animal is shipped with intervening stops, with commingling or exposure to another ~~rabbit~~ animal in the order of Lagomorpha not being shipped directly from the point of origin together, or with exposure to materials such as cages, beddings, and supplies that have been in contact with another ~~rabbit~~ animal in the order of Lagomorpha not shipped directly from the point of origin together, then the official health certificate shall be obtained from the location of the last intervening stop, commingling, or exposure, and within seven days of the date of importation into North Carolina.

(c) No permit is needed ~~for~~ for:

- (1) direct shipment of a ~~rabbit~~ rabbit, or any species in the order of Lagomorpha, including hare and pika, from a country or state without RHDV-2 or if the ~~rabbit~~ animal makes intervening stops only in countries or states without RHDV-2, the ~~rabbit~~ animal is not commingled or exposed to another ~~rabbit~~ animal in the order of Lagomorpha not shipped directly from the point of origin together, and the ~~rabbit~~ animal is not exposed to materials such as cages, beddings, and supplies that have been in contact with another ~~rabbit~~ animal in the order of Lagomorpha not shipped directly from the point of origin ~~together; together; or~~
- (2) rabbits, or any species in the order of Lagomorpha, including hare and pika, brought into the State on a temporary basis for the sole purpose of seeking veterinary services by a North Carolina licensed veterinarian, lasting only until the end of the veterinary service visit, and the animal is brought directly to the

veterinary clinic and departs from the veterinary clinic to the originating state with no intervening stops.

(d) The application for ~~rabbit~~ a importation shall include the state of origin, health certificate inspection date, the owner's name, address, and phone number at the time of import, the import destination within the State of North Carolina, the name, address, and phone number of the person with control and responsibility over the ~~rabbit~~ animal at the import destination, and any federal licensing, permit, and documentation required for the importation of the ~~rabbit~~ animal if imported from outside of the United States of America.

(e) A ~~rabbit~~ rabbit, or any species in the order of Lagomorpha, including hare and pika, requiring an import permit that is imported into North Carolina shall be accompanied by an official health certificate with the import permit number and shall be made available for inspection by the State Veterinarian or his or her designee upon request.

(f) An intervening stop is defined as a stop in a country or state longer than 24 hours but less than 10 days. The location of any stop for longer than 10 days shall be deemed the new country or state of origin.

(g) Health certificates issued outside of the United States shall be issued in English and by a veterinarian with a valid license to practice veterinary medicine in the country of export.

Authority G.S. 106-317.

TITLE 04 – DEPARTMENT OF COMMERCE

*Notice is hereby given in accordance with G.S. 150B-21.2 that the Department of Commerce/Credit Union Division intends to amend the rule cited as 04 NCAC 06C .0205.*

**Link to agency website pursuant to G.S. 150B-19.1(c):** <https://cud.nc.gov/>

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

**Instructions on How to Demand a Public Hearing:** *(must be requested in writing within 15 days of notice): A public hearing may be demanded by written request to Tony Knox, Deputy Administrator of the North Carolina Department of Commerce/Credit Union Division within 15 days of the publication of the Notice of Text.*

**Reason for Proposed Action:** *04 NCAC 06C .0205 LOANS TO CREDIT UNION OFFICIALS - proposed for amendment to clarify who qualifies as an official to be consistent with Federal Regulations.*

**Comments may be submitted to:** *Tony Knox, Deputy Administrator, 205 W. Millbrook Road, STE 105, Raleigh, NC 27609; phone (984) 275-6733; fax (984) 275-6744; email tony.knox@nccud.nc.gov*

**Comment period ends:** July 15, 2022



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

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

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

**CHAPTER 06 - CREDIT UNION DIVISION**

**SUBCHAPTER 06C - CREDIT UNIONS**

**SECTION .0200 - ORGANIZATION OF CREDIT UNIONS**

**04 NCAC 06C .0205 LOANS TO CREDIT UNION OFFICIALS**

(a) Officials. For purposes of this Rule, an "official" is a member of the ~~board of directors, Board of Directors,~~ credit committee, or supervisory ~~committee, committee;~~ ~~the President, Chief Executive Officer, Chief Financial Officer, Comptroller, General Manager, Treasurer/Manager, or Executive Vice President;~~ and ~~Outside Attorneys and Outside Accountants of the credit union.~~ For the purpose of this Paragraph, the following definitions apply:

- (1) ~~"Outside Attorneys" means independent attorneys or law firms that are retained to provide 25 percent or more of the legal services for the credit union, based on the annual legal expense; and~~
- (2) ~~"Outside Accountants" means independent accountants or accounting firms that are retained to provide accounting or audit services for the credit union.~~

(b) Loans to Officials. A loan or line of credit extended to an official as the borrower, direct obligor, endorser, cosigner, or guarantor with direct or indirect pecuniary interest in the loan shall be reviewed by the ~~board of directors, Board of Directors or a duly appointed committee thereof, as provided in Paragraph (c) of this Rule,~~ at the next regular meeting following the date of such extension of credit, provided the following computation produces a total amount in excess of fifty thousand dollars (\$50,000) including limits of credit ~~cards; eards.~~

- (1) Add:

- (A) the loan amount extended for the current loan;
  - (B) the outstanding balances of loans, including the used portion of an approved line of credit, extended to or endorsed, cosigned or guaranteed by the official; and
  - (C) the total unused portion of approved lines of credit extended to or endorsed, cosigned, or guaranteed by the official.
- (2) Subtract from the above total:
- (A) the amount of shares pledged by the official on loans or lines of credit extended to, or endorsed, cosigned, or guaranteed by the official; and
  - (B) the amount of shares pledged by the official on the current loan or line of credit.

(c) Review of Loans to Officials by Duly Appointed Committee. The ~~board of directors Board of Directors~~ may also appoint a committee to review and report on loans made to officials. All members of the committee shall be on the board of directors. ~~Board of Directors.~~ The committee shall meet before the regular monthly board meeting to review all officials' loans that have been approved since the previous meeting. The committee shall make a report to the board that shall include ~~consist of at least~~ the official's loan number, his or her title or position, the amount of the loan, purpose of the loan, aggregate amount of indebtedness to the credit union, and a statement regarding compliance with loan policies. Each credit union's board of directors ~~Board of Directors~~ shall review this loan approval report on a monthly basis. This review shall be done at the regular monthly board meeting. In the event the board does not meet monthly, a procedure shall be established whereby the manager of the credit union or their designee shall send a written report to each director on a monthly basis. ~~a written report shall be sent to each director on a monthly basis.~~

(d) Non-preferential ~~Non-preferential~~ treatment. The rates, terms, and conditions on a loan or line of credit made to or endorsed, cosigned, or guaranteed by:

- (1) an official;
- (2) an immediate family member of an official. For the purpose of this Rule, "immediate family member" means immediate blood relatives and members attained by marriage, including spouses, biological children, adopted children, and step-children, as well as domestic partners; a spouse or other family member living in the same household; or
- (3) any individual having a common ownership, investments, or other pecuniary interest in a business enterprise with an official or with an immediate family member of an official; ~~official, shall not be more favorable than the rates, terms and conditions for comparable loans or lines of credit to other credit union members.~~

shall not be more favorable than the rates, terms and conditions for comparable loans or lines of credit to other credit union members.

(e) Avoidance of conflicts. No official or any employee of the credit union shall in any manner, directly or indirectly, participate in the deliberation upon or the determination of any question affecting his or her pecuniary interest or the pecuniary interest of any corporation, partnership, or association (other than the credit union) in which he or she is directly or indirectly interested.

(f)(c) Indirect Benefits. It shall be unlawful for an official or employee to:

- (1) have any interest or to benefit in any manner in the proceeds of a loan or from the sale by the credit union of any real or personal property unless the official or employee has disclosed to the board of directors Board of Directors of the credit union the nature and extent of the benefit that may be received and the loan or sale, regardless of the amount of money involved, has been approved by a vote of at least two thirds of the directors of the credit union; or
(2) have any interest direct or indirect, in the purchase at less than face value of any savings account or evidence of indebtedness issued by a credit union.

(g) Penalty. A violation of the provisions of this Rule shall be sufficient basis for removal of any official or employee by the Administrator, as set forth in G.S. 54-109.19.

Authority G.S. 54-109.12; 54-109.19; 54-109.35; 54-109.39.

\*\*\*\*\*

Notice is hereby given in accordance with G.S. 150B-21.2 that the Rural Electrification Authority intends to amend the rules cited as 04 NCAC 08 .0107 and .0109.

Link to agency website pursuant to G.S. 150B-19.1(c): http://rea.nc.gov

Proposed Effective Date: September 1, 2022

Instructions on How to Demand a Public Hearing: (must be requested in writing within 15 days of notice): The public may request a hearing by submitting a written request to Frances Liles, Administrator of the Authority by e-mail at frances.liles@nccommerce.com or via telephone at 919-814-0299.

Reason for Proposed Action:

04 NCAC 08 .0107: The NCREA is amending this Rule to clarify details regarding its Board meetings.

04 NCAC 08 .0109: The NCREA is amending this Rule to clarify existing language.

Comments may be submitted to: Francis Liles, 313 Chapanoke Road, Raleigh, NC 27603; phone (984) 236-4295; email frances.liles@nccommerce.com

Comment period ends: July 15, 2022

Procedure for Subjecting a Proposed Rule to Legislative Review:

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

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

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

CHAPTER 08 - RURAL ELECTRIFICATION AUTHORITY

SECTION .0100 – GENERAL PROVISIONS

04 NCAC 08 .0107 MEETINGS

(a) The Authority shall not meet more than 12 times per year. The meetings will be held at the office, offsite, or via video or conference call.

(b) The Administrator shall send a notice of the date and location of the meeting to all Authority Board members, cooperatives, and interested parties, which include the telephone coalition, the North Carolina Electric Membership Corporation, and members of the USDA, at least one week four weeks prior to the meeting. A meeting notification shall be posted on the website of the Authority at least 72 hours prior to each meeting.

(c) Anyone with a matter to present to the Board shall ensure the Authority receives all pertinent documents three weeks prior to the meeting where the matter will be presented by the Administrator to the Board. Board of the Authority for their consideration and decision.

(d) A copy of public documents maintained by this the office is shall be available to the general public at actual cost.

Authority G.S. 117-4; 117-5; 150B-19(5)b.

04 NCAC 08 .0109 DUTIES OF THE ADMINISTRATOR

The Administrator is responsible for directing the staff of the Authority and overseeing the functions of the office.

- (1) The Administrator shall oversee the application of the electric and telephone cooperatives rules

and regulations to ensure they are administered according to the manner in which they are written.

- (2) The Administrator shall investigate and respond to complaints such as requests for deposits, meter tampering disputes, boundary issues, disputed bills, and power surges from EMC members and shall request any additional information from the cooperative needed by the Authority to respond to the complaints.
- (3) The Administrator may attend any annual meeting or Board meeting of an individual electric or telephone cooperative.
- (4) The Administrator shall review all Federal grant or loan applications from electric and telephone cooperatives, request any additional information needed for those applications, and present the grant and loan requests to the Board of the Authority for review and ~~approval~~ decision.
- (5) The Administrator is responsible for reviewing interconnection agreements and amendments between the TMCs and competing local providers (CLPs) and commercial mobile radio service providers (CMRS) as defined in 47 U.S.C 252 in accordance with Section 252(e) of the Act and present those documents to the Board of the authority for review and decision, ~~approval~~.
- (6) In situations where the Authority is requested to arbitrate an interconnection agreement pursuant to Section 252(b)(1) of the Act or pursuant to a valid contractual agreement between a TMC and another telecommunications carrier, the Administrator is responsible for reviewing the petitions and ensuring all procedures are followed for the arbitration as outlined in 04 NCAC 08 .0313, ~~for arbitration~~.

Authority G.S. 117-2(10); 117-2(11a); 117-2(12); 117-3.1(a); 117-26; 117-31; 117-32; 47 U.S.C 252.

TITLE 11 – DEPARTMENT OF INSURANCE

Notice is hereby given in accordance with G.S. 150B-21.2 that the Home Inspector Licensure Board intends to amend the rules cited as 11 NCAC 08 .1110 and .1116.

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

Proposed Effective Date: September 1, 2022

Public Hearing:  
Date: July 8, 2022  
Time: 9:00 a.m.

Location: 325 N. Salisbury Street, Albemarle Building, Room 245, Raleigh, NC 27603

Reason for Proposed Action: Staff contracted review of over 400 licensed home inspector reports and recommended Rule .1110 Electrical changes to clarify requirements for inspection, operating, testing, and reporting selected electrical components and systems.

Legislative direction and a survey of licensees prompted a proposed text amendment to Rule .1116 Code of Ethics to address ongoing concerns regarding potential conflict of interest between licensed home inspectors and licensed real estate professionals.

Comments may be submitted to: Loretta Peace-Bunch, North Carolina Department of Insurance, 325 N. Salisbury Street, Raleigh, NC 27603

Comment period ends: July 15, 2022

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

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

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

CHAPTER 08 - ENGINEERING AND BUILDING CODES DIVISION

SECTION .1100 - N.C. HOME INSPECTOR STANDARDS OF PRACTICE AND CODE OF ETHICS

11 NCAC 08 .1110 ELECTRICAL

- (a) The home inspector shall inspect:
  - (1) Electrical service entrance conductors;
  - (2) Electrical service equipment, grounding equipment, main overcurrent device, and interiors of panelboard enclosures unless unsafe conditions are reported;

- (3) Amperage and voltage ratings of the electrical service;
- (4) Branch circuit conductors, their overcurrent devices, and the compatibility of their ampacities at the interiors of panelboard enclosures unless unsafe conditions are reported;
- (5) ~~The operation of a~~ A representative number of installed ceiling fans, lighting fixtures, switches, and receptacles located inside the house, garage, and on the dwelling's exterior walls;
- (6) The polarity and grounding of all receptacles within six feet of interior plumbing fixtures, and all receptacles in the garage or carport, and on the exterior of inspected structures;
- (7) ~~The operation of ground~~ Ground fault circuit interrupters; and
- (8) ~~Smoke detectors~~ alarms and installed carbon monoxide alarms.

(b) The home inspector shall describe:

- (1) Electrical service amperage and voltage;
- (2) Electrical service entry conductor materials;
- (3) The electrical service type as being overhead or underground; and
- (4) The location of main and distribution panels.

~~(e) The home inspector shall report in writing the presence of any readily accessible single strand aluminum branch circuit wiring.~~

(c) The home inspector shall operate, except when part of a central system:

- (1) The test function of smoke alarms;
- (2) The test function of installed carbon monoxide alarms;
- (3) The test function of ground fault circuit interrupters; and
- (4) A representative number of installed ceiling fans, lighting fixtures, switches, and receptacles located inside the house, garage, and on the dwelling's exterior walls

~~(d) The home inspector shall report in writing on the presence or absence of smoke detectors, and installed carbon monoxide alarms in any homes with fireplaces, fuel fired appliances or attached garages, and operate their test function, if readily accessible, except when detectors are part of a central alarm system.~~

(d) The home inspector shall report in writing:

- (1) Any readily accessible single strand aluminum branch circuit wiring;
- (2) The presence and location or absence of smoke alarms;
- (3) The presence and location or absence of installed carbon monoxide alarms; and
- (4) The presence and location or absence of ground fault circuit interrupters.

(e) The home inspector is not required to:

- (1) Insert any tool, probe, or testing device inside the panels;
- (2) Test or operate any overcurrent device except ground fault circuit interrupters;

(3) Dismantle any electrical device or control other than to remove the covers of panelboard enclosures; or

(4) Inspect:

- (A) Low voltage systems;
- (B) Security systems and heat detectors;
- (C) Telephone, security, cable TV, intercoms, or other ancillary wiring that is not a part of the primary electrical distribution system;
- (D) Built-in vacuum equipment;
- (E) Back up electrical generating equipment;
- (F) Other alternative electrical generating or renewable energy systems such as solar, wind, or hydro power;
- (G) Battery or electrical automotive charging systems; or
- (H) Electrical systems to swimming pools or spas, including bonding and grounding.

*Authority G.S. 143-151.49; 143-151.58.*

**11 NCAC 08 .1116 CODE OF ETHICS**

(a) Licensees shall discharge their duties with fidelity to the public and to their clients, with fairness and impartiality to all.

(b) Opinions expressed by licensees shall be based only on their education, experience, and honest convictions.

(c) A licensee shall not disclose any information about the results of an inspection without the approval of the client for whom the inspection was performed, or the client's representative.

(d) No licensee shall accept compensation or any other consideration from more than one interested party for the same service without the written consent of all interested parties.

(e) No licensee shall compensate, either financially or through other services or benefits, realty agents or other parties with a financial interest in closing or settlement of real estate transactions for the following:

- (1) Referral of inspections; or
- (2) Inclusion on a list of recommended inspectors or preferred providers, providers, or
- (3) Exclusive or preferential access to potential clients.

(f) No licensee shall express, within the context of an inspection, an appraisal or opinion of the market value of the inspected property.

(g) Before the execution of a contract to perform a home inspection, a licensee shall disclose to the client any interest he or she has in a business that may create a conflict of interest for the home inspector. No licensee shall allow his or her interest in any business to affect the quality or results of the inspection work that the licensee may be called upon to perform.

(h) A licensee shall not solicit for repairs of systems or components found defective in the course of a home inspection performed by the licensee or that licensee's company.

(i) Licensees shall not engage in false or misleading advertising or otherwise misrepresent any matters to the public.

(j) Licensees shall not inspect properties under contingent arrangements whereby any compensation or future referrals are dependent on reported findings or on the sale of a property.

(k) A licensee shall not impugn the professional reputation or practice of another home inspector, nor criticize another inspector's reports.

Authority G.S. 143-151.49.

TITLE 15A – DEPARTMENT OF ENVIRONMENTAL QUALITY

Notice is hereby given in accordance with G.S. 150B-21.2 and G.S. 150B-21.3A(c)(2)g. that the Wildlife Resources Commission intends to adopt the rules cited as 15A NCAC 10A .1502; 10H .1510, amend the rule cited as 15A NCAC 10B .0101, and readopt with substantive changes the rule cited as 15A NCAC 10C .0208.

Link to agency website pursuant to G.S. 150B-19.1(c): https://www.ncwildlife.org/Proposed-Regulations

Proposed Effective Date: September 1, 2022

Public Hearing:

Date: June 14, 2022

Time: 2:00 p.m.

Location: Register online here: https://ncwildlife.org.zoomgov.com/webinar/register/WN\_Od9\_Tm6zSlinBBMajsg2UQ

Join by phone toll free (833 568 8864 )

using Webinar ID: 160 885 4112

(Wildlife control technician)

Date: June 28, 2022

Time: 2:00 p.m.

Location: Register online here: https://ncwildlife.org.zoomgov.com/webinar/register/WN\_9csw66svTSC4d8e8Y\_LaUw

Join by phone toll free (833 568 8864 )

using Webinar ID: 160 061 6325

(All rules except Wildlife control technician)

Reason for Proposed Action:

15A NCAC 10C .0208 - Part of the periodic review process. Removes the fishing prohibitions on the Linville River and bypass channel around Lock and Dam No. 1 on the Cape Fear River and prohibit fishing from March 1 to May 31 in three restored floodplain sloughs connected to the French Broad River and Mud Creek in Henderson County.

15A NCAC 10A .1502 - Part of the periodic review process. Merges replacement costs for mammals, fish, and reptiles into one rule.

15A NCAC 10H .1510 - Session Law 2021-160 established a Wildlife Control Technician Certification. This rule is necessary to set standards and requirements for this certification.

15A NCAC 10B .0101 - Discussions with the NC Department of Agriculture and Consumer Services (NCDACS) identified discrepancies between the WRC importation rule and the

NCDACS rule on entry of avian species to North Carolina. The NCDACS defines poultry as any bird and WRC rules need to reflect appropriate importation requirements for these species.

Comments may be submitted to: Rulemaking Coordinator, 1701 Mail Service Center, Raleigh, NC 27699; email regulations@ncwildlife.org

Comment period ends: July 15, 2022

Procedure for Subjecting a Proposed Rule to Legislative Review:

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

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

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

CHAPTER 10 - WILDLIFE RESOURCES AND WATER SAFETY

SUBCHAPTER 10A - WILDLIFE RESOURCES COMMISSION

SECTION .1500 - EVIDENCE

15A NCAC 10A .1502 REPLACEMENT COSTS OF WILDLIFE

(a) For the purpose of this Rule, "replacement cost" means the monetary amount to replace a specimen of wildlife that has been taken, injured, removed, harmfully altered, damaged, or destroyed. As specified in G.S. 113-267, this term shall be broadly construed to include indirect costs of replacement if direct stocking or replacement is not feasible, including the costs of habitat improvement or restoration, the establishment of sanctuaries, and any other recognized conservation technique.

(b) The following factors shall be considered when determining replacement costs:

- whether the species has a season for take;
whether the species is classified as endangered, threatened, or special concern;

**PROPOSED RULES**

- (3) the relative frequency of species occurrence in the State;
- (4) the extent of existing suitable habitat for the species within the State;
- (5) the unique habitat requirements of the species;
- (6) the cost of acquiring, by purchase or long-term lease, lands and waters for habitat development;
- (7) the cost of improving and maintaining suitable habitat for the species on lands and waters owned or acquired;
- (8) the cost of live-trapping the species in areas of adequate populations and transplanting them to areas of suitable habitat with low populations;
- (9) the availability of replacement specimens and the cost of acquisition for restocking species in the wild;
- (10) the cost of propagating and rearing the species in captivity or a hatchery and the cost of transporting them to an area with suitable habitat;
- (11) the ratio between the natural life expectancy of the species and the period of its probable survival in the wild when having been reared in captivity;
- (12) the consumer price index; and
- (13) any other factor that gives value to the species.

(c) Based on the factors in Paragraph (b) of this Rule, the following scheduled amounts shall represent the estimated replacement cost of an individual wildlife specimen. Replacement costs are per individual for wildlife species and per inch for fish species unless otherwise noted:

<u>Species</u>	<u>Replacement Cost</u>
<u>Birds</u>	
<u>Crow</u>	4.00
<u>Dove</u>	13.00
<u>Duck</u>	
<u>American black duck</u>	125.00
<u>Canvasback</u>	125.00
<u>Gadwall</u>	125.00
<u>Long-tailed duck</u>	125.00
<u>White-winged scoter</u>	125.00
<u>All other ducks</u>	41.00
<u>Goose (includes Brant and Snow)</u>	125.00
<u>Grouse</u>	125.00
<u>Pheasant</u>	37.00
<u>Quail</u>	125.00
<u>Rail</u>	
<u>Clapper, king, and Virgini</u>	125.00
<u>Coot, Gallinule, Moorhen, and Sora</u>	37.00
<u>Snipe</u>	26.00
<u>Swan, tundra</u>	1078.00
<u>Woodcock</u>	125.00
<u>Big Game</u>	
<u>Bear, black</u>	2232.00
<u>Deer</u>	602.00
<u>Turkey, wild</u>	525.00
<u>Small Game</u>	

<u>Beaver</u>	104.00
<u>Bobcat</u>	647.00
<u>Fox</u>	88.00
<u>Mink</u>	75.00
<u>Muskrat</u>	19.00
<u>Opossum</u>	6.00
<u>Otter</u>	647.00
<u>Rabbit</u>	13.00
<u>Raccoon</u>	58.00
<u>Skunk</u>	19.00
<u>Squirrel, fox</u>	54.00
<u>Squirrel, gray and red</u>	17.00
<u>Weasel</u>	11.00

<u>Reptiles</u>	
<u>Kingsnake, scarlet</u>	100.00
<u>Milksnake, coastal plain</u>	200.00
<u>Milksnake, eastern</u>	100.00
<u>Snake, eastern hognose</u>	100.00
<u>Turtle, eastern box</u>	150.00
<u>Turtle, spotted</u>	150.00

<u>Elk</u>	2500.00
<u>Any other species with no open season</u>	54.00

<u>Endangered Species</u>	4960.00
<u>Threatened Species</u>	4313.00
<u>Special Concern Species</u>	3000.00

Fish Species

<u>Bass</u>	
<u>Alabama Bass</u>	0.80
<u>Hybrid (Bodie) Bass</u>	1.27
<u>Largemouth Bass</u>	0.80
<u>Redeye Bass</u>	0.80
<u>Smallmouth Bass</u>	2.34
<u>Spotted Bass</u>	0.80
<u>Striped Bass</u>	1.27
<u>White</u>	0.25
<u>Bullhead</u>	
<u>Black Bullhead</u>	1.72/fish
<u>Brown Bullhead</u>	1.72/fish
<u>Flat Bullhead</u>	1.72/fish
<u>Snail Bullhead</u>	1.72/fish
<u>Yellow Bullhead</u>	1.72/fish
<u>Catfish</u>	
<u>Blue Catfish</u>	0.61
<u>Channel Catfish</u>	0.61
<u>Flathead Catfish</u>	0.61
<u>White Catfish</u>	0.61
<u>Crappie</u>	0.48
<u>Kokanee Salmon</u>	0.71
<u>Muskellunge</u>	9.99
<u>Pickereel</u>	
<u>Chain Pickerel</u>	0.99
<u>Redfin Pickerel</u>	0.99
<u>Sauger</u>	0.92
<u>Shad</u>	

**PROPOSED RULES**

<u>American Shad</u>	<u>1.40/fish</u>
<u>Hickory Shad</u>	<u>1.40/fish</u>
Sunfish	
<u>Bluegill Sunfish</u>	<u>2.65/fish</u>
<u>Flier Sunfish</u>	<u>2.65/fish</u>
<u>Green Sunfish</u>	<u>2.65/fish</u>
<u>Pumpkinseed Sunfish</u>	<u>2.65/fish</u>
<u>Redbreast (Robin)</u>	<u>2.65/fish</u>
<u>Redear (Shellracer)</u>	<u>2.65/fish</u>
<u>Roanoke Bass</u>	<u>2.65/fish</u>
<u>Rock Bass Sunfish</u>	<u>2.65/fish</u>
<u>Warmouth Sunfish</u>	<u>2.65/fish</u>
Trout	
<u>Brook Trout</u>	<u>0.71</u>
<u>Brown Trout</u>	<u>0.71</u>
<u>Rainbow Trout</u>	<u>0.71</u>
Walleye	<u>0.92</u>
White Perch	<u>0.25</u>
Yellow Perch	<u>0.92</u>
<u>All other game fish</u>	<u>0.76/fish</u>
<u>All other nongame fish</u>	<u>1.87/fish</u>

Endangered, Threatened, Special Concern

<u>Mussels</u>	<u>50.54/mussel</u>
<u>Crayfish</u>	<u>50.00/crayfish</u>
<u>Finfish</u>	<u>157.54/fish</u>

(d) The following factors shall be considered when determining the costs of an investigation conducted pursuant to G.S. 143-215.3(a)(7) or by court order for the purpose of determining the cost of replacement of wildlife:

- (1) the time expended by the employee(s) conducting or involved in the investigation, including travel time between the place of usual employment and the site of the investigation, and the time required in formulating and rendering the report;
- (2) the total compensation cost of service to the state for each employee involved, including annual salary, total insurance, and the state's contribution to social security taxes and to the applicable retirement system;
- (3) subsistence costs for the investigating personnel, including meals, reasonable gratuities, and lodging, when required;
- (4) the cost of all necessary transportation;
- (5) the use or rental equipment or vehicles, when required;
- (6) the cost of cleaning, repairing, or replacing any clothing damaged, soiled, or contaminated by conducting the investigation; and
- (7) any other expense directly related to and necessitated by the investigation.

(e) In assessing the cost of time expended in completing the investigation, the time expended by each person required to take part in the investigation shall be recorded in hours, the value of which shall be computed according to the ratio between the annual costs of service of the employee and his or her total annual working hours (2087 hours reduced by

holidays, annual leave entitlement, and earned sick leave). Other costs shall be assessed as follows:

- (1) the actual cost of meals, reasonable gratuities, and lodging away from home, not to exceed the current maximum per diem for state employees at the time of the investigation;
- (2) total mileage by motor vehicle multiplied by:
  - (A) the then current rate per mile for travel by state-owned vehicle; or
  - (B) the then current rate per mile for travel by privately owned vehicle, if applicable;
- (3) ten dollars (\$10.00) per hour for boat and motor use;
- (4) uniform and clothing cleaning and repair cost; and
- (5) any other expense directly related to and necessitated by the investigation.

*Authority G.S. 113-134; 113-267.*

**SUBCHAPTER 10B - HUNTING AND TRAPPING**

**SECTION .0100 - GENERAL REGULATIONS**

**15A NCAC 10B .0101 IMPORTATION OF WILD ANIMALS, BIRDS, AND NATIVE REPTILES AND AMPHIBIANS**

(a) Before any live wild bird, wild animal, or any native reptile or amphibian, is imported into North Carolina for any purpose, a permit shall be obtained from the Executive Director of the North Carolina Wildlife Resources Commission authorizing the importation, using application forms provided by the Commission, available at [ncwildlife.org](http://ncwildlife.org); and from the North Carolina Department of Agriculture and Consumer Services per 02 NCAC 52B .0200, if applicable.

(b) Waterfowl Domestically raised game birds, chukars, and Hungarian partridges imported into North Carolina shall be accompanied by a certificate or label showing the name and address of the shipper and the National Poultry Improvement Plan (NPIP) Disease Program Status of the flock of origin per 02 NCAC 52B .0603. ~~must be received from facilities or individuals who are certified under the National Poultry Improvement Plan (NPIP) as pullorum typhoid and avian influenza negative.~~ If the source birds are not part of NPIP, they must be tested pullorum-typhoid and avian influenza negative by NPIP standards within ~~30~~ 21 days prior to entry into North Carolina. Health certificates for imported waterfowl shall be available for inspection by authorized Commission personnel upon request.

*Authority G.S. 106.549.97; 113-134; 113-272.6; 113-274; 113-291.3.*

**SUBCHAPTER 10C - INLAND FISHING REGULATIONS**

**SECTION .0200 - GENERAL REGULATIONS**

15A NCAC 10C .0208 SPAWNING AREAS

The following waters are designated as spawning areas in which fishing is prohibited or restricted as indicated:

- (1) No person shall fish by any method from February 15 to April 15, both inclusive, in Linville River from the NC 126 bridge downstream to the mouth of the Linville River.
(2) No person shall fish by any method within the bypass channel constructed by the U.S. Army Corps of Engineers around Lock and Dam No. 1 on the Cape Fear River at any time.

(a) No person shall fish by any method from March 1 to May 31 in the following restored floodplain sloughs connected to the French Broad River and Mud Creek in Henderson County:

- (1) Slough 1 at 35.403687, -82.531970 connected to the French Broad River, located 0.25 miles upstream of Butler Bridge Rd (SR 1345).
(2) Slough 2 at 35.398380, -82.528750 connected to the French Broad River, located 1.0 miles upstream of Butler Bridge Rd.
(3) Slough 3 at 35.396449, -82.525462 connected to Mud Creek, located 0.1 miles upstream from confluence with the French Broad River.

(b) Each slough shall be marked with signs on both banks.

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

SUBCHAPTER 10H – REGULATED ACTIVITIES

SECTION .1500 – WILDLIFE AND ALLIGATOR CONTROL AGENTS

15A NCAC 10H .1510 WILDLIFE CONTROL TECHNICIAN CERTIFICATION ELIGIBILITY AND REQUIREMENTS

(a) The following definitions shall apply in this Section:

- (1) "Wildlife control technician" or "WCT" means an individual that holds a current and valid wildlife control technician certification issued by the Commission.
(2) "Wildlife control technician certification" or "WCT certification" means a certification issued by the Commission that authorizes an individual to engage in wildlife control or wildlife removal activities, for compensation, including reimbursement for the cost of materials, under the supervision of a licensed wildlife control agent.
(3) "Direct supervision" means to physically be within one's presence while maintaining visual and verbal contact.
(4) "Wildlife damage control" and "wildlife removal activities" means and includes:
(A) bat eviction and alligator damage control or removal activities;
(B) setting and moving traps;
(C) euthanasia; and
(D) issuing depredation permits in accordance with the applicable

provision and requirements of 15A NCAC 10H .1502.

(b) It shall be unlawful to engage in wildlife damage control or wildlife removal activities for compensation, without first obtaining a WCT certification from the Commission, except that licensed trappers taking wild animals during the applicable open trapping season for that species shall not be required to obtain a WCT certification.

(c) Wildlife control technicians may only perform the following wildlife control or removal activities under direct supervision of a licensed WCA, or certified Alligator Control Agent if applicable:

- (1) placement of traps;
(2) euthanasia of wildlife;
(3) bat evictions; and
(4) alligator removal or relocation.

(d) Wildlife control technicians shall not issue depredation permits.

(e) Individuals shall complete a Commission-approved, WCT training course, that reviews wildlife laws and rules, including methods for trapping, capture, and safe and humane wildlife handling to qualify for a WCT certification.

(f) Individuals may register for a Commission-approved training course at www.ncwildlife.org/wca. Required information shall include the following:

- (1) the applicant's name, mailing address, email address, residence address, telephone number, driver's license number, and date of birth; and
(2) organizational affiliation, if applicable.

(g) A WCT certification shall not be transferable between individuals.

Authority G.S. 113-134; 113-273; 113-274.

\*\*\*\*\*

Notice is hereby given in accordance with G.S. 150B-21.3A(c)(2)g. that the Wildlife Resources Commission intends to readopt with substantive changes the rules cited as 15A NCAC 10B .0106, .0107, .0109, .0118, .0120, .0126, .0127, .0212, .0216, .0223, .0302, .0304, .0305, .0401, .0404-.0406; 10C .0203, .0206, .0214, .0216 and repeal through reoption the rules cited as 15A NCAC 10B .0117, .0217; and 10C .0215.

Pursuant to G.S. 150B-21.17, the Codifier has determined it impractical to publish the text of rules proposed for repeal unless the agency requests otherwise. The text of the rule(s) are available on the OAH website at http://reports.oah.state.nc.us/ncac.asp.

Link to agency website pursuant to G.S. 150B-19.1(c): https://www.ncwildlife.org/Proposed-Regulations

Proposed Effective Date: September 1, 2022

Public Hearing:
Date: June 7, 2022
Time: 2:00 p.m.
Location:



Register online here: [https://ncwildlife.org.zoomgov.com/webinar/register/WN\\_wFQWwuHrR8Oc6zIn5ICFpQ](https://ncwildlife.org.zoomgov.com/webinar/register/WN_wFQWwuHrR8Oc6zIn5ICFpQ)  
Join by phone toll free (833 568 8864 ) using Webinar ID: 161 178 0889

**Reason for Proposed Action:** Pursuant to 150B-21.3A, the agency is required to readopt 10B and 10C rules as part of the periodic review process.

**Comments may be submitted to:** Rulemaking Coordinator, 1701 Mail Service Center, Raleigh, NC 27699; email [regulations@ncwildlife.org](mailto:regulations@ncwildlife.org)

**Comment period ends:** July 15, 2022

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

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

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

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

**SUBCHAPTER 10B - HUNTING AND TRAPPING**

**SECTION .0100 - GENERAL REGULATIONS**

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

(a) Depredation permits shall authorize the taking, destruction, transfer, removal, transplanting, or driving away of undesirable, destructive, or excess wildlife or wildlife resources as specified in Paragraph (d) of this Rule.

(b) The following conditions shall apply to depredation permits:  
(1) depredation permits shall be prepared on a form supplied by the Commission; and

~~(2) depredation permits shall only be issued by authorized employees of the Commission or licensed Wildlife Control Agents (WCA).~~

~~(e)(b)~~ Depredation permits shall not be required for the owner or lessee of a property to take wildlife while committing depredations on that property; however, the manner of take, disposition of dead wildlife, and reporting requirements specified in this Rule shall apply.

~~(d)(c)~~ No permit shall be issued to take endangered or threatened species of wildlife listed under 15A NCAC 10I, except alligators, by reason of depredations to property. ~~The Only the~~ Executive Director or his or her designee may issue depredation permits for Special Concern species listed in 15A NCAC 10I .0105 and for alligators. ~~An individual may take an endangered or threatened species in immediate defense of his or her own life or of the lives of others without a permit. Any endangered or threatened species that may constitute a demonstrable but non-immediate threat to human safety shall be reported to a federal or Commission wildlife enforcement officer, who, upon verification of the report, may take or remove the specimen as provided by 15A NCAC 10I .0102. Depredation permits for other species may be issued under the following conditions:~~

(d) An individual may take an endangered or threatened species in immediate defense of his or her own life or of the lives of others without a permit. Any endangered or threatened species that may constitute a demonstrable but non-immediate threat to human safety shall be reported to a state or Federal conservation Officer or employee who is designated by their agency, who, upon verification of the report, may take or remove the specimen as provided by 15A NCAC 10I .0102(c)(2).

(e) No permit may be issued for the taking of migratory birds and other federally-protected animals unless a current Federal Depredation Order applies to a species or a corresponding, valid U.S. Fish and Wildlife Service depredation permit(s), if required, has been issued.

(f) Depredation permits may be issued for taking of wildlife resources in circumstances of overabundance or when the wildlife resources present a danger to human safety. Cities, as defined in G.S. 160A-1(2), seeking a depredation permit pursuant to these circumstances shall submit to the Commission the following information:

- (1) the name and location of the city;
- (2) the acreage of the affected property;
- (3) a map of the affected property;
- (4) the signature of an authorized city representative;
- (5) the nature of the overabundance or the threat to public safety; and
- (6) a description of previous actions taken by the city to ameliorate the problem.

~~(4) for taking wildlife that is or has been damaging or destroying property, provided there is evidence of property damage. No permit may be issued for the taking of migratory birds and other federally protected animals unless a corresponding, valid U.S. Fish and Wildlife Service depredation permit(s), if required, has been issued. A permit issued pursuant to this Rule shall name the species allowed to be taken~~

and may include limitations as to age, sex, type of depredation, location of animal or damage, and local laws. The permit shall be issued to a landholder or an authorized representative of a unit of local government for depredations on public property. The permit shall be used only by individuals named on the permit.

- (2) ~~for taking of wildlife resources in circumstances of overabundance or when the wildlife resources present a danger to human safety. Cities, as defined in G.S. 160A-1(2), seeking a depredation permit pursuant to these circumstances shall apply to the Commission using an application available from the Commission. The application shall include the following information:~~
  - (A) ~~the name and location of the city;~~
  - (B) ~~the acreage of the affected property;~~
  - (C) ~~a map of the affected property;~~
  - (D) ~~the signature of an authorized city representative;~~
  - (E) ~~the nature of the overabundance or the threat to public safety; and~~
  - (F) ~~a description of previous actions taken by the city to ameliorate the problem.~~

(g) The following shall apply to depredation permits:

- (1) the permits shall be prepared on a form supplied by the Commission; and
- (2) the permits shall only be issued by authorized employees of the Commission or licensed Wildlife Control Agents (WCA).
- (3) each permit shall have an expiration date.
- (4) the permit shall name the species allowed to be taken and may include limitations as to age, sex, type of depredation, location of animal or damage, and local laws.
- (5) the permit shall be issued to a landowner or an authorized representative of a unit of local government for depredations on public property.
- (6) the permit shall be used only by individuals named on the permit.
- (7) permit authorizes the possession of wildlife resources taken under the authority of the permit.
- (8) the permits shall be retained as long as the wildlife resource is in the authorized individual's possession.

~~(e) Each depredation permit shall have an expiration date. A depredation permit authorizes the possession of wildlife resources taken under the authority of the permit. Depredation permits shall be retained as long as the wildlife resource is in the authorized individual's possession. Individuals taking wildlife resources under the authority of a depredation permit shall comply with the conditions of the permit and the requirements specified in this Rule.~~

(h) Individuals taking wildlife resources under the authority of a depredation permit shall comply with the conditions of the permit and the requirements specified in this Rule.

(f)(i) Manner of Taking: The following shall apply to manner of take:

- (1) ~~Taking Without a Permit.~~ Wildlife taken without a permit while committing depredations to property may, during the open season ~~on~~ for the species, be taken by the ~~landholder~~ landowner by any lawful method. During the closed season, such depredating wildlife may be taken without a permit only by ~~the~~ use of firearms or archery equipment as defined in 15A NCAC 10B .0116.
- (2) ~~Taking With a Permit.~~ Wildlife taken under a depredation permit may be taken only by the method or methods 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, within which the traps shall be set. The Executive Director, Commission employee, or WCA may also state in a permit authorizing trapping whether or not bait or lure may be used and the type of bait or lure that is authorized based upon factors such as type of depredation, locations of animal or damage, and local laws. In addition to any trapping restrictions that may be contained in the permit, the method of trapping shall 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, G.S. 143, Article 52, the Structural Pest Control Act of 1955, G.S. 106, Article 4C, and G.S. 113, Article 22A. No depredation permit shall authorize the taking of wildlife by any method by any ~~landholder~~ landowner upon the lands of another except when the individual is listed as a second party on a depredation permit.
- (3) ~~Intentional Wounding. It is unlawful for any~~ Any landholder, landowner, with or without a depredation permit, or second party on a depredation permit to shall not intentionally wound a wild animal in a manner ~~so as not to~~ that will not cause its immediate death as suddenly and humanely as the circumstances permit.

(g)(j) Disposition of Wildlife Taken: The following shall apply to the disposition of wildlife taken:

- (1) ~~Generally.~~ Except as provided by Subparagraphs (2) through ~~(5)~~(7) of this Paragraph, any wildlife killed without a permit while committing depredations shall be buried or disposed of in a safe and sanitary manner on the property where taken. Wildlife killed under a depredation permit shall be buried or

~~otherwise disposed of as stated on the permit. 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 shall have the depredation permit in his or her possession. Except as provided by Subparagraphs (2) through (5) of this Paragraph, all wildlife killed under a depredation permit shall be buried or otherwise disposed of as stated on the permit.~~

(2) 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 shall have a copy of the depredation permit in his or her possession.

(2)(3) Deer and feral swine. The edible portions of feral swine and deer may be retained by the ~~landholder~~ landowner for consumption but shall not be transported from the property where the depredations took place without a valid depredation permit. The ~~landholder~~ landowner may give a second party the edible portions of feral swine or deer taken under a depredation permit. The receiver of the edible portions shall hold a copy of the depredation permit. The nonedible portions of any deer carcass, including head, hide, feet, and antlers, shall be disposed of as specified in Subparagraph (1) ~~or (2)~~ of this Paragraph or turned over to a Commission employee wildlife enforcement officer for disposition.

(3)(4) ~~Fox.~~ Any fox killed under a depredation permit may be disposed of as described in Subparagraph (1) ~~or (2)~~ of this Paragraph 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.

(4)(5) ~~Furbearing Animals.~~ The carcass or pelt of any furbearing animal killed during ~~the their~~ their open season for ~~taking such furbearing animal 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; license, provided further that bobcats~~ license. ~~Bobcats and otters may only be sold upon compliance with any required fur tagging requirement set forth in 15A NCAC 10B .0400.~~

(5)(6) ~~Animals Taken Alive.~~ Wild animals in the order Carnivora, armadillos, groundhogs, nutria, and beaver shall be humanely euthanized either at the site of capture or at a facility designed to humanely handle the euthanasia, or such wild animals must be released on the property where ~~captured.~~ captured with permission from the

landowner. Feral swine shall be euthanized while still in the trap in accordance with G.S. 113-291.12. Animals transported or held for euthanasia shall be euthanized within 12 hours of possession. Anyone in possession of live animals being transported for relocation or euthanasia under a depredation permit shall have a copy of the depredation permit in his or her possession. For all other animals taken ~~alive, the animal shall be euthanized or released on property with permission of the landowner.~~ When the relocation site is public property, written permission shall be obtained from the local, State, or federal official authorized to manage the property before any animal may be released. ~~Animals transported or held for euthanasia shall be euthanized within 12 hours of possession. Anyone in possession of live animals being transported for relocation or euthanasia under a depredation permit shall have the depredation permit in his or her possession.~~

(7) The edible portions of bear may only be retained by the landowner for consumption but shall not be transported from the property where the depredations took place without a valid depredation permit. The landowner may give a second party the edible portions of a bear taken under a valid depredation permit. The receiver of the edible portions shall hold a copy of the depredation permit. The complete carcass of a bear taken without a depredation permit and nonedible portions of any bear carcass, including head, hide, feet, claws, and internal organs, from a bear taken under a valid depredation permit shall be disposed of as specified in Subparagraph (1) or (2) of this Paragraph or turned over to a Commission employee for disposition.

(h)(k) Reporting Requirements. Any ~~landholder~~ landowner who kills an alligator; coyote in the counties of Beaufort, Dare, Hyde, Tyrrell, or Washington; deer; Canada goose; bear; elk; or wild turkey under a valid depredation permit shall report the number and species of animal(s) kill or killed upon the expiration date of the depredation permit to the Wildlife Resources Commission on the form provided with the permit, or through the website link provided on the permit, including the number and species of animal(s) killed, and submit the form upon the expiration date of the depredation permit to the Commission. Any ~~landowner who kills a coyote in the counties of Beaufort, Dare, Hyde, Tyrrell, and Washington shall report the kill, including the number of coyotes killed, on the form provided with the depredation permit. The killing and method of disposition of every alligator; coyote in the counties of Beaufort, Dare, Hyde, Tyrrell, and Washington; bear; or elk taken without a permit shall be reported to the Wildlife Resources Commission within 24 hours following the time of such killing.~~

(l) The killing and method of disposition of every alligator; coyote in the counties of Beaufort, Dare, Hyde, Tyrrell, and

Washington; bear; or elk taken without a permit shall be reported to the Wildlife Resources Commission within 24 hours following the killing.

~~(i)(m)~~ Exemption for Animal Control Officers. Animal Control Officers, as defined by G.S. 130A-184(1) when in the performance of official duties, shall be exempt from obtaining a depredation permit when taking wild animals that:

- (1) exhibit visible signs of rabies;
- (2) exhibit unprovoked aggression that may be associated with rabies;
- (3) are suspected to be rabid; or
- (4) have or may have exposed humans, pets, or livestock to rabies.

*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 .0107 BLACK BEAR**

It is unlawful to take or possess a female bear with a cub or cubs at its side, or to take or possess a cub ~~bear.~~ bear, unless authorized by a valid captivity license, depredation permit, or scientific collection license issued by the Commission. For the purpose of this Rule, a cub bear is defined as specified in G.S. 113-291.7(b), as any bear weighing less than 75 pounds.

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

**15A NCAC 10B .0109 CHASING DEER BY DOGS IN CERTAIN COUNTIES**

(a) It is unlawful to allow Allowing dogs to run or chase deer or to attempt to take deer with dogs at any time in and west of the following counties or parts of counties is prohibited:

- (1) Alamance County south of I-85
- (2) Anson County west of NC 742
- (3) Chatham
- (4) Guilford
- (5) Lee
- (6) Montgomery
- (7) Orange County south of I-85
- (8) Randolph
- (9) Rockingham
- (10) Stanly
- (11) Union
- (12) Wake south of NC 98

~~Alamance County south of I-85; Orange County south of I-85; Chatham County; Lee County; Wake County south of NC 98; and in and west of Rockingham, Guilford, Randolph and Montgomery Counties and that part of Anson County west of NC 742.~~

~~Note: See 15A NCAC 10D .0103 which prohibits any hunting with dogs on game lands during the season for hunting deer with guns in and west of these counties.~~

(b) For counties and parts of counties east of those listed in paragraph (a), local laws may restrict the taking of deer with dogs.

*Authority G.S. 113-134; 113-291.5.*

**15A NCAC 10B .0117 REPLACEMENT COSTS OF WILDLIFE RESOURCES**

*Authority G.S. 113-134; 113-267.*

**15A NCAC 10B .0118 SALE OF WILDLIFE**

~~(a) The carcasses~~ carcasses, parts, or pelts of bobcats, opossums, and raccoon that have been lawfully taken and tagged in accordance with ~~taken by any hunting method, upon compliance with applicable fur tagging requirements set forth in~~ 15A NCAC 10B .0402, may be sold. ~~sold to licensed fur dealers.~~ The sale of carcasses or pelts of bobcats, opossums, and raccoon killed accidentally or taken by hunting for control of depredations shall be permitted under the conditions set forth in 15A NCAC 10B .0106 ~~(e)(4)~~ and 15A NCAC 10B .0127.

~~(b) Except as otherwise provided in Paragraphs (a), (d), (e), and (f) of this Rule, the~~ The sale of lawfully acquired game birds and game animals or their parts thereof is prohibited, except that processed non-edible products ~~other than those made from edible portions may be sold except as otherwise provided in this Rule or by statute. provided that no label or advertisement identifies the product as a game bird, game animal, or part thereof; that the game bird or game animal was lawfully acquired; and the product is not readily identifiable as a game bird or game animal, or part thereof.~~

~~(e) The sale of edible portions or products of game birds and game animals is prohibited, except as may be otherwise provided by statute.~~

~~(d)(c)~~ The dressed pelt or feathers of deer, elk, fox, pheasant, quail, rabbit, or squirrel (fox and gray) may be bought or sold for the purpose of making fishing flies provided that the source of these animals may be documented as being legally obtained from out of state sources or from lawfully operated commercial breeding facilities. The buying and selling of migratory game birds shall be in accordance with 50 C.F.R. 20.91 which is hereby incorporated by reference, including subsequent amendments and editions (<https://www.gpo.gov/fdsys/granule/CFR-2000-title50-vol1/CFR-2000-title50-vol1-sec20-91>).

~~(e)(d)~~ The Executive Director or his designee may issue Trophy Wildlife Sale permits as authorized in G.S. 113-274 for the sale of lawfully taken and possessed individual dead wildlife specimens or their parts that are mounted, stuffed, or otherwise permanently preserved that may be sold under G.S. 113-291.3. A copy of the permit shall be retained with the specimen.

~~(f)(e)~~ Raw hides from any lawfully-taken or possessed white-tailed deer may be sold.

*Authority G.S. 113-134; 113-273; 113-274; 113-276.2; 113-291.3; 113-337; 50 C.F.R. 20.91.*

**15A NCAC 10B .0120 TAKING DEER AND BEAR OF WILDLIFE WITH HANDGUNS**

Handguns of any type may be used to take game, fur-bearing, and nongame animals as defined in G.S. 113-129 during the established open season for take with firearms or trapping for each species, deer and bear. Ammunition of any type may be used ~~to take deer and bear,~~ unless otherwise prohibited by state or federal law.

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

**15A NCAC 10B .0126 STATE HUNTING LICENSE EXEMPTIONS**

(a) Any governmental or non-profit entity conducting an organized hunting event may obtain from the Executive Director or his designee, subject to the requirements in Paragraph (b) of this Rule, an exemption which allows all participants in the event to hunt without first obtaining hunting licenses, but the participants must:

- (1) comply with the hunter safety requirements of G.S. 113-270.1A or be accompanied by a properly licensed adult who maintains a proximity to the license exempt individual which enables the adult to monitor the activities of, and communicate with, the individual at all times;
- (2) report all big game harvested as proscribed in Rule .0113 of this Section;
- (3) obtain a certificate of participation in federal Harvest Information Program, if hunting migratory game birds; and
- (4) obtain a federal Migratory Bird Hunting and Conservation Stamp, if the participant is 16 years of age or older and hunting waterfowl.

(b) The governmental or non-profit entity requesting a state hunting license exemption shall apply using a form provided by the Commission and submit that form to the Chief of the Division of Wildlife Management not less than 21 days prior to the organized hunting event. A statement of purpose for the event must be attached to the completed form. The Executive Director or his designee shall deny any request with a statement of purpose that is:

- (1) inconsistent with the mission of the Wildlife Resources Commission as stated in Paragraph (d) of this Rule; or
- (2) for a purpose other than to promote hunting to youth, disabled people, novice hunters or lapsed hunters.

(c) The person in charge of the event must be on-site at all times and have a copy of the exemption available for inspection on request by Commission personnel. The exemption is limited to the immediate location of the event and shall remain in effect for the time period specified on the exemption.

~~(d) The mission of the N.C. Wildlife Resources Commission is to conserve North Carolina's wildlife resources and their habitats and provide programs and opportunities that allow hunters, anglers, boaters and other outdoor enthusiasts to enjoy wildlife-associated recreation.~~

Authority G.S. 113-134; 113-270.2; 113-276; 113-276.1.

**15A NCAC 10B .0127 POSSESSION OF WILDLIFE KILLED ACCIDENTALLY OR FOUND DEAD**

~~(a) For wildlife killed accidentally or found dead of natural causes the following apply:~~

- ~~(1) When a deer is Deer killed accidentally killed on a road or highway by reason of collision with a motor vehicle, vehicle may be possessed and~~

~~transported if authorization is obtained from the law enforcement officer who investigates the accident shall, upon request, authorize possession accident. Possession and transport of the deer carcass of the deer for personal and lawful use, including delivery of the carcass to a second person for his or her private use or the use by a charitable organization. organization shall be authorized. Commission employees may authorize possession of any deer or turkey found dead of natural causes or as the result of a vehicle collision.~~

(b) Commission employees may authorize possession and transport of deer and turkey killed accidentally or found dead.

- ~~(2) Black bears shall not be possessed. Species listed as endangered, threatened, or of special concern under 15A NCAC 10I .0103, .0104, and .0105 may be possessed with written permission. Raptors and nongame migratory birds may be possessed under federal permits.~~

(c) Black bears killed accidentally or found dead shall not be possessed or transported unless a possession permit is obtained from the Commission.

(d) Species listed as endangered, threatened, or of special concern under 15A NCAC 10I .0103, .0104, and .0105 killed accidentally or found dead may be possessed or transported if an endangered species permit is obtained from the Commission.

(e) Raptors and migratory birds killed accidentally or found dead may be possessed and transported under federal permits obtained from the U.S. Fish and Wildlife Service.

(f) All other wildlife resources may be possessed and transported legally if killed accidentally or found dead.

- ~~(3) For all other wildlife resources possession shall be legal. The sale of any wildlife resources or wildlife parts found dead is prohibited, except licensed trappers and hunters may sell the carcasses or pelt of any beaver, coyote, groundhog, mink, muskrat, nutria, opossum, otter, raccoon, skunk, weasel or bobcat to a licensed fur dealer if the dead furbearing animal was found during the open season for that species. Licensed trappers and hunters may also sell the carcasses or pelt of any fox to a licensed fur dealer if the dead fox was found during an open fox season and the county in which the fox was found allows for the sale of fox carcasses and pelts. All tagging requirements set forth in 15A NCAC 10B .0400 apply.~~

(g) The sale of any wildlife resources or wildlife parts from any animal killed accidentally or found dead is prohibited, except that licensed trappers and hunters may sell the carcasses, parts, or pelt of any armadillo, beaver, coyote, groundhog, mink, muskrat, nutria, opossum, otter, raccoon, skunk, weasel or bobcat to a licensed fur dealer if the dead furbearing animal was found during the open season for that species. Licensed trappers and hunters may also sell the carcasses, parts, or pelt of any fox to a licensed fur dealer if the dead fox was found during an open fox season and the county where the fox was found allows for the sale of fox

carcasses, parts, and pelts. All tagging requirements set forth in 15A NCAC 10B .0400 apply.

Authority G.S. 113-134; 113-274; 113-291.3; 113-291.4; 113-331; 113-333; 113-337.

SECTION .0200 - HUNTING

15A NCAC 10B .0212 FOXES (GRAY AND RED)

(a) Fox Season:

- (1) ~~There shall be no closed season on taking foxes with dogs, except on Bladen Lakes State Forest Game Land from March 15 through July 15;~~
- (2) ~~Foxes may be taken with weapons or traps the first to fourth Saturday in January in the following counties:  
Caswell — Henderson  
Clay — Macon  
Graham — Tyrrell~~
- (3) ~~Foxes may be taken the Saturday before Thanksgiving Day through January 1 using archery equipment in all areas of the State east of Interstate Highway 77 and in Mitchell County.~~

(a) Foxes may be taken with weapons or traps the first through fourth Saturday in January in the following counties:

- (1) Caswell
- (2) Clay
- (3) Graham
- (4) Henderson
- (5) Macon
- (6) Tyrell

(b) Bag Limit for Foxes:

- (1) ~~Except in areas of open season for taking foxes with weapons or traps, foxes shall not be intentionally killed by any method;~~
- (2) ~~For areas of open season detailed in Subparagraph (a)(2) and (a)(3) of this Rule, the following bag limit applies: the daily limit is two; and the season limit is 10.~~

(b) The season for pursuing or taking foxes with dogs on Bladen Lakes State Forest Game Land is August 2 through February 14.

(c) Foxes may be taken the Saturday before Thanksgiving Day through January 1 using archery equipment in all areas of the State east of Interstate Highway 77 and in Mitchell County.

(d) For areas of open season detailed in Paragraphs (a) through (c), the daily limit is two; and the season limit is 10.

(e) ~~Where local laws governing the taking of foxes conflict with this Rule, local laws shall prevail.~~

Authority G.S. 113-134; 113-291.2; 113-291.4; 113-291.4A.

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 coincide with the regular open seasons contained in this Section for squirrels, rabbits, squirrel, rabbit, 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. State. (b) ~~Bag Limits.~~ The daily bag, ~~possession~~ possession, and season limits ~~set forth~~ in this Section for ~~squirrels, rabbits, squirrel, rabbit,~~ 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~~ falconry. ~~except as provided in Paragraph (e) of this Rule.~~

(c) An extended falconry season on rabbits is the Monday on or nearest October 15 through the last day of February.

(d) The daily bag limit for the extended season on rabbits is three, and the possession limit is six.

(e)(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 licensed falconer or person using the raptor shall not take the dead wildlife into his or her ~~possession~~ possession, but shall leave the same game where it lies, ~~provided~~ except that the raptor may be allowed to feed on the 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.~~ licensed falconer.

(d)(f) ~~Hunting After Limit 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.

(e) ~~Extended Seasons.~~ An extended falconry season on rabbits is 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 are three rabbits daily, and a possession limit of six.

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

15A NCAC 10B .0217 PISTOL SEASONS

Authority G.S. 113-134; 113-291.1(g); 50 C.F.R. 20.133.

15A NCAC 10B .0223 FERAL SWINE

(a) ~~This Rule applies to hunting feral swine.~~ There is no closed season for taking feral swine. swine Feral swine may be taken on private lands anytime during the day or night. ~~Feral swine may be taken on public lands without a permit from the hours of one-half hour before sunrise until one-half hour after sunset, and from one-half hour after sunset to one-half hour before sunrise by permit only.~~

(b) Feral swine may be taken on game lands from the hours of one-half hour before sunrise until one-half hour after sunset during the open season for any game animal or game bird using any legal manner of take allowed during those seasons.

(c) Feral swine may be taken on game lands from one-half hour after sunset to one-half hour before sunrise by permit only.

(b)(d) ~~There are no bag limit~~ limits ~~restrictions~~ on feral swine.

(e)(c) ~~Hunters may use artificial lights and electronic calls.~~

Authority G.S. 113-129; 113-134; 113-264; 113-291; 113-291.1; 113-291.2.

SECTION .0300 - TRAPPING

15A NCAC 10B .0302 PROHIBITED TAKING

It is unlawful for any person to ~~No person shall trap, take, or have in possession possess any armadillo, beaver, coyote, groundhog, mink, muskrat, nutria, opossum, otter, raccoon, skunk, weasel or wildcat (bobcat), bobcat, except except: during the open seasons and in accordance with the limits set forth in Rules .0302 and .0303 of this Section or during the open seasons and within the limits prescribed for the particular species under NCAC 10B .0200.~~

Note: See 15A NCAC 10B .0110 as to requirements of tagging and attending traps.

- (1) during the open trapping seasons for that species and in accordance with the bag limits set forth in Rule .0303 of this Section; or
(2) during the open hunting seasons for that species and within the bag limits prescribed for the species in 15A NCAC 10B .0200.

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

15A NCAC 10B .0304 BAG LIMITS

There are no ~~restrictions on bag limits of furbearers, on fur-bearing animals as defined in G.S. 113-129(7a), armadillos, coyotes, groundhogs, and feral swine. swine, except where local laws govern trapping, or conflict with this Rule.~~

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.

15A NCAC 10B .0305 TRAPS

(a) A foothold, steel-jaw or leghold trap set on dry land with a solid anchor shall not have a chain longer than eight inches unless the chain is fitted with a shock-absorbing device with at least 40 pounds and no more than 75 pounds of pressure to stretch or compress the device.

(b) A Collarum™-type trap shall:

- (1) Have a cable that is ~~3/16th~~ 3/16 inch in diameter, a loop stop with a minimum loop diameter of three inches, a relaxing lock, and a breakaway device that has been tested to break or disassemble at no more than 285 pounds of pull.
(2) Have a set capture loop no less than 10 inches and no greater than 12 inches in diameter.
(3) Be equipped with at least one swivel device between the loop and the anchor.
(4) Be staked in a manner that does not allow the animal or the restraint device to reach any part of a fence or reach rooted, woody vegetation greater than 1/2 one-half inch in diameter.
(5) Not be set using a ~~drag drag, or used with a kill pole.~~
(6) Not be used with a kill pole.

Authority G.S. 113-134; 113-291.6.

SECTION .0400 - TAGGING FURS

15A NCAC 10B .0401 DEFINITIONS

As used in this Section, the following definitions shall apply:

- (1) "Affix", when used in reference to attachment of a fur tag to the carcass or pelt of an animal, means permanent attachment of the tag through some portion of the carcass or pelt in ~~such~~ a manner ~~as not to be that is not~~ removable without damage to the tag;
(2) "Carcass" means the dead body of an animal from which the pelt ~~thereof~~ has not been removed;
(3) "Fur dealer" means any person who is licensed under the provisions of G.S. 113-273(f); Paragraph (f) of Section 113-273 of the General Statutes of North Carolina;
(4) "Pelt" means the fur, hide, or skin of an animal which has been removed from the ~~carcass thereof, carcass,~~ but does not include a finished product which has been manufactured from such fur, hide or skin or is in the active process of such manufacture;
(5) "Person" means any individual, firm, ~~corporation~~ corporation, or association which is authorized by law to act as an entity.
(6) "Parts" means any part or portion from the dead body of an animal, including the meat, glands, urine, skull, and dead body of the animal without the pelt.

Authority G.S. 113-129; 113-134; 113-273; 113-291.4.

15A NCAC 10B .0404 ~~TRAPPERS AND HUNTERS~~ TAGGING

(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 appropriate tag to ~~each the carcass or pelt before selling, transferring, or transporting within or outside the state, selling or transferring the same to any 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, 113-291.4 (f) and (f1), without tagging them and sell them to a licensed controlled hunting preserve for fox in accordance with G.S. 113-273(g).

(5) A licensed taxidermist may ship to a tannery for processing.

~~No carcass or pelt of any bobcat, otter or fox taken within this State may be removed from the state without an appropriate 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 after the end of the season, except those in a licensed taxidermist's place of business or his or her taxidermy preservation facility, shall be properly tagged by him or her within 30 days following the close of such season, provided that no tags shall be shipped from the Commission to a person 23 consecutive days from the close of the season. When the U.S. Fish and Wildlife Service repeals its tagging requirements for otter and bobcat this Paragraph shall apply only to tagging foxes.~~

~~(e) 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, 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 an appropriate 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.~~

~~(c) Carcasses and pelts of bobcats, otters, and foxes taken within this State shall not be removed from the state without an appropriate fur tag affixed thereto, except a licensed taxidermist may ship the same to a tannery for processing. When the U.S. Fish and Wildlife Service repeals its tagging requirements for otter and bobcat this Paragraph shall apply only to tagging foxes.~~

~~(d) Where the taking of foxes with weapons or traps, and the sale thereof is authorized by local legislation, except foxes taken by licensed trappers who live-trap for sale during any open season, the hunter or trapper taking the fox shall, in the absence of a specific provision to the contrary, obtain and affix the carcass or pelt with an appropriate tag before selling or transferring 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.*

**15A NCAC 10B .0405 FUR DEALERS**

~~(a) It is unlawful for any fur dealer licensed or otherwise authorized to deal in furs in this State, or any person or agent acting in his behalf, to buy or accept delivery from any person the carcass or pelt of any fox taken within the State which has not been previously affixed with a tag provided by the North Carolina Wildlife Resources Commission as required by this Section.~~

~~(b) It is unlawful for any fur dealer to import into this State the carcass or pelt of any otter or bobcat which has not been previously affixed with a tag required and supplied by the state in which the animal was taken. It is unlawful for any fur dealer, or agent of a fur dealer, to import into this State or to accept delivery of a carcass or pelt of any fox from a source located in any other~~

~~state which does not by law or regulation require tagging of such carcasses or pelts, or a carcass or pelt of any fox which has not been tagged in accordance with the tagging requirements of the state from which it is imported, unless documentation of the date and hour of the arrival of such carcass or pelt at such fur dealer's place of business is available for inspection and such carcass or pelt is affixed with a fur tag provided by the North Carolina Wildlife Resources Commission within seven days after the date and hour of such arrival. No such carcass or pelt shall be resold or removed from such fur dealer's place of business without having been tagged as required by this Section. When the U.S. Fish and Wildlife Service repeals its tagging requirements for otter and bobcat this Paragraph shall apply only to tagging foxes.~~

~~(e) Any fur dealer or agent of a fur dealer authorized to do business in this State may import and accept delivery in this State of the carcass or pelt of any bobcat, otter or fox which has been affixed with a tag when and as required by the laws or regulations of the state from which such carcass or pelt is imported. When the U.S. Fish and Wildlife Service repeals its tagging requirements for otter and bobcat this Paragraph shall apply only to tagging foxes.~~

~~(d) Except as provided by Paragraph (b) of this Rule, it is unlawful for any fur dealer licensed to do business in this State to have in possession the carcass or pelt of any bobcat, otter or fox which has not been affixed with a fur tag provided by the North Carolina Wildlife Resources Commission or a tag required by the laws or regulations of the state from which the same was imported. When the U.S. Fish and Wildlife Service repeals its tagging requirements for otter and bobcat this Paragraph shall apply only to tagging foxes.~~

~~(e) Each fur dealer licensed to do business in this State shall maintain records of all acquisitions of carcasses and pelts of beaver, bobcat, mink, muskrat, nutria, opossum, otter, raccoon, skunk, weasel, and foxes. Such records shall consist of receipts, copies of receipts, or other written evidence of the transactions showing the sources and numbers of acquisition. Each fur dealer shall provide the Wildlife Resources Commission with monthly reports, made on forms supplied by the Commission, summarizing all acquisitions of carcasses and pelts of such animals, except those which have been acquired from and reported by other fur dealers licensed by the State. The reports shall include all such acquisitions made during each month beginning with October and ending with March of the following year; shall distinguish between acquisitions made within the State and those made from without the State; and, if acquired from within the State, shall indicate the counties in which the animals were taken. The report covering each month shall be mailed or delivered to the Commission on or before the 15th day of the next succeeding month. The records required by this Paragraph and the inventory of carcasses and pelts on hand shall be made available for inspection by any officer or representative of the Wildlife Resources Commission upon request at all reasonable times. In the case of nonresident fur dealers licensed to do business in this State, the records and reports required by this Paragraph apply only to carcasses or pelts of animals acquired from within this State, and no reports are required from nonresident fur dealers who acquire pelts only from other fur dealers licensed in the State.~~

~~(a) Any individual wanting to engage in the business of buying or selling fur-bearing animals or other wild animals that may~~



lawfully be sold, as specified in G.S. 113-273(f), shall first obtain a fur dealer license from the Commission.

(b) Application for a fur dealer license shall be made online at www.ncwildlife.org or at the Commission headquarters located at 1751 Varsity Drive, Raleigh, NC 27606. Information required from the applicant shall include:

- (1) the applicant's name, address, telephone number, date of birth; and
- (2) a list of all employees to be covered under the license.

(c) The fur dealer license shall not be transferable.

(d) Any individual working on behalf of the licensed fur dealer shall have a copy of the fur dealer's current license.

(e) It is unlawful for any fur dealer, or person acting on his or her behalf, to import, buy, or accept delivery of a carcass or pelt of any fur-bearing animal or other wild animal from a source located in any other state that has not been affixed with a tag in accordance with the tagging requirements of the state from which the animal was taken, unless documentation of the date and hour of the arrival of such carcass or pelt at the fur dealer's place of business is available for inspection

(f) Imported carcasses and pelts shall not be resold or removed from a fur dealer's place of business without having been tagged as required by Paragraph (e) of this Rule.

(g) Except as provided by Paragraph (e) of this Rule, it is unlawful for any licensed fur dealer to have in his or her possession, the carcass or pelt of any bobcat, otter or fox which has not been affixed with a fur tag provided by the Commission unless the fox was taken from a county exempt from fox tagging requirements.

(h) Licensed fur dealers shall maintain records of all acquisitions of carcasses and pelts of beaver, bobcat, coyote, mink, muskrat, nutria, opossum, otter, raccoon, striped skunk, spotted skunk, weasel, and foxes. Such records shall consist of receipts, copies of receipts, or other written evidence of the transactions showing the sources and numbers of acquisition.

(i) Monthly reports shall be submitted to the Commission on or before the 15<sup>th</sup> day of the succeeding month on forms supplied by the Commission at www.ncwildlife.org or at the Commission headquarters located at 1751 Varsity Drive, Raleigh, NC 27606-2576. Reports shall include the following:

- (1) all acquisitions of carcasses and pelts, except those which have been acquired from and reported by other fur dealers licensed by the State;
- (2) all acquisitions made during each month beginning with October and ending with March of the following year;
- (3) distinguishment between acquisitions made within the State and those made from outside the State; and
- (4) counties in which the animals were taken if within the State.

In the case of nonresident fur dealers licensed to do business in this State, the records and reports required by this Paragraph apply only to carcasses or pelts of animals acquired from within this State, and no reports are required from nonresident fur dealers who acquire pelts only from other fur dealers licensed in the State.

(j) The records required by Paragraph (i) of this Rule and the inventory of carcasses and pelts on hand shall be made available for inspection by representatives of the Commission upon request or during the fur dealer's business hours.

~~(f) The tagging requirements of Paragraph (a) of Rule .0402 of this Section and of Paragraphs (b) and (d) of this Rule do not apply to the pelts or furs of foxes that are imported into this State by a fur dealer operating under a valid North Carolina Fur Dealer Station License at a fixed place of business or to such pelts or furs delivered to the place of business of such fur dealer by a seller from another state provided that the following conditions are satisfied:~~

- ~~(1) the nonresident seller is a licensed fur dealer in the state from which the pelts or furs originated;~~
- ~~(2) the resident dealer has available for inspection a dated, signed bill of sale indicating the precise number of green pelts and dry pelts of fox purchased in each lot of imported fur; the name, address, and fur dealer license number of the seller; and the date of arrival of the lot of pelts at the licensed place of business;~~
- ~~(3) imported green pelts of fox are kept separate from the green pelts of native fox during processing and are readily identifiable as to imported lot number and bill of sale;~~
- ~~(4) imported dry pelts of fox are not batched with native dry pelts of fox unless such pelts are marked in a manner that readily identifies them as to imported lot number and bill of sale;~~
- ~~(5) such imported, untagged pelts of fox are imported, processed, and stored only for sale and export to buyers in other states; and~~
- ~~(6) such imported, untagged pelts of fox are not held on the premises for longer than 21 days from the date of arrival without having been tagged as required by Rule .0402(a) of this Section.~~

*Authority G.S. 113-129; 113-134; 113-273; 113-291.3; 113-291.4; 50 C.F.R. 23; 87 Stat. 884.*

**15A NCAC 10B .0406 MISUSE OF TAGS**

(a) It is unlawful for any person to affix any fur tag ~~Fur tags shall only be affixed to the carcass or pelt of any the species of animal other than that for which its their use is authorized authorized, and it is unlawful to buy or sell any bobcat, otter, or fox carcass or pelt which has an unauthorized tag so affixed. When the U.S. Fish and Wildlife Service repeals its tagging requirements for otter and bobcat this Paragraph shall apply only to tagging foxes.~~

(b) It is unlawful to buy or sell any bobcat, otter, or fox carcass or pelt that has an unauthorized tag affixed.

~~(b)(c)~~ It is unlawful for any person to sell or transfer any unused Unused fox tag tags shall not be sold or transferred to any other person. It is unlawful for any person to sell any unused fur tag for a price greater than the fee listed for such tag in Paragraph (c) of Rule .0403 of this Section.

(d) Unused fur tags shall not be sold for a price greater than the fee listed for such tag in Paragraph (c) of Rule .0403 of this Section.

~~(e)(c) Fur tags shall not be reused or removed from any person to reuse a fur tag or to remove the same from the pelt to which they are affixed prior to delivery to a manufacturer or fur processor.~~  
~~(d)(f) It is unlawful to counterfeit or modify any fur tag. Fur tags shall not be counterfeit or modified.~~

Authority G.S. 113-134; 113-135; 113-135.1; 113-273; 113-276.1; 113-291.4.

**SUBCHAPTER 10C - INLAND FISHING REGULATIONS**

**SECTION .0200 - GENERAL REGULATIONS**

**15A NCAC 10C .0203 RECIPROCAL LICENSE AGREEMENTS**

(a) Virginia. In accordance with a reciprocal license agreement between the States of North Carolina and Virginia, ~~and North Carolina~~, all valid fishing licenses and permits ~~authorizing sport fishing and~~ legally obtained from the Virginia Department of ~~Game and Inland Fisheries Wildlife Resources~~ or the North Carolina Wildlife Resources Commission, or the duly authorized agents of either, shall be reciprocally honored for the purpose of fishing by means of: rod and reel, hook and line, casting, or trotline in the Dan River east of the Union Street Dam at Danville, and east of the mouth of Difficult Creek on the Staunton River arm of Kerr Reservoir to the Gaston Dam on the Roanoke River, including all tributary waters lying in either Virginia or North Carolina that are accessible by boat from the main bodies of the Kerr and Gaston Reservoirs, or from the Island Creek subimpoundment. Senior citizen and juvenile license exemptions authorized by either state shall be honored by both states. In addition, all valid fishing licenses and permits legally obtained from the Virginia Department of Game and Inland Fisheries or the North Carolina Wildlife Resources Commission, or the duly authorized agents of either, shall be reciprocally honored for fishing with rod and reel, hook and line, or by casting in that portion of the New River between the confluence of the North and South forks of the New River in North Carolina (Alleghany County) and the confluence of the New and Little Rivers in Virginia (Grayson County): with rod and reel, or hook and line, in the following waters:

- (1) Portions of New River:
  - (A) between the confluence of the North and South fork of the New River in Allegheny County North Carolina; and
  - (B) confluence of New and Little Rivers in Grayson County Virginia.
- (2) Dan River east of the Union Street Dam at Danville;
- (3) Staunton River arm of Kerr Reservoir East of the mouth of Difficult Creek;
- (4) Kerr Reservoir;
- (5) Lake Gaston; and
- (6) all tributary waters in either Virginia or North Carolina that are accessible by boat from the main bodies of the Kerr and Gaston Reservoirs, from the Island Creek subimpoundment.

(b) Georgia. In accordance with a reciprocal license agreement between the States of North Carolina and Georgia, all valid ~~statewide fishing licenses, licenses and permits permits, and license exemptions required by and~~ legally obtained from the Georgia Department of Natural Resources, the North Carolina Wildlife Resources Commission Commission, or the Georgia Department of Natural Resources, or duly authorized agents of either, shall be reciprocally honored for the purposes of fishing with hook and line in all of Chatuge Reservoir including all tributary waters lying in either Georgia or North Carolina that are accessible by boat from the main body of Chatuge Reservoir. All persons fishing in the waters of Chatuge Reservoir beyond the bounds of the state from which they hold a valid fishing license, shall be authorized to fish with said license only from boats not anchored to the shore or to a pier or boat dock connecting to the shore. Senior citizen and juvenile license exemptions authorized by either state shall be honored by both states.

(c) Tennessee. In accordance with a reciprocal license agreement between the States of North Carolina and Tennessee, all valid ~~statewide inland~~ fishing licenses and permits obtained from the Tennessee Wildlife Resources Agency, the North Carolina Wildlife Resources Commission Commission, or the Tennessee Wildlife Resources Agency, or the duly authorized agents of either, shall be reciprocally honored for the ~~purposes of fishing with hook and line or fishing in designated mountain trout waters, in that portion of Slick Rock Creek that coincides with the state line between North Carolina and Tennessee and in all of Calderwood Reservoir. Purpose of fishing with rod and reel, or hook in line in the following waters:~~

- (1) The portion of Slick Rock Creek that coincides with the state line between North Carolina and Tennessee; and
- (2) Calderwood Reservoir.

Authority G.S. 113-134; 113-275; 113-304.

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

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

- (1) "set hook" means a fishing device consisting of a single line having no more than three hooks that is attached at one end only to a stationary object.
- (2) "jug hook" means a fishing device consisting of a single line having no more than three hooks that is attached to a float.
- (3) "trotline" means a fishing device consisting of a horizontal common line having multiple hooks attached.

(b) ~~Except as otherwise prohibited in this Rule, trotlines, Trotlines, jug hooks, and set hooks may be set in the inland waters of North Carolina, provided no live bait is used. used, except that they: Trotlines, jug hooks, and set hooks may not be set in any of the impounded waters on the Sandhills Game Land. Trotlines, jug hooks, and set hooks may not be set in any designated public mountain trout waters except impounded waters of power reservoirs and municipally owned water supply reservoirs open to the public for fishing. In Lake Waccamaw, trotlines, jug hooks, or set hooks may be set only from October 1 through April 30.~~

- (1) may not be set in any of the impounded waters on the Sandhills Game Land;
- (2) may not be set in any designated public mountain trout waters except impounded waters of power reservoirs and municipally-owned water supply reservoirs open to the public for fishing; and
- (3) in Lake Waccamaw, trotlines, jug hooks, or set hooks may be set only from October 1 through April 30.

~~(c) Each trotline, set hook, and jug hook shall bear legible and indelible identification of the user's name and address or the user's Wildlife Resources Commission customer number. 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 discernible by boat operators and swimmers. Trotlines shall 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 70 per boat. All trotlines, set hooks, and jug hooks shall be fished at least once daily and all fish removed at that time. Trotlines, set hooks, and jug hooks without bait or not labeled as described in this Paragraph may be removed from the water by wildlife enforcement officers. It is unlawful to use metal cans or glass jugs as floats.~~

(d) Each trotline and set hook shall be conspicuously marked at each end with a flag, float, or other prominent object so that its location is readily discernible by boat operators and swimmers.

(e) Trotlines shall be set parallel to the nearest shore in all inland fishing waters unless otherwise prohibited.

(f) The number of jug hooks that may be fished is limited to 70 per boat.

(g) All trotlines, set hooks, and jug hooks shall be fished at least once daily with all fish removed.

(h) Trotlines, set hooks, and jug hooks without bait or not labeled as described in this Paragraph may be removed from the water by wildlife enforcement officers.

(i) It is unlawful to use metal cans or glass jugs as floats.

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

**15A NCAC 10C .0214 FISH COLLECTORS**

~~(a) Collection Licenses. The Executive Director is authorized to A collection license may be issues to qualified individuals to take or collect any species of fish from the inland fishing waters of the State, or inland game fish from the joint or coastal waters, waters, other than an endangered or threatened species. Such license shall be issued upon payment of a fee of five dollars (\$5.00), except that licenses may be issued to representatives of educational or scientific institutions or of governmental agencies without charge. Such license may be used in lieu of any other fishing license required by law and shall authorize possession and transporation of the fish incidental to the authorized taking.~~

(b) Individuals interested in obtaining a collection license shall apply by sending an application to 1701 Varsity Drive, Raleigh, NC 27606 or by completing and submitting an application online at [www.ncwildlife.org](http://www.ncwildlife.org). Information required by the applicant shall include

- (1) name, address, date of birth, email, and driver's license number;
- (2) species information;
- (3) organizational affiliation, if any; and
- (4) full documentation of research or educational proposal(s), if applicable.

(c) The Commission shall consider the following qualifications when issuing a license:

- (1) prior research or educational experience in the same or similar field;
- (2) work with or for an educational institution;
- (3) type of study requested of license (harvest or catch and release);
- (4) current status and quantity of species requested;
- (5) collection methodology proposed; and
- (6) disposition of collection.

(d) A collection license may be used in lieu of any other fishing license required by law and shall authorize possession and transportation of the fish incidental to the authorized taking.

(e) A collection license may be issued:

- (1) upon payment of the license fee.
- (2) to any individual, so long as the take is not deemed harmful to the efficient conservation of the species to be collected or to other fish or wildlife resources that may be dependent thereon.

(f) Endangered and threatened species shall not be taken or collected under a collection license except with a valid endangered species permit.

(g) Unless a more limited duration is designated on the license, collection licenses shall be valid from January 1 through December 31 of the applicable year.

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

~~(e)(h) Methods of Taking. The manner of taking fish under a collection license may be specified by the Executive Director on the license and need not be restricted to the usual methods of lawful fishing.~~

~~(d) Term of License. The Executive Director may, in his discretion, impose time limits, but unless so restricted the license shall be valid from January 1 through December 31 of the applicable year.~~

~~(e)(i) Report of Collecting Activity. Each individual licensed under this Rule Licensed individuals shall submit a written report the following information to the Commission Executive Director within 15 days of license expiration, following the date of expiration of the license. The report shall be on a form supplied by the Wildlife Resources completed online at [www.ncwildlife.org](http://www.ncwildlife.org) and include: 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.

- (1) the numbers of each species taken under the license;
- (2) the use or disposition thereof; and
- (3) the date and waterbody of taking.

Depending on the species taken, additional information including the sex, size, weight, age, and condition of species taken may be required.

~~(f)(j) Other Requirements and Restrictions.~~ The Executive Director or his or her designee may, in his discretion, pursuant to G.S. 113-272.4(d), impose such other requirements and further restrictions or conditions on persons individuals licensed under this Rule as he may deem deemed to be necessary to the efficient administration of the wildlife conservation laws and regulations. Rules.

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

**15A NCAC 10C .0215 REPLACEMENT COSTS OF WILDLIFE RESOURCES - FISH**

Authority G.S. 113-134; 113-267.

**15A NCAC 10C .0216 STATE INLAND FISHING LICENSE EXEMPTIONS**

(a) The Commission may exempt participants of an organized fishing event conducted by a governmental or non-profit entity from obtaining an inland fishing license. Any governmental or non-profit entity conducting an organized fishing event for educational or therapeutic purposes may obtain from the Commission an exemption from the requirements of the fishing license for participants in the event.

(b) The state inland fishing license exemption shall only be issued when all the following information required by these Rules contained on a form provided by the Commission is submitted by the applicant on a form found online at [www.ncwildlife.org](http://www.ncwildlife.org) to the Chief of the Division of Inland Fisheries not less than 21 days prior to the organized fishing event, subject to the following conditions: event:

- (1) applicant name, address, phone number, and email address;
- (2) applicant organization name and address;
- (3) date, time, and location of event; and
- (4) estimated number of event attendees and event description.

(c) The state inland fishing license exemption is subject to the following conditions:

- (1) The person in charge of the event must be on-site at all times and have a copy of the exemption available for inspection on request by Commission personnel; and
- (2) The exemption shall be limited to the immediate location of the event and shall remain in effect only for the duration of the event.

~~(e)(d)~~ The Commission may require that a the applicant applicants submit participant information for those fishing under the exemption. receiving a state fishing license exemption report

both the number of male participants and the number of female participants less than 16 years of age and the names of participants 16 years of age and older who do not have a fishing license.

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

\*\*\*\*\*

Notice is hereby given in accordance with G.S. 150B-21.2 that the Wildlife Resources Commission intends to amend the rule cited as 15A NCAC 10F .0310.

**Link to agency website pursuant to G.S. 150B-19.1(c):** <https://www.ncwildlife.org/Proposed-Regulations>

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

**Public Hearing:**

**Date:** June 8, 2022

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

**Location:** Register online here: [https://ncwildlife.org.zoomgov.com/webinar/register/WN\\_vKINYYzIToASohAuGuQIvw](https://ncwildlife.org.zoomgov.com/webinar/register/WN_vKINYYzIToASohAuGuQIvw)

Join by phone toll free (833 568 8864 )

using Webinar ID: 160 368 9801

**Reason for Proposed Action:** Extends the no-wake zone shore to shore in Mill Creek, to include a small area of Pamlico Sound between Big Island and the mainland at Avon to mitigate hazards to boating and water recreation safety.

**Comments may be submitted to:** Rulemaking Coordinator, 1701 Mail Service Center, Raleigh, NC 27699; email [regulations@ncwildlife.org](mailto:regulations@ncwildlife.org)

**Comment period ends:** July 15, 2022

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

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

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

- State funds affected
- Local funds affected
- Substantial economic impact ( $\geq$  \$1,000,000)

- Approved by OSBM**  
 **No fiscal note required**

curving to the southwest roughly parallel to SR 1289 otherwise known as C B Daniels SR Road to its end.

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

**SUBCHAPTER 10F - MOTORBOATS AND WATER SAFETY**

**SECTION .0300 - LOCAL WATER SAFETY REGULATIONS**

**15A NCAC 10F .0310 DARE COUNTY**

(a) Regulated Areas. This Rule shall apply to the following waters and portions of waters in Dare County:

- (1) Manteo. Doughs Creek off of Shallowbag Bay and all canals off of Shallowbag Bay.
- (2) Hatteras.
  - (A) the waters of Pamlico Sound otherwise known as Hatteras Harbor and Muddy Creek bounded on the north and south by the high-water mark, on the west by a straight line between channel markers number 20 and 17 at the entrance to Hatteras Harbor, and on the east by the mouth of Muddy Creek at Sandy Bay at a point at 35.22801 N, 75.68050 W; and
  - (B) Hatteras Ferry Terminal and United States Coast Guard basins ending at Coast Guard Beacon Number One in the Hatteras Channel.
- (3) Mann's Harbor. Old Ferry Dock Road Canal, beginning at a point at 35.90654 N, 75.76916 W.
- (4) Nags Head.
  - (A) the canals of Old Nags Head Cove where the canal entrance meets Roanoke Sound beginning at a point at 35.94192 N, 75.62571 W;
  - (B) the Roanoke Sound inlets at Pond Island on either side of W. Marina Drive extending north from U.S. Highway 64-264.
- (5) Wanchese.
  - (A) Wanchese Harbor otherwise known as Mill Landing Creek, beginning at its entrance from Roanoke Sound at a point at 35.84006 N, 75.61726 W; and
  - (B) the canal from its beginning where it connects with Roanoke Sound south of the dead-end road SR 1141 otherwise known as Thicket Lump Drive, extending northwest roughly parallel to SR 1141, SR 1142 otherwise known as The Lane, and SR 1143 otherwise known as Tink Tillet Road, then westward roughly parallel to N.C. Highway 345, and finally

- (6) Stumpy Point Canal shore to shore, beginning 50 yards west of the Wildlife Resources Commission boating access area.
- (7) Stumpy Point Basin off of Stumpy Point Bay, east of U.S. Highway 264 where it intersects Stumpy Point Bay at a point at 35.69591 N, 75.77264 W.
- (8) Town of Southern Shores. ~~canals~~ Canals and lagoons within the Town of Southern Shores north of U.S. Highway 158.
- (9) Colington Harbour. The waters in the canals of Colington Harbour Subdivision on Albemarle Sound.
- (10) Kitty Hawk. ~~the~~ The waters contained in the canals of Kitty Hawk Landing Subdivision.
- (11) Washington Baum Bridge. Roanoke Sound from marker 24B north of the bridge to marker 24A south of the bridge, and 50 yards east of the navigation span west to the shore as designated by the appropriate markers.
- (12) Kill Devil Hills. Baum Bay Harbor, beginning at a point at 36.00572 N, 75.68105 W.
- (13) Avon. ~~Mill Creek beginning at its entrance at Pamlico Sound at a point at 35.36434 N, 75.50603 W.~~ The waters of Pamlico Sound shore to shore beginning at a line from a point on the east shore of Big Island at 35.36653 N, 75.50770 W westward to a point on the mainland at 35.36653 N, 75.50556 W, south to include the waters of the cove between North Albacore Lane and South Albacore Lane and the waters of Mill Creek, and ending east of a line from a point on the south shore of Big Island at 35.36500 N, 75.50820 W southward to a point on the mainland at 35.36358 N, 75.50826 W.
- (14) Jean Guite Creek. Jean Guite Creek from where it meets Kitty Hawk Bay at 36.04887 N, 75.72754 W, north to a line from a point on the east shore in Southern Shores at 36.10460 N, 75.74192 W to a point on the west shore in Martin's Point Subdivision at 36.10452 N, 75.73948 W.
- (15) Frisco. The waters of the marina canal and boat basin at Palmetto Shores Subdivision, shore to shore beginning at the canal's entrance at Pamlico Sound at a point at 35.25427 N, 75.60301 W.

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

(c) Swimming Area. No person operating or responsible for the operation of any vessel, surfboard, water skis, or jet skis shall permit it to enter the marked swimming area at Colington Island on the west shore, from a point where the canal enters the harbor at 36.01797 N, 75.72681 W, north 600 feet to a point at 36.01964

N, 75.72683 W and extending 300 feet west into Albemarle Sound.

(d) Placement of Markers. The following agencies shall be the designated agencies for placement of markers implementing this Rule, subject to the approval of the United States Coast Guard and the United States Army Corps of Engineers:

- (1) the Board of Commissioners of the Town of Manteo for the areas indicated in Subparagraph (a)(1) of this Rule;
- (2) the Board of Commissioners of Dare County for the areas indicated in Subparagraphs (a)(2) through (a)(7), (a)(9) and (a)(11) through (a)(15) of this Rule;
- (3) the Board of Commissioners of the Town of Southern Shores for the areas indicated in Subparagraph (a)(8) of this Rule; and
- (4) the Board of Commissioners of the Town of Kitty Hawk for the area indicated in Subparagraph (a)(10) of this Rule.

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

TITLE 21 - OCCUPATIONAL LICENSING BOARDS AND COMMISSIONS

CHAPTER 10 – BOARD OF CHIROPRACTIC EXAMINERS

Notice is hereby given in accordance with G.S. 150B-21.2 that the Board of Chiropractic Examiners intends to amend the rule cited as 21 NCAC 10 .0203.

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

Proposed Effective Date: October 1, 2022

Public Hearing:

Date: May 31, 2022

Time: 10:00 a.m.

Location:

Join Zoom Meeting:

https://us02web.zoom.us/j/86228348189?pwd=K0I3NWdBRmVUTTdQUE1GN3hmUU9WUT09;

Meeting ID: 862 2834 8189;

Passcode: 014380

Reason for Proposed Action: To clarify which national board exams are required for licensure and to clarify which exams are required for reciprocity applicants.

Comments may be submitted to: Dr. Joe Siragusa, NC Board of Chiropractic Examiners, 9121 Anson Way, Suite 200, Raleigh, NC 27615

Comment period ends: July 15, 2022

Procedure for Subjecting a Proposed Rule to Legislative

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

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

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

SECTION .0200 - PRACTICE OF CHIROPRACTIC

21 NCAC 10 .0203 NORTH CAROLINA EXAMINATION

(a) Eligibility. Only those applicants who meet the requirements of this Rule and G.S. 90-143 or, in the case of reciprocity applicants, G.S. 90-143.1, and who have submitted a written application and paid the non-refundable application fee pursuant to Rule 21 NCAC 10 .0202 shall be allowed to take the North Carolina examination.

(b) Dates of Examination. The North Carolina examination shall be given at least four times during the calendar year and will be scheduled based on the number of applications received. The Board shall announce an examination date not less than 30 days in advance, and the date of upcoming examinations shall be published on the Board's website, www.ncchiroboard.com. The Board shall also individually notify each eligible applicant of the date of the next examination after the applicant's non-refundable application fee has been paid and the written application completed.

(c) National Boards. Except as provided in Paragraph (e) of this Rule, in order to take the North Carolina examination, an applicant who has never been licensed in this State or who is not a reciprocity applicant shall first achieve a score of 375 or higher on Parts I-IV of the ~~examinations~~ and the Physiotherapy examination given by the National Board of Chiropractic Examiners.

(d) Report of Scores. The applicant shall arrange for his or her test results from any National Board examination to be reported to the North Carolina Board. Failure to comply with this Paragraph shall be a basis for delaying the issuance of a license.

(e) Waiver of National Boards. Notwithstanding the requirements of Paragraph (c) of this Rule, an applicant who submits National

Board examinations in conformity with the following schedule shall not be disqualified from licensure in North Carolina:

- (1) An applicant who graduated from chiropractic college before July 1, 1966 shall not be required to submit a score from any National Board examination.
(2) An applicant who graduated from chiropractic college between July 1, 1966 and June 30, 1986 shall be required to submit scores of 375 or higher on National Board Part I, Part II, and the elective examination termed "Physiotherapy," but shall not be required to submit a score on Part III (WCCE) or Part IV.
(3) An applicant who graduated from chiropractic college between July 1, 1986 and June 30, 1997 shall be required to submit scores of 375 or higher on National Board Part I, Part II, the elective examination termed "Physiotherapy," and Part III, but shall not be required to submit a score on Part IV.

In order to receive a license, an applicant who qualifies for a waiver of any National Board score shall take and pass the SPEC examination and the North Carolina Examination pursuant to G.S. 90-143.3 and Rule .0202 of this Chapter.

(f) SPEC Examination. In order to take the North Carolina examination, a reciprocity applicant, a waiver applicant pursuant to Paragraph (e) of this Rule, or an applicant previously licensed in this State whose license has been cancelled pursuant to G.S. 90-155 for more than 180 days shall first take and pass the Special Purpose Examination for Chiropractic ("SPEC"). The SPEC exam is administered by the National Board of Chiropractic Examiners. The passing score shall be 375 or higher. Reciprocity applicants and waiver applicants pursuant to Paragraph (e) of this Rule who have achieved a score of 375 or higher on Part IV of the National Board examination shall not be required to take and pass the SPEC exam prior to licensure.

(g) Nature of Examination. The North Carolina examination shall be a test of an applicant's knowledge of North Carolina chiropractic jurisprudence. The passing grade shall be 75 percent.

Authority G.S. 90-142; 90-143; 90-143.1; 90-143.3; 90-144; 90-145; 90-146.

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CHAPTER 16 – BOARD OF DENTAL EXAMINERS

Notice is hereby given in accordance with G.S. 150B-21.2 that the Board of Dental Examiners intends to adopt the rules cited as 21 NCAC 16I .0206; and 16R .0206.

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

Proposed Effective Date: September 1, 2022

Public Hearing:

Date: June 23, 2022

Time: 6:30 p.m.

Location: 2000 Perimeter Park Drive, Suite 160, Morrisville, NC 27560

Reason for Proposed Action:

21 NCAC 16I .0206 is proposed for adoption to require all dental hygienists to take one continuing education hour in substance abuse and mental health issues every two years as part of their total CE requirements.

21 NCAC 16R .0206 is proposed for adoption to require all dentists to take one continuing education hour in substance abuse and mental health issues every two years as part of their total CE requirements.

Comments may be submitted to: Bobby White, 2000 Perimeter Park Drive, Suite 160, Morrisville, NC 27560

Comment period ends: July 15, 2022

Procedure for Subjecting a Proposed Rule to Legislative Review:

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

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

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

SUBCHAPTER 16I - ANNUAL RENEWAL OF LICENSE AND CONTINUING EDUCATION REQUIREMENTS: DENTAL HYGIENIST

SECTION .0200 – CONTINUING EDUCATION

21 NCAC 16I .0206 CONTINUING EDUCATION ON SUBSTANCE ABUSE AND MENTAL HEALTH

(a) Every two calendar years, each dental hygienist shall complete one clock hour of continuing education on substance abuse and mental health. To count toward this requirement, the course shall be:

- (1) designed to address relevant issues for dental professionals, including substance abuse, chemical dependency, impairment, and mental health disorders; and

(2) offered by a Board-approved sponsor as set out in Rule .0202(b) of this Section.

(b) The continuing education requirement set out in Paragraph (a) of this Rule may be completed through a self-study course that satisfies Subparagraphs (a)(1) and (2) of this Rule. The dental hygienist shall pass a test administered by the self-study course sponsor and obtain a certificate of completion from the sponsor.

(c) Every two calendar years, a dental hygienist may apply one clock hour of a course meeting the requirements of this Rule toward the total number of continuing education hours required pursuant to Rule .0201(a) of this Section.

*Authority G.S. 90-223; 90-225.1.*

**SUBCHAPTER 16R – ANNUAL RENEWAL OF LICENSE  
AND CONTINUING EDUCATION REQUIREMENTS:  
DENTIST**

**SECTION .0200 - CONTINUING EDUCATION**

**21 NCAC 16R .0206 CONTINUING EDUCATION ON  
SUBSTANCE ABUSE AND MENTAL HEALTH**

(a) Every two calendar years, each dentist shall complete one clock hour of continuing education on substance abuse and mental health. To count toward this requirement, the course shall be:

(1) designed to address relevant issues for dental professionals, including substance abuse, chemical dependency, impairment, and mental health disorders; and

(2) offered by a Board-approved sponsor as set out in Rule .0202(b) of this Section.

(b) The continuing education requirement set out in Paragraph (a) of this Rule may be completed through a self-study course that satisfies Subparagraphs (a)(1) and (2) of this Rule. The dentist shall pass a test administered by the self-study course sponsor and obtain a certificate of completion from the sponsor.

(c) Every two calendar years, a dentist may apply one clock hour of a course meeting the requirements of this Rule toward the total number of continuing education hours required pursuant to Rule .0201(a) of this Section.

(d) The substance abuse and mental health continuing education requirement shall not replace or substitute for the controlled substance continuing education requirement set out in Rule .0201(b) of this Section.

*Authority G.S. 90-28; 90-31.1.*



**Note from the Codifier:** The rules published in this Section of the NC Register are temporary rules reviewed and approved by the Rules Review Commission (RRC) and have been delivered to the Codifier of Rules for entry into the North Carolina Administrative Code. A temporary rule expires on the 270<sup>th</sup> day from publication in the Register unless the agency submits the permanent rule to the Rules Review Commission by the 270<sup>th</sup> day.  
 This section of the Register may also include, from time to time, a listing of temporary rules that have expired. See G.S. 150B-21.1 and 26 NCAC 02C .0500 for adoption and filing requirements.

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

**Rule-making Agency:** *Commission for Public Health*

**Rule Citation:** *10A NCAC 41C .1001, .1002, .1003, .1004, .1005, .1006, .1007*

**Effective Date:** *April 29, 2022*

**Date Approved by the Rules Review Commission:** *April 21, 2022*

**Reason for Action:** *This rulemaking action is due to the effective date of a recent act of the General Assembly or of the U.S. Congress (S.L. 2021-180, s. 9G.8.(a)) that occurred on November 18, 2021 and was made effective on July 1, 2021, and a recent change in federal or state budgetary policy that occurred on November 18, 2021. Session Law 2021-180, Sec. 9G.8.(a) directs the Commission for Public Health (CPH) to adopt rules as necessary to implement requirements for the testing and remediation of lead in drinking water in public school units and the inspection for and abatement of asbestos and lead-based paint hazards in public school units and licensed child care facilities. CPH adopted these rules to establish these requirements.*

**CHAPTER 41 - EPIDEMIOLOGY HEALTH**

**SUBCHAPTER 41C - OCCUPATIONAL HEALTH**

**SECTION .1000 – LEAD AND ASBESTOS INSPECTION, TESTING, ABATEMENT, AND REMEDIATION IN NORTH CAROLINA PUBLIC SCHOOLS AND LICENSED CHILD CARE FACILITIES**

**10A NCAC 41C .1001 DEFINITIONS**

For the purposes of this Section, the following definitions shall apply:

- (1) "Department" means the North Carolina Department of Health and Human Services.
- (2) "Licensed child care facility" means a child care facility as defined at G.S. 110-86(3).
- (3) "Public school" means a public school unit as defined at G.S. 115C-5(7a).
- (4) "Program" means the North Carolina Department of Health and Human Services, Division of Public Health, Environmental Health ~~Section. Section, Health Hazards Control Unit.~~
- (5) "Responsible individual" means the ~~principal~~ superintendent of a public school operated by a local school administrative unit, as defined in

G.S. 115C-5(6), or the principal's superintendent's designee designee(s); the governing body of any charter school or school operated under Article 7A or Article 9C of G.S. 115C or that body's designee(s); or the operator of a licensed child care facility or the operator's designee, designee(s), as applicable.

*Authority S.L. 2021-180, s. 9G.8;  
 Temporary Adoption Eff. April 29, 2022.*

**10A NCAC 41C .1002 FUNDING**

(a) Public schools and licensed child care facilities in North Carolina shall be eligible to participate in the funding mechanisms established in accordance with S.L. 2021-180, s. 9G.8. to fully or partially offset the cost of conducting testing for lead in water and ~~inspections inspection~~ for asbestos and lead-based paint hazards, when ~~the responsible individual conducts the~~ a test for lead in water is conducted within 24 months after the effective date of this Rule or an inspection for lead lead-based paint or asbestos is conducted within 18 months after the effective date of this Rule and the test or inspection is conducted in accordance with the rules of this Section.

(b) Public schools and licensed child care facilities that are eligible to participate under Paragraph (a) of this Rule shall also be eligible to participate in the funding mechanisms established in accordance with S.L. 2021-180, s. 9G.8. to fully or partially offset the cost of conducting remediation of lead in water and abatement of asbestos and lead-based paint hazards identified under this Section when the following requirements are met:

- (1) lead or asbestos is detected that meets the requirements under the rules of this Section for abatement or remediation;
- (2) the abatement or remediation, as applicable, is performed in accordance with the rules of this Section; and
- (3) replacement materials used to abate asbestos hazards do not contain more than 1 percent asbestos and replacement materials used to abate lead-based paint hazards do not contain lead in excess of 90 parts per million.

(c) Notwithstanding Paragraphs (a) and (b) of this Rule, licensed child care centers conducting testing and remediation of water outlets used for drinking or food preparation ~~in child care centers~~ pursuant to 15A NCAC 18A .2816 shall be eligible to participate in the funding mechanisms established in accordance with S.L. 2021-180, s. 9G.8. for testing conducted in accordance with that Rule within ~~18~~ 24 months after the effective date of this Rule and remediation conducted in accordance with that Rule between 24 months prior to the effective date of this Rule and the date on which funds are no longer available in accordance with S.L. 2021-180, s. 9G.8.(d).

(d) Notwithstanding Paragraphs (a) and (b) of this Rule, if asbestos or lead-based paint is detected during a capital, renovation, or repair project in a public school or licensed child care facility, the public school or licensed child care facility shall be eligible to participate in the funding mechanisms established in accordance with S.L. 2021-180, s. 9G.8. as follows:

- (1) to fully or partially offset the cost of conducting an inspection in accordance with Rules .1003(b) or .1004(b) of this Section, as applicable, except that the inspection may be limited to the area in the public school or licensed child care facility where the capital, renovation, or repair project is being conducted; and
- (2) to fully or partially offset the cost of conducting abatement when lead-based paint or asbestos is detected that meets the requirements under the Rules of this Section for abatement and abatement is conducted in accordance with Rules .1003(e) and .1004(e) of this Section and with the limitation on materials set out in Subparagraph (b)(3) of this Rule, except that the abatement may be limited to the area in the public school or licensed child care facility where the capital, renovation, or repair project is being conducted.

(e) Inspections and abatements described in Paragraph (d) of this Rule that are limited to the area in the public school or licensed child care facility where the capital, renovation, or repair project is being conducted shall not satisfy the facility-wide inspection requirements for public schools and licensed child care facilities set out in Rules .1003 and .1004 of this Section.

(f) Notwithstanding the foregoing, to be eligible to participate in any funding mechanism under this Rule, responsible individuals shall make all records regarding testing, inspection, abatement, and remediation available to the Department upon request, including, but not limited to, itemized expense reports for activities funded under S.L. 2021-180, s. 9G.8. ~~this Section.~~

(g) Nothing in this Rule shall require the Department to provide funding if the Department determines there are not sufficient funds available in accordance with S.L. 2021-180, s. 9G.8.(d).

*Authority S.L. 2021-180, s. 9G.8;  
Temporary Adoption Eff. April 29, 2022.*

**10A NCAC 41C .1003 ASBESTOS INSPECTIONS AND ABATEMENT IN NORTH CAROLINA PUBLIC SCHOOLS AND LICENSED CHILD CARE FACILITIES**

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

- (1) "Abatement" means as defined at G.S. 130A-444(4), and also includes renovation activities that are carried out to repair, maintain, remove, isolate, or encapsulate asbestos containing material. Abatement shall not be considered complete until a final clearance inspection of the public school or licensed child care facility is performed by an air monitor in accordance with 40 C.F.R. 763.90(i).

- (2) "Air monitor" means as defined at G.S. 130A-447 and 10A NCAC 41C .0601(3).
- (3) "Asbestos" means as defined at G.S. 130A-444(2).
- (4) "Asbestos containing material" means as defined at G.S. 130A-444(3).
- (5) "Asbestos hazard" means a condition that results in exposure to asbestos in excess of the standards set forth in 10A NCAC 41C .0607(a) or to a category of asbestos containing material defined at 40 C.F.R. 763.88(b)(1)-(6). ~~763.88(b).~~
- (6) "Inspection" in a licensed child care facility means an examination of the facility for the presence of asbestos hazards that is conducted by an inspector in accordance with the rules of Section .0600 of this Subchapter. "Inspection" in a public school means a reinspection conducted in alignment with G.S. 130A-445, 10A NCAC 41C .0604, and 40 C.F.R.763.85(b).
- (7) "Inspector" means as defined at G.S. 130A-447 and 10A NCAC 41C .0601(a)(7).
- (8) "Management Planner" means as defined at G.S. 130A-447 and 10A NCAC 41C .0601(a)(9).

(b) Each responsible individual shall ensure that an inspection is conducted for asbestos hazards in each public school or licensed child care facility for which he or she is responsible ~~their facility~~ within 18 months of the effective date of this Rule. Inspections for asbestos hazards shall be performed by an inspector and documented in an inspection survey report in accordance with the rules of Section .0600 of this Subchapter. A management planner shall review the inspection survey report to determine whether an asbestos hazard has been detected and shall document his or her findings in an asbestos management plan in accordance with Rule 10A NCAC 41C .0604.

(c) If the management planner determines that an asbestos hazard has been detected, then the responsible individual shall restrict access to the identified asbestos hazard until it is abated in accordance with this Rule.

(d) A determination by a management planner that an asbestos hazard is present in a ~~the~~ public school or licensed child care facility that is documented in an asbestos management plan in accordance with Paragraph (b) of this Rule shall satisfy the requirement of Rule .1002(b)(1) or (d)(2) of this Section, as applicable, that asbestos is detected that meets the requirements for abatement.

(e) Abatement shall be performed by one or more professionals who are accredited in accordance with 10A NCAC 41C .0602 and shall be performed in accordance with the rules of Section .0600 of this Subchapter.

(f) The information listed in this Paragraph shall be submitted to the Program by email to [general.hccu@dhhs.nc.gov](mailto:general.hccu@dhhs.nc.gov):

- (1) Within ~~30~~ 45 calendar days following the date on which an inspection is completed pursuant to this Rule, the management planner shall submit:

- (A) the name, address, email address, and phone number ~~name and contact information~~ of the responsible individual;
  - (B) the name, address, email address, phone number, ~~name, contact information,~~ and accreditation number of the management planner;
  - (C) the name and address, including county, of the individual school and the public school unit or the licensed child care facility;
  - (D) whether the facility for which the responsible individual is submitting the information is a public school or a licensed child care facility;
  - (E) whether the inspection identified the presence of an asbestos hazard;
  - (F) a description of any identified asbestos hazard; and
  - (G) the results of any laboratory testing conducted during the inspection.
- (2) If the public school or licensed child care facility plans to use a previous inspection or documentation under Paragraph (h) of this Rule, then the responsible individual shall submit a copy of the inspection survey report, reinspection report, or management plan associated with the previous inspection or the documentation within 18 months after the effective date of this Rule in lieu of meeting the requirements in Subparagraph (f)(1) of this Rule.
- (2)(3) At least 10 calendar days before abatement conducted pursuant to this Rule begins, the responsible individual shall submit:
- (A) the name, address, email address, and phone number ~~name and contact information~~ of the responsible individual;
  - (B) the name and ~~address~~ address, including county, of the individual school and the public school unit or the licensed child care facility, as applicable;
  - (C) the names, addresses, email addresses, phone numbers, ~~names, contact information,~~ and accreditation numbers of the professionals who will conduct the abatement;
  - (D) whether the facility for which the responsible individual is submitting the report is a public school or a licensed child care facility;
  - (E)(D) the dates on which the abatement is scheduled to occur; and
  - (F)(E) a description of the planned abatement.

- (3)(4) Within ~~30~~ 45 calendar days following the date on which an abatement completed pursuant to this Rule, the responsible individual shall submit:
  - (A) the name, address, email address, and phone number ~~name and contact information~~ of the responsible individual;
  - (B) the name and address, including county, of the individual school and the public school unit or the licensed child care facility;
  - (C) whether the facility for which the responsible individual is submitting the report is a public school or a licensed child care facility;
  - (D) the date on which the abatement was completed; and
  - (E) a report of the results of the final clearance inspection.

(g) In accordance with 10A NCAC 09 .0601 and 10A NCAC 09 .1719, as applicable, licensed child care facilities shall inspect for asbestos hazards in accordance with this Rule to ensure these facilities are safe and free from hazards that may injure children. The failure of a responsible individual in licensed child care facility to inspect for asbestos hazards or to restrict access to or abate identified asbestos hazards in accordance with this Rule shall be considered a violation of 10A NCAC 09 .0601 and 10A NCAC 09 .1719, as applicable.

(h) The requirements of Paragraph (b) of this Rule shall be considered met if:

- (1) the public school or licensed child care facility previously completed an inspection of its buildings that meets the requirements of Section .0600 of this Subchapter, provided that building material that was sampled during a previous inspection and reported as trace asbestos or between 0 percent and 10 percent asbestos content shall be reinspected in accordance with the process established in Paragraphs (b) - (f) of this Rule; or
- (2) documentation is produced in accordance with 40 C.F.R. 763.99(a)(7).

*Authority S.L. 2021-180, s. 9G.8; Temporary Adoption Eff. April 29, 2022.*

**10A NCAC 41C .1004 LEAD-BASED PAINT INSPECTIONS AND ABATEMENT IN NORTH CAROLINA PUBLIC SCHOOLS AND LICENSED CHILD CARE FACILITIES**

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

- (1) "Abatement" means as defined at 40 C.F.R. 745.223, and also includes interim controls as defined at 40 C.F.R. 745.83. Abatement shall not be considered complete until a final clearance inspection of the public school or licensed child care facility is performed by a

- (2) "Certified Project Designer" means an individual who meets the requirements for a project designer as set forth in G.S. 130A-453.03 and Rule .0802 ~~.0802~~ of this Subchapter.
  - (3) "Certified Supervisor" means ~~and an~~ individual who meets the requirements for a supervisor as set forth in G.S. 130A-453.03 and Rule .0802 of this Subchapter.
  - (4) "Certified Risk Assessor" means an individual who meets the requirements for a risk assessor as set forth in G.S. 130A-453.03 and Rule .1006 of this Section.
  - (5) "Inspection" means a risk assessment conducted in accordance with 40 C.F.R. 745.223.
  - (6) "Inspection report" means a summary prepared in accordance with Rule .0807(b) of this Subchapter.
  - (7) "Lead-based paint hazard" means as defined at G.S. 130A-131.7(6).
  - (8) "Lead poisoning hazard" means as defined at G.S. 130A-131.7(7).
  - (9) "Occupant protection plan" means as defined at Rule .0801(a)(6) of this Subchapter.
- (b) Each responsible individual shall ensure that an inspection is conducted for lead-based paint hazards in each public school or licensed child care facility for which he or she is responsible ~~their facility~~ within 18 months of the effective date of this Rule. Inspections for lead-based paint hazards shall be performed by a certified risk assessor and documented in an inspection report. The certified risk assessor shall determine whether a lead-based paint hazard is present in the public school or licensed child care facility based on the inspection, in accordance with the rules of Sections .0800 and .0900 of this Subchapter, and document the determination in the inspection report. If the certified risk assessor determines that a lead-based paint hazard exists, then an occupant protection plan shall be written by a certified supervisor or certified project designer in accordance with 40 C.F.R. 745.227(e)(5) and the rules of Section .0800 of this Subchapter.
- (c) If the certified risk assessor determines that a lead-based paint hazard has been detected, then the responsible individual shall restrict access to the identified lead-based paint hazard until abated in accordance with this Rule.
- (d) A determination by a certified risk assessor that a lead-based paint hazard is present in the public school or licensed child care facility that is documented in the inspection report in accordance with Paragraph (b) of this Rule shall satisfy the requirement of Rule .1002(b)(1) or (d)(2) of this Section, as applicable, that lead is detected that meets the requirements for abatement.
- (e) Abatement shall be performed by one or more professionals who are certified in accordance with G.S. 130A-453.03 and Rules .0802 or .0902 of this Subchapter and shall be performed in accordance with the rules of Sections .0800 and .0900 of this Subchapter, as applicable.
- (f) The information listed in this Paragraph shall be submitted to the Program by email to [general.hccu@dhhs.nc.gov](mailto:general.hccu@dhhs.nc.gov):

- (1) Within ~~30~~ 45 calendar days following the date on which an inspection is completed pursuant to the Rule, the certified risk assessor shall submit:
  - (A) the name, address, email address, and phone number ~~name and contact information~~ of the responsible individual;
  - (B) the name, address, email address, phone number, name, contact information, and certification number of the certified risk assessor;
  - (C) the name and address, including county, of the individual school and the public school unit or the licensed child care facility;
  - (D) whether the facility for which the responsible individual is submitting the report is a public school or a licensed child care facility;
  - (E) whether the inspection identified the presence of a lead-based paint hazard;
  - (F) a description of any identified lead-based paint hazard; and
  - (G) the results of any laboratory testing conducted during the inspection.
- (2) If the public school or licensed child care facility plans to use a previous inspection or a signed attestation under Paragraph (h) of this Rule, then the responsible individual shall submit a copy of the inspection report or occupant protection plan associated with the previous inspection or the signed attestation within 18 months from the effective date of this Rule in lieu of meeting the requirements in Subparagraph (f)(1) of this Rule.
- (~~2~~)(3) At least 10 calendar days before abatement conducted pursuant to this Rule begins, the responsible individual shall submit:
  - (A) the name, address, email address, and phone number ~~name and contact information~~ of the responsible individual;
  - (B) the name and ~~address~~ address, including county, of the individual school and the public school unit or the licensed child care facility, as applicable;
  - (C) the names, addresses, email addresses, phone numbers, ~~names, contact information,~~ and certification numbers of the professionals who will conduct the abatement;
  - (D) whether the facility for which the responsible individual is submitting the report is a public school or a licensed child care facility;
  - (E)~~(D)~~ the dates on which the abatement is scheduled to occur; and

(F)(E) a description of the planned abatement.

(3)(4) Within ~~30~~ 45 calendar days following the date on which abatement is completed pursuant to this Rule, the responsible individual shall submit:

- (A) the name, address, email address, and phone number ~~name and contact information~~ of the responsible individual;
- (B) the name and address, including county, of the individual school and the public school unit or the licensed child care facility;
- (C) whether the facility for which the responsible individual is submitting the report is a public school or a licensed child care facility;
- (D) the date on which the abatement was completed; and
- (E) a report of the results of the final clearance inspection.

(g) In accordance with 15A NCAC 18A .2816(a), 10A NCAC 09 .0601(f), and 10A NCAC 09 .1707(2), as applicable, licensed child care facilities shall inspect for lead-based paint hazards in accordance with this Rule to ensure these facilities are free from lead poisoning hazards. The failure of a responsible individual in licensed child care facility to inspect for lead-based paint hazards or to restrict access to or abate identified lead-based paint hazards in accordance with this Rule shall be considered a violation of 15A NCAC 18A .2816(a), 10A NCAC 09 .0601(f), or 10A NCAC 09 .1707(2), as applicable.

(h) The requirements of Paragraph (b) of this Rule shall be considered met if:

- (1) the public school or licensed child care facility has previously completed an inspection of its buildings that meets the requirements of Sections .0800 and .0900 of this Subchapter; or
- (2) the responsible individual of a public school or licensed child care facility located in a building that was built after February 28, 1978 signs a statement attesting that no lead-based paint was used in the building.

*Authority S.L. 2021-180, s. 9G.8;  
Temporary Adoption Eff. April 29, 2022.*

**10A NCAC 41C .1005 LEAD POISONING HAZARDS IN DRINKING WATER IN NORTH CAROLINA PUBLIC SCHOOLS**

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

- (1) "Lead poisoning hazard" means as defined at G.S. 130A-131.7(7)(g).
- (2) "Testing" means the process described in Subparagraphs (b)(1)-(4) of this Rule.
- (3) "Remediation" means as defined at G.S. 130A-131.7(15).

(b) The following actions shall be taken to ensure that drinking water in public schools are free of identified lead poisoning hazards:

- (1) Responsible individuals at public schools shall complete a one-time test of all water outlets used for drinking or food preparation. The responsible individual shall provide documentation of testing results for review by the Department during routine sanitation inspections under Rule 15A NCAC 18A .2402(a).
- (2) Initial water samples shall be collected by the responsible individual and tested in accordance with Subparagraph (b)(3) of this Rule within 24 ~~18~~ months after the effective date of this Rule.
- (3) The responsible individual shall collect samples and submit them for testing in accordance with guidance specified by the United States Environmental Protection Agency in its publication, 3Ts for Reducing Lead in Drinking Water in Schools and Child Care Facilities, which is hereby incorporated by reference, including any subsequent editions or amendments, and available free of charge at: <https://www.epa.gov/ground-water-and-drinking-water/3ts-reducing-lead-drinking-water>. ~~https://www.epa.gov/dwreginfo/3ts-reducing-lead-drinking-water-schools-and-child-care-facilities.~~ Notwithstanding the foregoing guidance, samples may be collected with a stagnation period of up to 72 hours. Samples shall be analyzed by a laboratory certified by the North Carolina State Laboratory of Public Health to analyze for lead in drinking water.
- (4) When a water sample is analyzed for lead content by a laboratory under this Rule, the laboratory shall notify the Department of the test results by electronic submission in alignment with the requirements of G.S. 130A-131.8.
- (5) When a public school receives test results from a laboratory indicating that a water sample collected by the responsible individual contains a lead concentration at or above the lead poisoning hazard level, the responsible individual shall:
  - (A) restrict access to any water outlet(s) used for drinking or food preparation that have lead concentrations at or above the lead poisoning hazard level; ~~and~~
  - (B) ensure that all students and staff have access to water free of cost that does not contain lead concentrations at or above the lead poisoning hazard level for drinking and food ~~preparation.~~ preparation; and

- (C) continue to follow Parts (b)(5)(A)-(B) of this Rule until the Department determines in accordance with Subparagraph (b)(10) of this Rule that the water outlet(s) are not producing water lead levels at or above the lead poisoning hazard level and notifies the responsible individual and the Department of Public Instruction in writing of this determination.
- ~~(6) When notified of a water lead level at or above the lead poisoning hazard level, the Department shall conduct sampling at the water outlet identified to have a water lead level at or above the lead poisoning hazard level within 20 business days of notification.~~
- ~~(7)(6) If a water sample collected by the Department responsible individual reveals a water lead level at or above the lead poisoning hazard level:~~  
level then
- (A) the requirement of Rule .1002(b)(1) of this Section shall be considered met;  
met.
- ~~(B) notice shall be given in accordance with Rule 15A-NCAC 18A .2402(e); and~~
- ~~(C) the responsible individual shall continue to follow Subparagraph (b)(5) of this Rule until the Department determines the water outlet(s) are not producing water lead levels at or above the lead poisoning hazard level and notifies the responsible individual, the local superintendent, and the Department of Public Instruction in writing of this determination.~~
- ~~(8)(7) Within five business days of receiving the test results of a the Department's water analysis that shows a water lead level at or above the lead poisoning hazard level, the responsible individual shall provide written notification of the test results to the parents or legal guardians of the children attending the public school and the staff of the public school in accordance with the United States Environmental Protection Agency guidance specified in Subparagraph (b)(3) of this Rule.~~
- ~~(9)(8) Within five business days of receiving the test results of a the Department's water analysis that shows a water lead level at or above the lead poisoning hazard level, the public school shall make the test results available to the public, free of charge. The responsible individual may post test results to the public school's website to satisfy the requirement to make the test results available to the public.~~

- ~~(4)(9) Remediation of water outlet(s) producing water lead levels at or above the lead poisoning hazard level shall ensure that water produced is below the lead poisoning hazard level and may include replacement of service lines, pipes, and fixtures and the installation of filters at affected faucets. Within 30 business days from the date on which remediation is conducted under this Rule, the responsible individual shall submit the following information to the Program:~~
- (A) the name and contact information of the responsible individual;
- (B) the name and address, including county, of the public school;
- (C) the steps taken to remediate the lead poisoning hazard; and
- (D) the date on which the remediation was completed.
- ~~(10) Remediation shall not be considered complete until the Department conducts sampling at the water outlet identified to have a water lead level at or above the lead poisoning hazard level to confirm that the remediated water outlet is no longer producing water lead levels at or above the lead poisoning hazard level.~~

*Authority S.L. 2021-180, s. 9G.8;  
 Temporary Adoption Eff. April 29, 2022.*

**10A NCAC 41C .1006 CERTIFIED RISK ASSESSORS**

- (a) For the purposes of this Section, a certified risk assessor is defined as an individual who meets the requirements of Rule .0802 of this Subchapter, except that the individual shall be required to complete an accredited refresher course for risk assessors every 36 months from the date of completion of initial training or last training instead of every 24 months as set forth in 10A NCAC 41C .0802(b).
- (b) A certified risk assessor who is certified under Paragraph (a) of this Rule shall be considered a certified risk assessor solely for the purposes of conducting inspections and determinations about the existence of lead-based paint hazards in public schools and licensed child care facilities under Rule .1004 of this Section.

*Authority G.S. 130A-453.03; 130A-453.05; S.L. 2021-180, s. 9G.8;  
 Temporary Adoption Eff. April 29, 2022.*

**10A NCAC 41C. 1007 INCORPORATION BY REFERENCE**

For the purposes of this Section, 40 C.F.R. 763, Subpart E and 40 C.F.R. 745, Subparts L and E are hereby incorporated by reference, including any subsequent amendments or editions, and available free of charge at [www.ecfr.gov/](http://www.ecfr.gov/).

*Authority S.L. 2021-180, s. 9G.8;  
 Temporary Adoption Eff. April 29, 2022.*

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## RULES REVIEW COMMISSION

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*This Section contains information for the meeting of the Rules Review Commission April 21, 2021 at 1711 New Hope Church Road, RRC Commission Room, Raleigh, NC. Anyone wishing to submit written comment on any rule before the Commission should submit those comments to the RRC staff, the agency, and the individual Commissioners. Specific instructions and addresses may be obtained from the Rules Review Commission at 984-236-1850. Anyone wishing to address the Commission should notify the RRC staff and the agency no later than 5:00 p.m. of the 2<sup>nd</sup> business day before the meeting. Please refer to RRC rules codified in 26 NCAC 05.*

### RULES REVIEW COMMISSION MEMBERS

#### **Appointed by Senate**

Jeanette Doran (Chair)  
Robert A. Bryan, Jr. (2<sup>nd</sup> Vice Chair)  
Margaret Currin  
Jeff Hyde  
Robert A. Rucho

#### **Appointed by House**

Andrew P. Atkins (1st Vice Chair)  
Wayne R. Boyles, III  
Barbara A. Jackson  
Randy Overton  
Paul Powell

### COMMISSION COUNSEL

Brian Liebman	984-236-1948
Lawrence Duke	984-236-1938
William W. Peaslee	984-236-1939

### RULES REVIEW COMMISSION MEETING DATES

May 19, 2022	July 21, 2022
June 16, 2022	August 18, 2022

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### RULES REVIEW COMMISSION MEETING MINUTES April 21, 2022

The Rules Review Commission met on Thursday, April 21, 2022, in the Commission Room at 1711 New Hope Church Road, Raleigh, North Carolina, and via WebEx.

Commissioners Andrew Atkins, Wayne R. Boyles III, Bobby Bryan, Margaret Currin, Jeanette Doran, Randy Overton, Paul Powell, and Bob Rucho were present in the Commission Room.

Staff members Alexander Burgos; Commission Counsel Brian Liebman and Lawrence Duke were present in the room.

The meeting was called to order at 9:00 a.m. with Chair Doran presiding.

The Chair read the notice required by G.S. 138A-15(e) and reminded the Commission members that they have a duty to avoid conflicts of interest and the appearance of conflicts of interest.

The Chair notified the Commissioners that the following items on the agenda would be taken up out of order at the end of the agenda: Permanent rules for DHHS - Division of Health Benefits, Environmental Management Commission, and Wildlife Resources Commission.

#### **APPROVAL OF MINUTES**

The Chair asked for any discussion, comments, or corrections concerning the minutes of the March 17, 2022, meeting. There were none and the minutes were approved as distributed.

Upon the call of the Chair, the meeting minutes were approved by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Bobby Bryan, Margaret Currin, Randy Overton, Paul Powell, and Bob Rucho – 7. Voting in the negative: None.

**FOLLOW UP MATTERS**

**Environmental Management Commission**

15A NCAC 02H .1301, .1401, .1402, .1403, .1404, .1405 – The agency is addressing the technical change requests from the March meeting. No action was required by the Commission.

**LOG OF FILINGS (PERMANENT RULES)**

**Board of Agriculture**

Upon the call of the Chair, the rule was approved by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Bobby Bryan, Margaret Currin, Randy Overton, Paul Powell, and Bob Rucho – 7. Voting in the negative: None.

**DHHS - Division of Health Benefits**

Upon the call of the Chair, the rule was approved by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Bobby Bryan, Margaret Currin, Randy Overton, Paul Powell, and Bob Rucho – 7. Voting in the negative: None.

Matthew Cochran with Ott Cone & Redpath, P.A., addressed the Commission.

Shazia Keller, the rulemaking coordinator with the agency, addressed the Commission.

**Department of Labor**

Upon the call of the Chair, the rules were approved by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Bobby Bryan, Margaret Currin, Randy Overton, Paul Powell, and Bob Rucho – 7. Voting in the negative: None.

**Alcoholic Beverage Control Commission**

Prior to the review of the rule from the Alcoholic Beverage Control Commission, Commissioner Powell recused himself and did not participate in any discussion or vote concerning the rule because of a potential conflict of interest.

Upon the call of the Chair, the rule was approved by roll-call vote, ayes 6, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Bobby Bryan, Margaret Currin, Randy Overton, and Bob Rucho – 6. Voting in the negative: None.

**Department of Environmental Quality**

Upon the call of the Chair, 15A NCAC 01D .0102, .0302, .0303, and .0305 were approved by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Bobby Bryan, Margaret Currin, Randy Overton, Paul Powell, and Bob Rucho – 7. Voting in the negative: None.

Upon the call of the Chair, the period of review was extended for 15A NCAC 01C .0101, .0103, .0104, .0105, .0106, .0107, .0108, .0109, .0205, .0206, .0207, .0208, .0304, .0305, .0306, .0405, .0406, .0407, .0408, .0409, .0410, and .0411 as requested by the agency to address technical changes by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Bobby Bryan, Margaret Currin, Randy Overton, Paul Powell, and Bob Rucho – 7. Voting in the negative: None.

**Environmental Management Commission**

Upon the call of the Chair, the Commission moved to object to 15A NCAC 02B .0208, .0212, .0214, .0215, .0216, and .0218 in accordance with G.S. 150B-21.9 for failure to comply with the APA and approve 15A NCAC 02B .0202, .0211, .0219, .0220, .0301, .0311 by roll-call vote, ayes 4, noes 4 as follows: Voting in the negative: Andrew Atkins, Bobby Bryan, Margaret Currin, and Randy Overton – 4. Voting in the affirmative: Wayne R. Boyles III, Jeanette Doran, Bob Rucho, and Paul Powell - 4. The motion failed.

Pursuant to G.S. 150B-21.12(d), the rules remain under review by the Commission.

Robert El-Jaouhari of Cranfill Sumner, addressed the Commission.

Sean Sullivan, with the Fayetteville Publics Works Commission, addressed the Commission.



Phillip Reynolds with the Department of Justice, and representing the agency, addressed the Commission.

The Chair called the meeting into a brief recess at 10:46 a.m.

The meeting resumed 10:52 a.m.

Following the recess, and prior to Commission Business, the Chair informed the Commission that Rules 15A NCAC 02D .1401, .1402, .1424, and .1425 were not voted on with the 15A NCAC 02B rules.

Upon the call of the Chair, the Commission voted to approve 15A NCAC 02D .1401, .1402, .1424, and .1425 by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Bobby Bryan, Margaret Currin, Randy Overton, Paul Powell, and Bob Rucho – 7. Voting in the negative: None.

### **Marine Fisheries Commission 15A NCAC 03**

Upon the call of the Chair, 15A NCAC 03I .0109; 03J .0404; 03P .0102, .0201, .0202, .0203, .0301, .0302, .0303, .0304 and 03R .0119 were approved by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Bobby Bryan, Margaret Currin, Randy Overton, Paul Powell, and Bob Rucho – 7. Voting in the negative: None.

15 NCAC 03I .0109, 03J .0404, and 03R .0119 are subject to legislative review and a delayed effective date pursuant to S.L. 2019-198. The agency also requested a delayed effective date for 15 NCAC 03P 0102, .0201, .0202, .0203, .0301, .0302, .0303, and .0304.

Upon the call of the Chair, the period of review was extended for 15A NCAC 03I .0101, .0104, .0105, .0113, .0114, .0118; 03J .0101, .0105, .0109, .0110, .0301, .0302, .0305, .0501, .0502, .0503, .0504, .0505; 03K .0101, .0102, .0103, .0104, .0105, .0106, .0107, .0108, .0109, .0111, .0201, .0202, .0204, .0205, .0207, .0208, .0209, .0301, .0302, .0304, .0305, .0401, .0505, .0507; 03L .0101, .0102, .0103, .0105, .0201, .0202, .0203, .0204, .0205; 03M .0201, .0202, .0204, .0205, .0503; 03N .0104, .0105; 03O .0101, .0102, .0103, .0104, .0105, .0107, .0109, .0110, .0111, .0113, .0114, .0203, .0205, .0206, .0207, .0208, .0209, .0210, .0211, .0301, .0302, .0303, .0401, .0402, .0403, .0404, .0405, .0406, .0502, .0504; 03P .0101; 03R .0110, .0111, .0118; 18A .0135, .0302, .0303, .0304, .0425, and .0912 as requested by the agency to address technical changes by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Bobby Bryan, Margaret Currin, Randy Overton, Paul Powell, and Bob Rucho – 7. Voting in the negative: None.

Jennifer Everett, the rulemaking coordinator with the agency, addressed the Commission.

### **Coastal Resources Commission**

Upon the call of the Chair, the period of review was extended as requested by the agency to address technical changes by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Bobby Bryan, Margaret Currin, Randy Overton, Paul Powell, and Bob Rucho – 7. Voting in the negative: None.

### **Wildlife Resources Commission**

Upon the call of the Chair, 15A NCAC 10A .1601; 10B .0101, .0105, .0111, .0119, .0123, .0203, .0205, .0206, .0402, .0403; 10C .0205, 10C .0314; 10D .0102; 10E .0104; 10H .1301, .1302, and .1402 were approved with the exception for 15A NCAC 10D .0106 by roll-call vote, ayes 4, noes 3 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Bobby Bryan, and Margaret Currin – 4. Voting in the negative: Randy Overton, Paul Powell, and Bob Rucho – 3

The Commission objected to 15A NCAC 10D .0106 finding that the rule was not clear and unambiguous. Specifically, the Commission found the rule was unclear and ambiguous as it lacked specific guidelines under which or criteria by which the permits referenced in 15A NCAC 10D .0106 (a) and (c) would be granted.

Deedee Dillingham, a member of the regulated public, addressed the Commission.

Carrie Ruhlman, the rulemaking coordinator with the agency, addressed the Commission.

Brad Howard, the Division Chief with the agency, addressed the Commission.

**Marine Fisheries Commission 15 NCAC 18A**

Upon the call of the Chair, the period of review was extended for the rules as requested by the agency to address technical changes by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Bobby Bryan, Margaret Currin, Randy Overton, Paul Powell, and Bob Rucho – 7. Voting in the negative: None.

**Medical Board**

Prior to the review of the rules from the Medical Board, Commissioner Atkins recused himself and did not participate in any discussion or vote concerning the rules because of a conflict.

Upon the call of the Chair, the rules were approved by roll-call vote, ayes 6, noes 0 as follows: Voting in the affirmative: Wayne R. Boyles III, Bobby Bryan, Margaret Currin, Randy Overton, Paul Powell, and Bob Rucho – 6. Voting in the negative: None.

**Board of Pharmacy**

Prior to the review of the rules from the Board of Pharmacy, Commissioner Atkins recused himself and did not participate in any discussion or vote concerning the rules because of a conflict.

Upon the call of the Chair, the rules were approved by roll-call vote, ayes 6, noes 0 as follows: Voting in the affirmative: Wayne R. Boyles III, Bobby Bryan, Margaret Currin, Randy Overton, Paul Powell, and Bob Rucho – 6. Voting in the negative: None.

21 NCAC 46 .1612 was withdrawn at the request of the agency. No action was required by the Commission.

**LOG OF FILINGS (TEMPORARY RULES)**

**Commission for Public Health**

The agency requested a waiver pursuant to G.S. 150B-21.1(a2) waiving the 210-day limitation found in G.S. 150B-21.1(a2). The waiver request was approved by roll-call vote, ayes 6, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Bobby Bryan, Margaret Currin, Randy Overton, Paul Powell, and Bob Rucho – 6. Voting in the negative: Wayne R. Boyles III - 1.

Upon the call of the Chair, 10A NCAC 41C .1001, .1002, .1003, .1004, .1005, .1006, and .1007 were approved by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Bobby Bryan, Margaret Currin, Randy Overton, Paul Powell, and Bob Rucho – 7. Voting in the negative: None.

**COMMISSION BUSINESS**

Upon the call of the Chair, the RRC voted to designate Brian Liebman as the new rulemaking coordinator for the Commission by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Bobby Bryan, Margaret Currin, Randy Overton, Paul Powell, and Bob Rucho – 7. Voting in the negative: None.

The meeting adjourned at 11:24 a.m.

The next regularly scheduled meeting of the Commission is Thursday, May 19, 2022, at 9:00 a.m.

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Alexander Burgos, Paralegal

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Minutes approved by the Rules Review Commission:  
Jeanette Doran, Chair

**RULES REVIEW COMMISSION**

**April 21, 2022**

Rules Review Commission  
Meeting  
Please Print Legibly

Name	Agency
Jennifer Everett	DEQ
Phillip Reynolds	NC DOS
Virginia Nichols	IDHHS/CPH
Robert EL-JAOUHARI	Ganfili Summer LLP
Sean Sullivan	Robinson Brandshaw
Carrie Ruhlman	WRC
Ashley Pennell	WRC
Catherine Harris	NC DHEC
Aaron Loucks	NCDA
Anna Haywood	NCDA
John P Barkley	DOJ for DHAAS
Chris Venturolo	NC DED
Karen Higgins	"

**Rules Review Commission Meeting April 21, 2022**  
**Held Via WebEx**

<b>Name</b>	<b>Agency</b>
Nicole Cordano	oneprotest.org
Kirsten Leloudis	DHHS
Grady O'Brien	NC Conservation network
Canaan Huie	MVA Law
Shelby Taylor	DHSB
Grady McCallie	NC Conservation network
Francisco Benzoni	NC DOJ
Alexandria K	Cabarrus County
Sue Homewood	DEQ
Tay Owenby	
Mallory Sparks	Parker Poe
Jean Zhuang	SELC
Dennis Seavers	Barber Examiners
Michael Wells	DHSB
Susan Meadows	DEQ
Geoff Gisler	SELCNC
Kara Weishaar	Smith Law
Julie Ventaloro	DEQ
Hannah Jernigan	DOT
Nicole Cordano	oneprotest.org
Bridget Shelton	DEQ
Lori Caskey	DSHB
James West	Fay PWC
Deedee Dillingham	
Dauna Bartley	Dental Examiners
Tim Dodge	NCEMCS
Claire Dodd	Smith Law
Nathan Vail	DHHS
Daron Barnes	WRC
Walker Reagan	ABC
Shelby Taylor	DHHS
Chris Millis	NCHBA
Larry Michael	DHHS
Britne Becker	Labor
Ashton Godwin	WRC
Ed Norman	DHHS
Helen Landi	DOT
Brian McCrae	WRC
Dakota Loveland	SELCNC
Kyle Briggs	WRC
Bradley Nelson	DEQ

**RULES REVIEW COMMISSION**

Anne Coan	NCFB
Clint Pinyan	Pharmacy
Patrick Knowlson	DEQ
Laura Rowe	Treasurer
Brad Howard	WRC
Jeff Manning	DEQ
Kirsten Leloudis	DHHS
Adriene Weaver	DEQ
Drew Hargrove	DEQ
Stephen Benjamin	Agriculture
Hannah Nelson	SELCNC
Christian Waters	WRC
Carla Rose	Labor
Elizabeth Kountis	DEQ
Kim Harron	DHHS
Robert Pearsall	DHHS
Carrie Hollis	OSBM
Thomas Currin	
Ross Smith	MYNCMA
Shazia Keller	DSHB
Kimly Blount	
Jill Cramer	Labor
Matthew Cochran	Ott Cone & Redpath
Jessica Winebrenner	

**LIST OF APPROVED PERMANENT RULES  
April 21, 2022 Meeting**

**AGRICULTURE, BOARD OF**

<u>Notification for Disconnection of Service</u>	02 NCAC 38 .0705
<u>Incorporation by Reference</u>	02 NCAC 52L .0101
<u>Definitions</u>	02 NCAC 52L .0102
<u>Farmed Cervid License</u>	02 NCAC 52L .0104
<u>Denial of Farmed Cervid License</u>	02 NCAC 52L .0105
<u>Temporary Exhibit Permit</u>	02 NCAC 52L .0106
<u>Records and Inspection</u>	02 NCAC 52L .0109
<u>Escape, Disappearance, or Breach of Facility</u>	02 NCAC 52L .0110
<u>Reporting CWD Symptoms and Farmed Cervid Death</u>	02 NCAC 52L .0111
<u>Animal Identification</u>	02 NCAC 52L .0112
<u>Transportation Permit</u>	02 NCAC 52L .0113
<u>Enclosure Requirements</u>	02 NCAC 52L .0201
<u>License or Permit Revocation, Forfeiture, and Depopulation</u>	02 NCAC 52L .0301
<u>North Carolina Farmed Cervid Herd Certification Program</u>	02 NCAC 52L .0401
<u>North Carolina Monitored Herd Certification Program</u>	02 NCAC 52L .0402

**HHS - HEALTH BENEFITS, DIVISION OF**

Definitions 10A NCAC 23A .0102

**LABOR, DEPARTMENT OF**

Instructions for Filing a Petition for Rulemaking 13 NCAC 01B .0101

Mailing List 13 NCAC 01B .0102

Disposition of Petitions 13 NCAC 01B .0103

**ALCOHOLIC BEVERAGE CONTROL COMMISSION**

Growlers 14B NCAC 15C .0307

**ENVIRONMENTAL QUALITY, DEPARTMENT OF**

Definitions of Terms 15A NCAC 01D .0102

Proposed Industrial Project 15A NCAC 01D .0302

Proposed Pollution Control Project 15A NCAC 01D .0303

Proposed Hazardous Waste Facility 15A NCAC 01D .0305

**ENVIRONMENTAL MANAGEMENT COMMISSION**

Definitions 15A NCAC 02D .1401

Applicability 15A NCAC 02D .1402

Large Non-Electric Generating Units 15A NCAC 02D .1424

NOx SIP Call Budget 15A NCAC 02D .1425

**MARINE FISHERIES COMMISSION**

Research Sanctuaries 15A NCAC 03I .0109

Ocean Artificial Reef Gear Restrictions 15A NCAC 03J .0404

Contested Case Hearing Procedures 15A NCAC 03P .0102

Declaratory Rulings: Generally 15A NCAC 03P .0201

Procedure for Requesting Declaratory Rulings 15A NCAC 03P .0202

Disposition of Requests for Declaratory Ruling 15A NCAC 03P .0203

Form and Contents of Petitions for Rulemaking 15A NCAC 03P .0301

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Presentation of Rulemaking Petitions to the Commission 15A NCAC 03P .0303

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Restrictions on Raccoon and Opossum Hunting 15A NCAC 10B .0111

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Limitations on Certain Exotic Species 15A NCAC 10B .0123

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Raccoon and Opossum 15A NCAC 10B .0205

Squirrels 15A NCAC 10B .0206

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<u>Public Mountain Trout Waters</u>	15A NCAC	10C	.0205
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<u>Commercial Take of Certain Turtles Prohibited</u>	15A NCAC	10H	.1301
<u>Possession of Reptiles and Amphibians</u>	15A NCAC	10H	.1302
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**April 21, 2022 Meeting**

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