

**Fiscal Impact Analysis of
Permanent Rule Readoption without Substantial Economic Impact**

Agency Proposing Rule Change

North Carolina Medical Care Commission

Contact Persons

Nadine Pfeiffer, DHSR Rules Review Manager – (919) 855-3811

Steven Lewis, Section Chief, Construction – (919) 855-3893

Carey Gurlitz, Engineering Supervisor, Construction – (919) 855-3854

Impact Summary

State Government: Yes

Local Government: Yes

Private Sector Entities: Yes

Substantial Impact: Possible - Benefits Uncertain

Titles of Rule Changes and North Carolina Administrative Code Citations

Rule Readoptions (See proposed texts of these in Appendix 1):

.3102 Plan Approval

.6101 ~~General~~ List of Codes, Regulations, Rules, and Standards

.6102 ~~List of Referenced Code and Standards~~ General

.6103 ~~Application of Physical Plant Requirements~~ Equivalency and Conflicts with Requirements

.6227 Outpatient Surgical Facilities

Authorizing Statutes

G.S. 131E-77 and G.S. 131E-79

Background

Under authority of N.C.G.S. § 150B-21.3A, Periodic review and expiration of existing rules, the North Carolina Medical Care Commission and Rule Review Commission approved the subchapter report with classifications for the rules located at 10A NCAC 13B – Licensing of Hospitals – on February 10, 2017, and May 18, 2017, respectively. The report became final after submission to the Joint Legislative Administrative Procedure Oversight Committee on July 22, 2017.

The following rules were classified in the report as necessary with substantive public interest: .3102, .6101, .6102, .6103, and .6227. The Agency is presenting these 5 rules for readoption with substantive changes in this analysis.

The rule readoptions presented in this fiscal analysis were readopted to: coordinate these rules with Rule 10A NCAC 13B .6105 that incorporates by reference the “Guidelines for the Design

and Construction of Hospitals and Outpatient Facilities” (FGI Guidelines)¹; update the rules to reflect current procedures of the Construction Section; remove ambiguity from the rules; and implement technical and formatting changes.

There are 120 licensed hospitals in the state. A majority of the hospitals in the state are owned by private sector entities. The remainder are either owned by a local government or the state. All these hospitals are also certified to receive Medicare reimbursement from the Centers for Medicare and Medicaid services (CMS). As a result, a hospital’s physical plant must meet state licensure requirements and CMS federal regulations. Hospital design and construction is funded from various sources that includes: state issued tax-exempt revenue bonds (NC Health Care Facilities Act); bank loans; federal government grants, federal, state and municipal bonds; operating funds; and private donations.

Rule Summary and Anticipated Fiscal Impact

Baseline

The current requirements in Rules 10A NCAC 13B .3102, .6101, .6102, .6103, and .6207 form the basis of the regulatory baseline. For Rule .3102, a review of hospital plans submitted between the years 2015 to 2017 was used to assess current hospital plan submittals under the regulatory baseline. The hospital project drawing submittals in prior years were used to project the future impacts due to the changes proposed in Rule .3102.

Time Frame for Analysis

The readopted rules will go into effect on April 1, 2019. Except for Rule .3102, the cost impact for the proposed rules will start occurring in 2019 and continue in future years. For Paragraph (1) of 10A NCAC 13B .3102 (re-approval of non-complaint plans 12 months after original approval), the cost impact will start occurring in 2020 and will continue in future years. Additionally, the cost reduction in 10A NCAC 13B .6102 caused by the use of a future edition of the NFPA Standards 99 and 101 will start occurring in 2020. As a result, the time frame for the analysis will be two years (2019 and 2020).

Assumptions

- In future years, the number of schematic design drawings (SDs) and design development drawings (DDs) to be submitted per year for projects will be approximately equal to the average number of SDs and DDs submitted for the years between 2015 and 2017². As indicated in Table 1, the average number of SDs and DDs submitted for these years is 10 drawings and 14 drawings, respectively.

¹ Due to Session Law 2017-174, the Medical Care Commission was required to repeal existing physical plant rules and adopt rules that incorporated by reference the Facility Guidelines Institutes “Guidelines for the Design and Construction of Hospitals and Outpatient Facilities” (FGI Guidelines). The FGI Guidelines would replace the repealed physical plant rules. The rules that were adopted as result of this law were 10A NCAC 13B .6003, .6105, and .6228. The law also stipulated that a fiscal note was not required as part of the adoption process.

² The design of a project is broken up into different phases of design referred to as schematic design, design development and construction document. For the same set of plans, schematic design drawings, design development drawings and construction documents are drawings that are approximately 20% complete; 50% complete, 95 to 100% complete, respectively.

Table 1: CY 2015 to 2017 Project Submittals to Construction Section

Year	No. of projects submitted	Projects with only CDs submittal	Projects with only SDs and CDs submittals	Projects with SDs, DDs, and CDs submittals
2015	364	343	8	13
2016	348	323	9	16
2017	355	329	12	14
Average	356	332	10	14

- In future years, the total number of project drawing submittals each year will be approximately equal to the average number of project drawing submittals for the years 2015 to 2017, except that the projects with only a SD and construction documents (CDs) submittal will be counted as having three submittals instead of two. Using the information in Table 1, the total numbers of project submittals in future years is approximately 410 drawing submittals (332 + 24x3).
- The Construction Section can only approve an equivalency request to use a current edition of the NFPA Standards 99 and 101 for new hospitals or additions to existing hospital. As a result, the projected number of equivalency requests per year for the use of a current edition of the NFPA Standards 99 and 101 will be approximately equivalent to the average number of new hospitals and additions submitted each year for the years 2015 to 2017. The number of new hospitals and additions submitted in 2015, 2016, and 2017 was four, five, and five, respectively. In future years, the number of equivalency requests per year for use of a current edition of the NFPA Standards 99 and 101 will be approximately five.
- In prior years, equivalency requests have been submitted that used as their basis the FGI Guidelines. Because the FGI Guidelines was incorporated by reference in the 10A NCAC 13B Rules in December of 2017, these FGI Guidelines equivalency requests will not be submitted in future years. As a result, the total number of equivalency requests in future years will decrease. It is assumed that the decrease in future equivalency requests will be approximately equivalent to the average number of FGI Guidelines equivalency requests in prior years which was three (FGI Guidelines equivalency requests submitted in 2015, 2016, 2017 were three, two, and three, respectively).

Construction Section Staff Costs

- State Government is impacted by Construction Section personnel costs related to plan review and equivalency review and approval. Plan review work is completed by an engineer and architect. Equivalency review and approval is completed by an architect and the Construction Section Chief. Hourly rates for Construction Section personnel involved with this work were determined as follows. Based on the Midpoint salary, the hourly rate for an Engineering Director II (GN 23), an Engineer II (GN14) and an Architect II (GN16) including fringe

benefits is \$94 per hour, (194,965/2080), \$51 per hour (\$105,894/2080 hours) and \$59 per hour (\$122,539/2080 hours), respectively³.

- The benefits contribution for state government staff will stay in the range of 33% to 34% for the next three years.
- Wages have started to increase recently because of the economic recovery. However, due to the following factors wage growth was held constant in this analysis: the longer term economic forecast is uncertain; the time frame for the analysis is within a short time frame of two years; and the impacts associated with wages could not be quantified.

Architect hourly cost

- State-owned, local government-owned, and private sector entity-owned hospitals will be impacted by the cost for their architects to prepare an equivalency. The hourly rate including fringe benefits for an architects in the private sector is equivalent to \$66 per hour.⁴

Cost and Benefit Estimates

Rule 10A NCAC 13B .3102 Plan Approval

Purpose for rule changes

The Agency is proposing to readopt this rule with substantive changes. This proposed rule provides the requirements for a governing body who is constructing or altering a hospital that includes drawing and document submittals; drawing review and approval; completed construction inspection; and approval of changes made during construction. Changes to the proposed Rule .3102 are listed below:

- Paragraphs (a) and (b) were added to this Rule. Paragraph (a) notifies the governing body that the “Guidelines for the Design and Construction of Hospital and Outpatient Facilities” will be referred to as the “FGI Guidelines” in this rule. Paragraph (b) states that the definition in Rule .6003 also apply to this rule. These changes coordinate this rule with the rules that incorporated by reference the FGI Guidelines (10A NCAC 13B .6003 and .6105).
- Paragraph (c) was the existing Paragraph (a) but technical changes were made to the proposed Paragraph (c). This proposed Paragraph (c) requires hospital design and construction to comply with specific physical plant rules and standards located at 10A NCAC 13B Sections .6000 through .6200 rather than “construction standards of the Division” as stated in the existing Paragraph (a).
- Paragraph (d) was the existing Paragraph (c) but technical changes and deletions were made to the proposed Paragraph (d). This Paragraph cites the requirements for the site selection of a hospital. Technical changes were made to this rule to clarify its meaning. Sub-paragraphs (4) and (5) were deleted because these requirements are cited in the FGI Guidelines and it would be redundant to cite these requirements again here.
- Paragraph (e) replaces the existing Paragraphs (b)(1), (3), and (5). The proposed Paragraph (e) had technical changes, deletions and additions. The proposed Paragraph (e):

³ This hourly rate includes the 2% salary increase for state employees that was enacted in Session Law 2018-5.

⁴ Bureau of Labor Statistics, “Occupational Outlook Handbook: Architectural and Engineering Managers”, (April, 2018), Retrieved from <https://www.bls.gov/ooh/management/architectural-and-engineering-managers.htm>

- reworded the requirement for plans to be submitted by a technical change as follows: “Prior to the construction of a new facility or the construction of an addition or alteration of an existing facility”;
- added the requirement for the submittal of design development drawings (DDs). This change will decrease the number of deficiencies on the Construction Documents;
- relocated the requirements for schematic design drawings (SDs) and construction documents (CDs) submittal from the existing Paragraphs (b)(1) and (3) to the proposed Paragraph (e) (1) and (3).
- deleted the requirement in the existing Paragraph (b)(5) for a governing body to submit one copy of plans to the Construction Section for the Department of Environment and Natural Resources review. Many years ago, the responsibility for reviewing hospital plans was moved from the Department of Environment and Natural Resources to local health departments. Since that time, governing bodies have been submitting plans directly to local health department not to the Construction Section.
- Paragraph (f) changed the requirement found in the existing Paragraph (b)(5) for the governing body to submit one set of plans to the Construction Section for the North Carolina Department of Insurance (NCDOI) building code review. The proposed Paragraph (f) notifies a governing body to submit plans directly to the North Carolina Department of Insurance only if the North Carolina State Building Code: Administrative Code (Administrative Code) requires them to do so. Because the Administrative Code requires the governing body to submit plans directly to the NCDOI, governing bodies have been submitting plans directly to NCDOI not the Construction Section.
- Paragraph (g) added the requirement for a governing body to submit a copy of the FGI Guidelines functional program to the Construction Section with their SDs, DDs, and CDs. As per 10A NCAC 13B .6105, the governing body is required to comply with the FGI Guidelines and prepare a functional program. This paragraph requires that a governing body submits a copy of their functional program to the Construction Section at the time drawings are submitted. The Construction Section must have a copy of the functional program in order to do a review using the FGI Guidelines.
 - Paragraph (h) added the requirement for a governing body to submit a copy of the FGI Guidelines safety risk assessment to the Construction Section with their SDs, DDs, and CDs when the governing body is required to prepare a safety risk assessment by the FGI Guidelines. As per 10A NCAC 13B .6105, the governing body is required to comply with the FGI Guidelines and prepare a risk assessment for certain types of projects. The Construction Section must have a copy of the risk assessment in order to do a review using the FGI Guidelines.
 - Paragraph (i) added the requirement for a governing body to request approval from the Construction Section for changes made during construction that affects compliance with this Rule and the rules of Sections .6000 through .6200 of the Subchapter. This change may decrease the construction costs of a hospital. If a hospital’s construction does not comply with the physical plant rules, the hospital must modify the construction to bring it into compliance. Changes made after construction is complete can be costly.
 - Paragraph (j) modified and relocated the requirements of Rule .6101(1) to this Paragraph. The proposed Paragraph (j) requires the governing body to contact the Construction Section by mail or email and to request an inspection date at least two weeks prior to their inspection date. This helps the Construction Section staff avoid scheduling conflicts

with other inspection requests. This is already a current practice of the Construction Section.

- In Paragraph (k), the requirements for the Construction Section’s approval of “building construction and operation of all building systems” prior to patient occupancy was moved from the existing Rule .6101 Item (1) to this proposed paragraph. It is more appropriate to locate these requirements in this proposed Paragraph because they are related to the hospital’s design and construction.
- Paragraph (l) added the requirement for a governing body to receive renewed approval from the Construction Section for a project that has not had a building permit issued within 12 months of the Construction Section’s approval. This ensures that hospital construction complies with the most recent version of this Rule and the rules of Section .6000 through .6200 of this Subchapter.
- Paragraph (m) was the existing Paragraph (d) with technical changes and a deletion. A hospital’s “bed capacity” compliance with “G.S. 131E, Article 9” was deleted from this Paragraph because it is redundant to repeat the requirements of G.S. 131E, Article 9 in this Paragraph. The proposed Paragraph (m) notifies governing bodies that bassinets in a Neonatal Level I Nursery are not counted in the hospital’s bed capacity, but the beds in the Neonatal Level II, III and IV are counted in the capacity.

Impact:

State Government

Construction Section will be impacted by changes made to the following Paragraphs:

- Paragraph (e) requires the submittal of DDs in addition to SDs and CDs that are required by the existing Rule .3102. The cost impact would be due to the cost for the Construction Section to perform a review of the DDs and prepare a review letter. Under the current Rule .3102, the Construction Section many times only receives a CD submittal for projects. When this happens, the current practice of the Construction Section is not to require the submittal of SDs. This practice will be continued with the proposed language of Rule .3102. After the proposed rule is effective, if a governing body does submit SDs, the Construction Section will require the governing body to submit DDs. As a result, the number of projects that will require a DD plan review in future years will be approximately equivalent to the average number of projects with SD submittals in the years 2015 to 2017. As indicated in Table 1, there will be approximately 14 SD submittals in future years that will result in 14 DD reviews. The hourly rate for engineering and architectural plan review are \$51 per hour and \$59 per hour, respectively. The time to complete a review ranges from 8 hours for a small project to 40 hours for a large project. But because the type and size of the projects are unknown the number of hours to complete these reviews is unknown. Therefore, this cost is unquantifiable. The cost impact would start occurring in 2019 and would continue in future years.
- Paragraph (i) requires the Construction Section to review and approve changes made during construction. The Construction Section would be impacted by the cost to review revised drawings. The hourly rate for Construction Section architectural and engineering plan review is \$59 per hour and \$51 per hour, respectively. The time to complete a review of a change is approximately 2 hours. The number of revised drawings to be

submitted each year is unknown. As a result, this cost is unquantifiable. This cost would start occurring in 2019 and continue to future years.

- Paragraph (l) requires a governing body to receive renewed approval of a project if the project does not have a building permit within 12 months of the Construction Section's approval and the previously approved drawings no longer comply with the rules. In the past, renewed approval for projects was rarely needed because the physical plant rules that were originally adopted in 1996 have never been significantly amended until their repeal and replacement with the FGI Guidelines in 2017. Rule 10A NCAC 14J .6105 incorporates the FGI Guidelines by reference including future amendments and editions. Because the FGI Guidelines is published every four years, projects will need to comply with the most current edition of the FGI Guidelines so renewed approval of projects may be needed more often in the future. The Construction Section would be impacted by the cost to perform a plan review for renewed approval of a project. There is insufficient data of how many projects will need review based on this proposed requirements in future years. Additionally, the type and size of the projects is unknown. As a result, this cost is unquantifiable. The cost impact would start occurring in 2020 and would continue in future years.

State-owned Hospitals

The cost impact for state-owned hospitals is the same as the cost impact for private sector entities.

Local Government

The cost impact for the local government-owned hospital is the same as the cost impact for private sector entities.

Private Sector Entities

Private sector entities that own hospitals will be impacted by changes made to the following Paragraphs:

- Paragraph (e) requires a governing body to submit DDs in addition to SD and CDs. Private sector entities would be impacted by the cost to make copies of the DDs and to mail the copies to the Construction Section. Private sector entities would not be impacted by the cost to prepare DDs. DDs, which are 50% complete drawings, must be completed prior to completing CDs, which are 95% complete drawings. There will be approximately 14 SD submittals in future years (Table 1) that will result in 14 DD projects being copied and mailed to the Construction Section. Because the size and weight of the drawings are unknown this cost is unquantifiable. This impact would start occurring in 2019 and would continue in future years.
- Paragraph (g) requires a governing body to submit a copy of the FGI Guidelines functional program to the Construction Section. The functional program is required to be submitted with each SD, DD and CD submittal so there will be no additional postage cost. From page 3, the approximate number of drawing project submittals in future years is expected to be 410. The impact to governing bodies for this requirements is the cost to copy 410 functional programs. Because the number of pages to be copied for each functional program is unknown, this cost is unquantifiable. This cost would occur in 2019 and future years.

- Paragraph (h) requires a governing body to provide copies of the FGI Guidelines safety risk assessment to the Construction Section. According to the FGI Guidelines, not all projects will require the preparation of a safety risk assessment. If a safety risk assessment is required, it must be submitted with each SD, DD and CD submittal so there will be no additional postage cost. Because the number of risk assessment that will be prepared is unknown and the pages to be copied in each risk assessment is unknown, this cost is unquantifiable. This cost would occur in 2019 and future years.
- Paragraph (i) requires a governing body to submit changes made during construction of the hospital to the Construction Section for approval. The governing body would be impacted by the cost to submit copies of a revised drawing to the Construction Section. The number of drawings to be submitted each year is unknown. As a result, this cost cannot be quantified. This cost would start occurring in 2019 and future years.
- This cost would occur in 2019 and future years.
- Paragraph (l) requires a governing body to receive renewed approval of a project if the project does not have a building permit within 12 months of Construction Section's approval and the previously approved drawings no longer comply with the rules. The governing body would be impacted by the cost to revise and resubmit drawings to the Construction Section. Because the number of revised submittals is unknown this cost is unquantifiable. The cost impact would start occurring in 2020 and would continue in future years.

Benefits:

State Government

If DDs are submitted prior to CDs as required by Paragraph (e), state government may benefit from a decrease in time spent reviewing CDs because of fewer deficiencies on the CDs. More deficiencies may be caught on the DD review and corrected by the governing body's architect and engineer prior to the submittal of CDs.

State-owned Hospitals, the Local Government-owned Hospital and Private Sector entity-owned Hospitals

If DDs are submitted prior to CDs as required by Paragraph (e), the entities listed above may benefit from receiving approval of their CDs in less time. This may result in the project being constructed at an earlier date.

The entities above may also benefit from Paragraph (l) which requires a Construction Section re-approval for CDs which are no longer compliant with the physical plant rules. This requirement may result in lower construction costs. Making changes to CDs is much less costly than making changes to the building after construction is complete.

Rule 10A NCAC 14J .6101 List of Referenced Codes, Rules and Regulations, and Standards

Purpose for rule changes

The Agency is proposing to readopt this rule with substantive changes. The existing rule provided general requirements for the design and construction of a hospital. These general

requirements were moved to Rule .6102. The proposed rule incorporates by reference the codes, rules, regulations and standards that were previously incorporated by reference in the existing Rule .6102. This change was made because it is preferable to incorporate references to be cited by other rules of the Section at the beginning of the Section.

The requirements in the existing Item (1) of this Rule for a governing body to notify the Construction Section when construction is complete and to receive approval from the Construction Section prior to patient occupancy were moved to Rule .3102 Paragraphs (j) and (k).

The following standards no longer exist and were not moved to the proposed Rule .6101 from the existing Rule .6102:

- National Fire Protection Association (NFPA) Standards 12B, 50, and 321.

The following is a list of the other changes made to the proposed Rule .6101:

- In Item (1), the North Carolina State Building Code was incorporated by reference. It was incorporated by reference in the existing Rule .6102(1).
- In Item (2), 42 CFR Part 482.41 Condition of Participation: Physical Plant was incorporated by reference. This federal regulation incorporates by reference the 2012 edition of NFPA Standards 99 Health Care Facilities Code (NFPA 99) and 101 Life Safety Code (NFPA 101). This federal regulation was not incorporated by reference in the existing Rule .6102. Instead, the NFPA Standards 99 and 101 themselves were incorporated in the existing Rule .6102 Sub-Items (2)(ii) and (kk), respectively. By incorporating the federal regulation in the proposed rule instead of the NFPA standards themselves, the state rules become aligned with the federal regulations for Medicare reimbursement by the Center for Medicare and Medicaid Services (CMS). All hospitals in the state are certified to receive Medicare reimbursements from CMS. The following NFPA standards incorporated by reference in the existing Rule .6102 are not incorporated by reference in the proposed Rule .6101 because these standards are incorporated by reference within NFPA Standards 99 and 101: NFPA Standards 10, 12, 12A, 13, 13D, 13R, 14, 15, 17, 17A, 20, 25, 30, 31, 37, 45, 54, 55, 58, 72, 80, 82, 88A, 90A, 90B, 92A, 92B, 96, 99B, 101M, 105, 110, 111, 204, 220, 221, 241, 251, 418, and 704. The American Society of Heating, Refrigerating and Air Conditioning Engineers (ASHRAE) “HVAC Applications” that is incorporated by reference in the existing Rule .6102(3) is now the ASHRAE Standard 170 Ventilation of Health Care Facilities. This Standard is incorporated by reference within NFPA 99 and was not incorporated by reference in the proposed Rule .6101.
- In Item (3), the following NFPA Standards that were also incorporated by reference in the existing Rule .6102 are incorporated by reference in this Item: NFPA Standards 22, 53, 59A, 255, 407, 705, 780, and 801. NFPA Standards 49 and 325 that were incorporated by reference in the existing Rule .6102 are now contained in the NFPA Fire Protection Guide to Hazardous Materials. As a result, this Guide was incorporated by reference in this Item.
- In Item (4), 42 CFR Part 482.15 Condition of Participation: Emergency preparedness was incorporated by reference in this Rule but was not incorporated by reference in Rule

.6102. This is a new federal regulation that hospitals must comply with in order to receive Medicare reimbursement from CMS.

- In Item (5), the “Rules Governing the Sanitation of Hospitals, Nursing Home and Adult Care Homes” were incorporated by reference in the proposed Rule .6101 and were not incorporated by reference in the existing Rule .6102. These sanitation rules are incorporated by reference in the existing 10A NCAC 13B Rule .4703. But the Rule Review Commission prefers, where possible, to incorporate by reference codes, rules, regulations and standards in a Rule that is located close to the other rules citing compliance with those codes, rules, regulations and standards.
- In Item (6), the rules for the ambulatory surgical facilities in 10A NCAC 13C, Licensing were incorporated by reference. These rules were incorporated by reference in the existing Rule .6102(4).

Impact:

Because the codes, rules, regulations and standards cited in this rule may be accessed electronically free of charge, there is no fiscal impact associated with the re adoption of this rule.

Rule 10A NCAC 13B .6102 General

Purpose for rule change

The Agency is proposing to readopt this rule with changes. The proposed rule locates in one Rule the general requirements for the design and construction of a hospital that were previously located in the existing Rules .6101 and .3102. The existing Rule .6102 incorporated by reference the codes, rules, regulations and standards needed for the design and construction of a hospital. These references were updated and moved to the proposed Rule .6101. The following is a list of changes made to the proposed Rule .6102:

- Paragraph (a) requires a hospital or any addition or alteration to an existing hospital whose CDs were approved on or after April 1, 2019 to comply with the codes, regulations, rules, and standards incorporated by reference in the proposed Rule .6101(1) through (3). The proposed language of this Paragraph:
 - continues to require hospital design and construction to comply with the current edition of the North Carolina State Building Code and the National Fire Protection Association (NFPA) Standards cited in the proposed Rule .6101(3);
 - changes which edition of NFPA 101 and NFPA 99 hospital design and construction must comply with. The existing Rule .6101 requires compliance with the current edition of NFPA 101 and NFPA 99 and the proposed rule requires compliance with 42 CFR Part 482.41, which cites compliance with the 2012 editions of NFPA 101 and NFPA 99. This change aligns this rule with a federal regulation that all hospitals in the state must comply with in order to receive Medicare reimbursement from CMS. If a governing body wishes to use a current or future edition of NFPA 101 and NFPA 99 instead of the 2012 editions, they may do so by requesting an equivalency as per Rule .6103(a); and

- continues to require hospital design and construction with CDs approved by the Construction Section prior to April 1, 2019 to comply with the codes, regulations, rules, and standards incorporated by reference in the existing Rule .6102(1) through (3).
- Paragraph (b) requires hospitals to comply with 42 CFR Part 482.15 Condition of Participation: Emergency Preparedness, which has the requirements for a master fire and disaster plan. This master fire and disaster plan requirement was moved from the existing Rule .6101(2) to this Paragraph. It is a current practice of the state’s hospitals to use this federal regulation to prepare a master fire and disaster plan. This proposed Paragraph aligns a federal regulation and current practices of hospitals with state rules.
- Paragraph (c) requires hospitals to comply with the “Rules Governing the Sanitation of Hospitals, Nursing Homes, and Adult Care Homes, and Other Institutions”. This has been moved from existing Rule .3102 (b)(1).

Impact:

State Government

The proposed Paragraph (a) requires hospital design and construction to comply with the 2012 editions of NFPA Standards 99 and 101 and the specific editions of the NFPA standards incorporated by reference within the 2012 editions of NFPA Standards 99 and 101. All hospitals in the state are certified by CMS and since 2016 certified hospitals were required to comply with the 2012 editions of NFPA Standards 99 and 101. Even though the existing Rule required compliance with the current editions of the NFPA standards, the current practice of the Construction Section was to require compliance with the more stringent requirements of one of the following: the NCSBC and its referenced NFPA standards, the current editions of the NFPA standards or the 2012 editions of NFPA Standards 99 and 101 and their referenced standards.

Prior to July 2018, the 2012 NCSBC referenced older versions of the NFPA standards and controlled which editions of the NFPA standards a project must comply with. After July 2018, the 2018 NCSBC will go into effect and because it references more current editions of the NFPA standards than the 2012 editions of NFPA Standards 101 and 99, the 2012 editions of the NFPA Standards 101 and 99 and the other NFPA standards referenced within them will control which editions of the NFPA standards a project must comply with.

But the Construction Section will allow the design and construction of a new hospital or an addition to an existing hospital to comply with the current editions of the NFPA Standards as long as those NFPA standards are incorporated by reference in the current NCSBC and the governing body submits an equivalency request to do so. As a result the Construction Section will be impacted by the cost to review and approve an equivalency. This cost is provided under the impact for 10A NCAC 13B Rule .6103 Equivalency and Conflicts.

State-owned Hospitals

The cost impact for state-owned hospitals is the same as the cost impact for private sector entities.

Local Government

The cost impact for the local government-owned hospital is the same as the cost impact for private sector entities.

Private Sector Entities

The proposed Paragraph (a) requires a hospital's design and construction to comply with the 2012 editions of NFPA 99 and 101. There is no cost impact to the design and construction of a hospital for this change. After July 2018 and prior to the effective date of this Rule, the Construction Section will require a project to comply with the more stringent requirements of one of the following: the 2018 NCSBC; the 2012 editions of the NFPA Standards 99 and 101; or the current editions of NFPA Standards 99 and 101. Because the 2012 editions of NFPA Standards 99 and 101 are older, their requirements are probably more stringent and will control what a project must comply with. After the effective date of this Rule, the Construction Section will require a project to comply with the more stringent requirements of either the 2018 NCSBC or the 2012 editions of NFPA Standards 99 and 101. As cited above, the 2012 editions of NFPA Standards 99 and 101 are older and will have the more stringent requirements so the Construction Section will still require compliance with these standards.

. If a governing body requests an equivalency to use the current edition of NFPA 99 and 101, private sector entities will be impacted by the cost to pay an architect to prepare an equivalency. This cost is provided under the impact for 10A NCAC 13B .6103.

Benefits

The local government-owned hospital, state-owned hospitals, and hospitals owned by private sector entities may benefit by receiving approval of an equivalency to use a more current edition of NFPA 101 and NFPA 99 (2015 or 2018 editions) instead of the 2012 edition. Use of a more current edition of NFPA Standards 99 and 101 are only allowed for the design and construction of either a new hospital or an addition to an existing hospital. In most cases future editions are less stringent than older editions, which may result in lower construction costs. As indicated in the assumptions, there are approximately five new hospital projects per year that are expected to be submitted in future years. The governing bodies for these projects could request equivalencies. Because the size and type of these hospital projects is unknown, the cost benefit cannot be quantified. This benefit would start occurring in 2020.

Rule 10A NCAC 13B .6103 Equivalency and Conflicts of Interest

Purpose for rule change

The Agency is proposing to readopt this rule with substantive changes. The existing rule provided the applicability of physical plant requirements for hospital construction and existing hospitals. The proposed rule deletes some of these requirements and moves them to 10A NCAC 13B .6105 in order to comply with SL 2017-174. The following Items were deleted from this rule:

- Item (1) sets forth the requirements for new hospital construction. This has been deleted from this rule and moved to 10A NCAC 13B .6105.
- Item (2) sets forth the requirements for existing buildings, which has been deleted and moved to 10A NCAC 13B .6105.

- Item (3) sets forth the requirements for the construction of hospital additions and renovations, which has been deleted and moved to 10A NCAC 13B .6105.
- Item (4) notifies facility owners that these rules are minimum requirements and can be exceeded when constructing a hospital. This Item is redundant and was deleted from this rule.

The following Items were relocated to Paragraph (a) and (b) of this rule as follows:

- Item (5), which has the requirements for an equivalency, was moved to a new Paragraph (a). Technical changes were made to the existing rule text.
- Item (6), which requires the most restrictive code or rules to apply when code or rule conflicts occur, was moved to Paragraph (b). Technical changes were made to the existing rule text.

Impact:

State Government

The proposed Paragraph (a) continues to require the Construction Section to review and approve acceptable equivalencies. As noted in the impact for Rule .6102, the Construction Section will be impacted by the cost to review and approve equivalencies for the use of the current editions of NFPA Standards 99 and 101. But the number of equivalencies submitted to the Construction Section will also decrease each year due to the adoption of the FGI Guidelines in Rule 10A NCAC 13B .6105. Prior to the adoption of the FGI Guidelines, hospitals requested equivalencies that used the FGI Guidelines as their basis for the equivalency. These FGI equivalency requests are no longer being submitted.

As indicated in the assumptions, the number of equivalency requests per year in future years for use of a current edition of NFPA Standards 99 and 101 is projected to be approximately five. The assumptions also indicated that the future equivalency requests will be decreased by three due to the adoption of the FGI Guidelines. The net number of equivalencies to be submitted per year in future years is approximately two. Because the size and type of new hospitals or additions is unknown, the cost for equivalency approval cannot be quantified. But the cost impact to the Construction Section for approving one equivalency will range from approximately \$271 (1 hour x \$94 for the Section Chief + 3 hours x \$59 for a plan review architect) to \$390 (1 hour x \$94 for the Section Chief + 5 hours x \$59 for a plan review architect). This cost impact would start occurring in 2019.

State-owned Hospitals

The cost impact for state-owned hospitals is the same as the cost impact for private sector entities.

Local Government

The cost impact for the local government-owned hospital is the same as the cost impact for private sector entities.

Private Sector Entities

Private sector entities will also be impacted by the cost to prepare and submit an equivalency for use of a current edition of NFPA Standards 99 and 101. But, as indicated above, private

sector entities will only be impacted by the net number of equivalencies to be submitted per year in future years, which is approximately two (equivalencies requesting use of current NFPA standards minus equivalencies using FGI Guidelines as their basis). Unfortunately, the size and type of new hospitals or additions is unknown so the cost for equivalency approval cannot be quantified. However, the cost impact to private sector entities for paying an architect to prepare an equivalency will range from approximately \$264 (4 hours x \$66 for a private sector architect) to \$540 (6 hours x \$66 for a private sector architect). This cost impact would start occurring in 2019.

Rule 10A NCAC 13B .6207 Outpatient Surgical Facilities

Purpose for rule changes

The Agency is proposing to readopt this rule with substantive changes. Technical changes were made to the existing rule. This rule sets forth the physical plant requirements for: surgical facilities used to perform surgery on both inpatients and outpatients; and surgical facilities used to perform surgery on outpatients only.

Impact:

There is no fiscal impact associated with the readoption of this rule

Analysis: Summary

Benefits

State

The DHSR Construction Section will benefit from the readoption of these rules. These benefits are unquantifiable. Requiring the submittal of DDs may decrease of the review time on DHSR Construction Section staff spend on the review of CDs.

State-owned Hospitals

The benefit for state-owned hospitals is the same as that for private sector entities listed below.

Local Government

The benefit for local government-owned hospitals is the same as that for private sector entities listed below.

Private Sector Entities

Private Sector Entities who own hospitals will benefit from the readoption of these rules. These benefits are unquantifiable but include:

- receiving approval of CDs in less time due to requiring the submittal of DDs;
- lower construction costs for a hospital because:
 - changes made during construction are submitted for Construction Section approval; and
 - approval of an equivalency allows the use of a less restrictive edition of the NFPA Standards 99 and 101.

Impacts

As presented above, the estimated calendar year costs and benefits from the proposed rule readoptions are not expected to amount to an impact of \$1 million or more within a year. However, costs due to the readoption of two proposed rules (Rules .3102 and .6102) could not be quantified. Additionally, the benefit or reductions in construction costs due to Rule .6102 could not be quantified but may be significant. Therefore, there may be a possible substantial economic impact as a result of the readoption of these rules.

State

For the DHSR Construction Section, the proposed readoption of these rules will result in a non-substantial impact due to: updating the list of referenced codes, rules, regulations and standards (Rule .6101); updating the rule language for equivalencies (Rule .6103); and making technical changes to the physical plant requirements for surgical facilities in a hospital (Rule .6227).

The following impacts were unquantifiable due to insufficient data for costs associated with:

- the Construction Section review of DDs;
- the Construction Section review of revised drawings submitted after a hospital is in construction;
- the Construction Section re-approval of older non-compliant CDs because a building permit was not issued within 12 months of Construction's original approval; and
- the Construction Section approval of an equivalency that allows a governing body to use the current editions of the NFPA 99 and 101 Standards in the construction of a hospital (Rule .6102).

Even though costs are unquantifiable for two rules (Rules .3102 and .6102), it is expected that any additional costs for these rules can be absorbed within the Construction Section and Department's operating budget without any increase to state funds. The greatest impact will be due to the requirement to submit DDs for review in future years. It has been projected that 14 DDs will be submitted per year in future years. This is actually a small percentage of the 356 plans projected to be submitted for review in future years.

State-owned Hospitals

A summary of cost impacts for state-owned hospitals is the same as those for private sector entities listed below.

Local Government

A summary of cost impacts for local government-owned hospitals is the same as those for private sector entities listed below.

Private Sector Entities

The proposed readoption of these rules will result in a non-substantial impact for private sector entities for the same reasons noted above for the State.

The following impacts were unquantifiable due to insufficient data for:

- copying and mailing costs for DD submittals to the Construction Section because the size and weight of drawings is unknown;

- copying costs for functional programs and safety risk assessments because the number of pages to be copied is unknown;
- re-submittal costs for changes made during construction because the number of re-submittals is unknown;
- costs for receiving a renewed Construction Section approval for older non-compliant CDs because the number of submittal needing renewed approval is unknown; and
- costs for preparing an equivalency for use of more recent editions of NFPA Standards 99 and 101 because the number of future equivalency requests is unknown.

1 10A NCAC 13B .3102 is proposed for readoption with substantive changes as follows:

2
3 **10A NCAC 13B .3102 PLAN APPROVAL**

4 (a) For the purposes of this Rule, the Guidelines for the Design and Construction of Hospitals and Outpatient Facilities
5 that is incorporated by reference in Rule .6105 of this Subchapter shall be referred to as the “FGI Guidelines.”

6 (b) The definitions as set forth in Rule .6003 of this Subchapter shall apply to this Rule.

7 ~~(a) (c)~~ The facility design and construction shall be in accordance with the construction standards of the Division, the
8 North Carolina Building Code, and local municipal codes. this Rule and the standards set forth in Sections .6000
9 through .6200 of this Subchapter.

10 ~~(b) Submission of Plans:~~

11 ~~(1) Before construction is begun, color marked plans and specifications covering construction of the~~
12 ~~new buildings, alterations or additions to existing buildings, or any change in facilities shall be~~
13 ~~submitted to the Division for approval.~~

14 ~~(2) The Division shall review the plans and notify the licensee that said buildings, alterations, additions,~~
15 ~~or changes are approved or disapproved. If plans are disapproved the Division shall give the~~
16 ~~applicant notice of deficiencies identified by the Division.~~

17 ~~(3) In order to avoid unnecessary expense in changing final plans, as a preliminary step, proposed plans~~
18 ~~in schematic form shall be submitted by the applicant to the Division for review.~~

19 ~~(4) The plans shall include a plot plan showing the size and shape of the entire site and the location of~~
20 ~~all existing and proposed facilities.~~

21 ~~(5) Plans shall be submitted in triplicate in order that the Division may distribute a copy to the~~
22 ~~Department of Insurance for review of North Carolina State Building Code requirements and to the~~
23 ~~Department of Environment and Natural Resources for review under state sanitation requirements.~~

24 ~~(c) (d) Location:~~ The site where the facility is located shall:

25 ~~(1) The site for new construction or expansion shall be approved by the Division. Construction Section~~
26 ~~prior to the construction of a new facility or the construction of an addition to an existing facility;~~

27 ~~(2) Hospitals shall be so located that they are free from noise from railroads, freight yards, main traffic~~
28 ~~arteries, and schools and children's playgrounds. playgrounds; and~~

29 ~~(3) The site shall not be exposed to smoke, foul odors, or dust from industrial plants.~~

30 ~~(4) The area of the site shall be sufficient to permit future expansion and to provide parking facilities.~~

31 ~~(5) Available paved roads, water, sewage and power lines shall be taken into consideration in selecting~~
32 ~~the site.~~

33 (e) Prior to the construction of a new facility or the construction of an addition or alteration to an existing facility, the
34 governing body shall submit paper copies of the following to the Construction Section for review and approval:

35 (1) one set of schematic design drawings;

36 (2) one set of design development drawings; and

37 (3) one set of construction documents and specifications.

1 (f) If the North Carolina State Building Code Administrative Code and Policies requires the North Carolina
2 Department of Insurance to review and approve the construction documents and specifications, the governing body
3 shall submit a copy of the construction documents and specifications to the North Carolina Department of Insurance.

4 (g) The governing body shall submit a functional program that complies with Section 1.2-2 Functional Program of
5 the FGI Guidelines with each submittal cited in Paragraph (e) of this Rule.

6 (h) The governing body shall:

7 (1) prepare any component of the safety risk assessment required by Section 1.2-3 Safety Risk
8 Assessment of the FGI Guidelines; and

9 (2) submit any component of the safety risk assessment prepared to the Construction Section with each
10 submittal cited in Paragraph (e) of this Rule.

11 (i) In order to maintain compliance with the standards established in this Rule and Sections .6000 through .6200 of
12 this Subchapter, the governing body shall obtain written approval from the Construction Section for any changes made
13 during the construction of the facility in the same manner as set forth in Paragraph (e) of this Rule.

14 (j) Two weeks prior to the anticipated construction completion date, the governing body shall notify the Construction
15 Section of the anticipated construction completion date in writing either by U.S. Mail at the Division of Health Service
16 Regulation, Construction Section, 2705 Mail Service Center, Raleigh, NC, 27699-2705 or by e-mail at
17 DHSR.Construction.Admin@dhhs.nc.gov.

18 (k) Construction documents and building construction, including the operation of all building systems, shall be
19 approved in writing by the Construction Section prior to licensure or patient occupancy.

20 (l) When the Construction Section approves the construction documents and specifications, they shall provide the
21 governing body with an approval letter. The Construction Section's approval of the construction documents and
22 specifications shall expire 12 months after the issuance of the approval letter, unless the governing body has obtained
23 a building permit for construction. If the Construction Section's approval has expired, the governing body may obtain
24 a renewed approval of the construction documents and specifications from the Construction Section as follows:

25 (1) If the standards established in this Rule and Sections .6000 through .6200 of this Subchapter have
26 not changed, the governing body shall request a renewed approval of the construction documents
27 and specifications from the Construction Section.

28 (2) If the standards established in this Rule and Sections .6000 through .6200 of this Subchapter have
29 changed, the governing body shall:

30 (A) submit revised construction documents and specifications meeting the current standards
31 established in this Rule and Sections .6000 through .6200 of this Subchapter to the
32 Construction Section; and

33 (B) obtain written approval of the revised construction documents and specifications from the
34 Construction Section.

35 ~~(d) (m) The bed capacity and services provided in a facility shall be in compliance with G.S. 131E, Article 9 regarding~~
36 ~~Certificate of Need. A facility shall be licensed for no more beds than the number for which required physical space~~
37 ~~and other required facilities are available. Neonatal Level II, III and IV beds are considered part of the licensed bed~~

1 capacity. ~~Level I bassinets are not considered part of the licensed bed capacity however, no more bassinets shall be~~
 2 ~~placed in service than the number for which required physical space and other required facilities are available.~~
 3 Bassinets in a Neonatal Level I nursery as specified in Rule .6228 of this Subchapter shall not be included in a facility's
 4 bed capacity; however, no more bassinets shall be placed in service than the number allowed by the requirements set
 5 forth in Rule .6228 of this Subchapter. Beds in Neonatal Level II, III, and IV nurseries as specified in Rule .6228 of
 6 this Subchapter shall be included in a facility's bed capacity.

7
 8 *History Note:* Authority G.S. 131E-77; G.S. 131E-79;
 9 Eff. January 1, 1996;
 10 Temporary Amendment Eff. March 15, 2002;
 11 Amended Eff. April 1, 2003- 2003;
 12 Readopted Eff. April 1, 2019.

13 10A NCAC 13B .6101 is proposed for readoption with substantive changes as follows:

14 15 SECTION .6100 – GENERAL REQUIREMENTS

16 17 **10A NCAC 13B .6101 GENERAL LIST OF REFERENCED CODES, RULES, REGULATIONS, AND** 18 **STANDARDS**

19 ~~The design, construction, maintenance and operation of a facility shall be in accordance with those codes and standards~~
 20 ~~listed in Rule .6102, LIST OF REFERENCED CODES AND STANDARDS of this Section, and codes, ordinances,~~
 21 ~~and regulations enforced by city, county, or other state jurisdictions with the following requirements:~~

- 22 (1) ~~Notify the Division when all construction or renovation has been completed, inspected and approved~~
 23 ~~by the architect and engineer having responsibility, and the facility is ready for a final inspection.~~
 24 ~~Prior to using the completed project, the facility shall receive from the Division written approval for~~
 25 ~~use. The approval shall be based on an on-site inspection by the Division or by documentation as~~
 26 ~~may be required by the Division;~~
- 27 (2) ~~In the absence of any requirements by other authorities having jurisdiction, develop a master fire~~
 28 ~~and disaster plan with input from the local fire department and local emergency management agency~~
 29 ~~to fit the needs of the facility. The plan shall require:~~
- 30 (a) ~~Training of facility employees in the fire plan implementation, in the use of fire fighting~~
 31 ~~equipment, and in evacuation of patients and staff from areas in danger during an~~
 32 ~~emergency condition;~~
- 33 (b) ~~Conducting of quarterly fire drills on each shift;~~
- 34 (c) ~~A written record of each drill shall be on file at the facility for at least three years;~~
- 35 (d) ~~The testing and evaluation of the emergency electrical system(s) once each year by~~
 36 ~~simulating a utility power outage by opening of the main facility electrical breaker(s).~~

~~Documentation of the testing and results shall be completed at the time of the test and retained by the facility for three years; and~~

~~(e) Disaster planning to fit the specific needs of the facility's geographic location and disaster history, with at least one documented disaster drill conducted each year.~~

For the purposes of the rules in this Subchapter, the following codes, rules, regulations, and standards are incorporated herein by reference including subsequent amendments and editions. Copies of these codes, rules, regulations, and standards may be obtained or accessed from the online addresses listed:

(1) the North Carolina State Building Codes with copies that may be purchased from the International Code Council online at <http://shop.iccsafe.org/> at a cost of five hundred seventy-one dollars (\$571.00) or accessed electronically free of charge at <http://codes.iccsafe.org/North%20Carolina.html>;

(2) 42 CFR Part 482.41, Condition of Participation: Physical Plant, that is incorporated herein by reference including all subsequent amendments and editions; however, Part 482.41(c)(1) shall not be incorporated by reference. Copies of this regulation may be accessed free of charge at <https://www.gpo.gov/fdsys/pkg/CFR-2017-title42-vol5/xml/CFR-2017-title42-vol5-sec482-41.xml> or purchased online at <https://bookstore.gpo.gov/products/cfr-title-42-pt-482-end-code-federal-regulationspaper-201-7> for a cost of seventy-seven dollars (\$77.00);

(3) the following National Fire Protection Association standards, codes, and guidelines with copies of these standards, codes, and guidelines that may be accessed electronically free of charge at <https://www.nfpa.org/Codes-and-Standards/All-Codes-and-Standards/List-of-Codes-and-Standards> or may be purchased online at <https://catalog.nfpa.org/Codes-and-Standards-C3322.aspx> for the costs listed:

(a) NFPA 22, Standard for Water Tanks for Private Fire Protection for a cost of fifty-four dollars (\$54.00);

(b) NFPA 53, Recommended Practice on Materials, Equipment, and Systems Used in Oxygen-Enriched Atmospheres for a cost of fifty-three dollars (\$53.00);

(c) NFPA 59A, Standard for the Production, Storage, and Handling of Liquefied Natural Gas for a cost of fifty-four dollars \$54.00;

(d) NFPA 255, Standard Method of Test of Surface Burning Characteristics of Building Materials for a cost of forty-two dollars (\$42.00);

(e) NFPA 407, Standard for Aircraft Fuel Servicing for a cost of forty-nine dollars (\$49.00);

(f) NFPA 705, Recommended Practice for a Field Flame Test for Textiles and Films for a cost of forty-two dollars (\$42.00);

(g) NFPA 780, Standard for the Installation of Lightning Protection Systems for a cost of sixty-three dollars and fifty cents (\$63.50);

(h) NFPA 801, Standard for Fire Protection for Facilities Handling Radioactive Materials for a cost of forty-nine dollars (\$49.00); and

1 (i) Fire Protection Guide to Hazardous Materials for a cost of one hundred and thirty-five
 2 dollars and twenty-five cents (\$135.25);

3 (4) 42 CFR Part 482.15 Condition of participation: Emergency preparedness with copies of this
 4 regulation that may be accessed free of charge at [https://www.gpo.gov/fdsys/pkg/CFR-2017-title42-](https://www.gpo.gov/fdsys/pkg/CFR-2017-title42-vol5/xml/CFR-2017-title42-vol5-sec482-15.xml)
 5 [vol5/xml/CFR-2017-title42-vol5-sec482-15.xml](https://www.gpo.gov/fdsys/pkg/CFR-2017-title42-vol5-sec482-15.xml) or purchased online at
 6 <https://bookstore.gpo.gov/products/cfr-title-42-pt-482-end-code-federal-regulationspaper-201-7>
 7 for a cost of seventy-seven dollars (\$77.00);

8 (5) the "Rules Governing the Sanitation of Hospitals, Nursing Homes, Adult Care Homes, and Other
 9 Institutions" 15A NCAC 18A .1300 with copies of these rules that may be accessed electronically
 10 free of charge at [http://reports.oah.state.nc.us/ncac/title%2015a%20-](http://reports.oah.state.nc.us/ncac/title%2015a%20-%20environmental%20quality/chapter%2018%20-%20environmental%20health/subchapter%20a/15a%20ncac%2018a%20.1301.pdf)
 11 [%20environmental%20quality/chapter%2018%20-](http://reports.oah.state.nc.us/ncac/title%2015a%20-%20environmental%20quality/chapter%2018%20-%20environmental%20health/subchapter%20a/15a%20ncac%2018a%20.1301.pdf)
 12 [%20environmental%20health/subchapter%20a/15a%20ncac%2018a%20.1301.pdf](http://reports.oah.state.nc.us/ncac/title%2015a%20-%20environmental%20quality/chapter%2018%20-%20environmental%20health/subchapter%20a/15a%20ncac%2018a%20.1301.pdf); and

13 (6) the rules for ambulatory surgical facilities in 10A NCAC 13C, Licensing of Ambulatory Surgical
 14 Facilities with copies of these rules that may be accessed electronically free of charge at
 15 [http://reports.oah.state.nc.us/ncac/title%2010a%20-](http://reports.oah.state.nc.us/ncac/title%2010a%20-%20health%20and%20human%20services/chapter%2013%20-%20nc%20medical%20care%20commission/subchapter%20c/subchapter%20c%20rules.pdf)
 16 [%20health%20and%20human%20services/chapter%2013%20-](http://reports.oah.state.nc.us/ncac/title%2010a%20-%20health%20and%20human%20services/chapter%2013%20-%20nc%20medical%20care%20commission/subchapter%20c/subchapter%20c%20rules.pdf)
 17 [%20nc%20medical%20care%20commission/subchapter%20c/subchapter%20c%20rules.pdf](http://reports.oah.state.nc.us/ncac/title%2010a%20-%20health%20and%20human%20services/chapter%2013%20-%20nc%20medical%20care%20commission/subchapter%20c/subchapter%20c%20rules.pdf).

18
 19 *History Note: Authority G.S. 131E-79;*
 20 *Eff. January 1, 1996; 1996;*
 21 *Readopted Eff. April 1, 2019.*

22 10A NCAC 13B .6102 is proposed for readoption with substantive changes as follows:

23
 24 **10A NCAC 13B .6102 ~~LIST OF REFERENCED CODES AND STANDARDS GENERAL~~**

25 ~~The following codes and standards are adopted by reference including subsequent amendments. Copies of these~~
 26 ~~publications can be obtained from the various organizations at the addresses listed:-~~

27 ~~(1) The North Carolina State Building Code, current edition, all volumes including subsequent~~
 28 ~~amendments. Copies of this code may be purchased from the N.C. Department of Insurance~~
 29 ~~Engineering and Codes Division located at 410 North Boylan Avenue, Raleigh, NC 27603 at a cost~~
 30 ~~of two hundred fifty dollars (\$250.00).~~

31 ~~(2) The National Fire Protection Association codes and standards listed in this Paragraph, current~~
 32 ~~editions including subsequent amendments. Copies of these codes and standards may be obtained~~
 33 ~~from the National Fire Protection Association, 1 Batterymarch Park, PO Box 9101, Quincy, MA~~
 34 ~~02269 9101 at the cost shown for each code or standard listed.~~

35 ~~(a) 10 Portable Fire Extinguishers (\$22.50)~~

36 ~~(b) 12 Carbon Dioxide Extinguishing Systems (\$20.25)~~

37 ~~(c) 12A Halon 1301 Fire Extinguishing Systems (\$22.25)~~

1	(d)	12B	Halon 1211 Fire Extinguishing Systems	(\$20.25)
2	(e)	13	Installation of Sprinkler Systems	(\$28.50)
3	(f)	13D	Installation of Sprinkler Systems in One and	
4			Two Family Dwellings and Manufactured Homes	(\$20.25)
5	(g)	13R	Installation of Sprinkler Systems in Residential	
6			Occupancies up to and including Four Stories	
7			in Height	(\$20.25)
8	(h)	14	Installation of Standpipe and Hose Systems	(\$20.25)
9	(i)	15	Water Spray Fixed Systems	(\$20.25)
10	(j)	17	Dry Chemical Extinguishing Systems	(\$20.25)
11	(k)	17A	Wet Chemical Extinguishing Systems	(\$16.75)
12	(l)	20	Installation of Centrifugal Fire Pumps	(\$20.25)
13	(m)	22	Water Tanks for Private Fire Protection	(\$22.25)
14	(n)	25	Water Based Fire Protection Systems	(\$22.25)
15	(o)	30	Flammable and Combustible Liquids Code	(\$22.25)
16	(p)	31	Installation of Oil Burning Equipment	(\$20.25)
17	(q)	37	Stationary Combustion Engines and Gas Turbines	(\$16.75)
18	(r)	45	Fire Protection for Laboratories Using Chemicals	(\$20.25)
19	(s)	49	Hazardous Chemicals Data	(\$26.50)
20	(t)	50	Bulk Oxygen Systems at Consumer Sites	(\$16.75)
21	(u)	53	Fire Hazards in Oxygen Enriched Atmospheres	(\$22.50)
22	(v)	54	National Fuel Gas Code	(\$26.50)
23	(w)	55	Compressed and Liquefied Gases in Portable Cylinders	(\$16.75)
24	(x)	58	Storage and Handling of Liquefied Petroleum Gases	(\$26.50)
25	(y)	59A	Liquefied Natural Gas (LNG)	(\$20.25)
26	(z)	72	National Fire Alarm Code	(\$32.25)
27	(aa)	80	Fire Doors and Windows	(\$22.50)
28	(bb)	82	Incinerators, Waste and Linen Handling Systems	
29			and Equipment	(\$16.75)
30	(cc)	88A	Parking Structures	(\$16.75)
31	(dd)	90A	Installation of Air Conditioning and Ventilating Systems	(\$20.25)
32	(ee)	90B	Installation of Warm Air Heating and Air Conditioning	
33			Systems	(\$16.75)
34	(ff)	92A	Smoke Control Systems	(\$20.25)
35	(gg)	92B	Smoke Management Systems in Malls, Atria, Large Areas	(\$20.25)
36	(hh)	96	Ventilation Control and Fire Protection of Commercial	
37			Cooking Operations	(\$20.25)

1	(ii)	99	Health Care Facilities	(\$32.25)
2	(jj)	99B	Hypobaric Facilities	(\$20.25)
3	(kk)	101	Safety to Life from Fire in Buildings and Structures	(\$39.50)
4	(ll)	101M	Alternative Approaches to Life Safety	(\$22.25)
5	(mm)	105	Smoke Control Door Assemblies	(\$16.75)
6	(nn)	110	Emergency and Standby Power Systems	(\$20.25)
7	(oo)	111	Stored Electrical Energy Emergency and Standby	
8			Power Systems	(\$16.75)
9	(pp)	204M	Smoke and Heat Venting	(\$20.25)
10	(qq)	220	Types of Building Construction	(\$16.75)
11	(rr)	221	Fire Walls and Fire Barrier Walls	(\$16.75)
12	(ss)	241	Construction, Alteration, and Demolition Operations	(\$20.25)
13	(tt)	251	Fire Tests of Building Construction and Materials	(\$20.25)
14	(uu)	255	Test of Surface Burning Characteristics of Building	
15			Materials	(\$16.75)
16	(vv)	321	Basic Classification of Flammable and Combustible	
17			Liquids	(\$16.75)
18	(ww)	325	Fire Hazard Properties of Flammable Liquids, Gases,	
19			and Volatile Solids	(\$22.25)
20	(xx)	407	Aircraft Fuel Servicing	(\$20.25)
21	(yy)	418	Roof top Heliport Construction and Protection	(\$16.75)
22	(zz)	704	Identification of the Fire Hazards of Materials	(\$16.75)
23	(aaa)	705	Field Flame Test for Textiles and Films	(\$16.75)
24	(bbb)	780	Lightning Protection Code	(\$20.25)
25	(ccc)	801	Facilities Handling Radioactive Materials	(\$20.25)

(3) American Society of Heating, Refrigerating & Air Conditioning Engineers Inc., (ASHRAE) HVAC APPLICATIONS, current edition including subsequent amendments. Copies of this document may be obtained from the American Society of Heating, Refrigerating & Air Conditioning Engineers, Inc. at 1791 Tullie Circle NE, Atlanta, GA 30329 at a cost of one hundred nineteen dollars (\$119.00).

(4) Rules and Statutes Governing the Licensure of Ambulatory Surgical Facilities, current edition including subsequent amendments. Copies of this document may be obtained from the N.C. Department of Health and Human Services, Division of Health Service Regulation, Licensure and Certification Section, 2711 Mail Service Center, Raleigh, NC 27699 2711 at a cost of three dollars (\$3.00).

(a) A new facility or any addition or alteration to an existing facility whose construction documents were approved by the Construction Section on or after April 1, 2019 shall comply with the requirements provided in the codes, regulations, rules, and standards incorporated by reference in Items (1) through (3) of Rule .6101 of this Section. An

1 existing facility whose construction documents were approved by the Construction Section prior to April 1, 2019 shall
 2 comply with the codes and standards incorporated by reference in Items (1) through (3) of this Rule that were in effect
 3 at the time construction documents were approved by the Construction Section.

4 (b) The facility shall develop and maintain an emergency preparedness program as required by 42 CFR Part 482.15
 5 Condition of Participation: Emergency Preparedness. The emergency preparedness program shall be developed with
 6 input from the local fire department and local emergency management agency. Documentation required to be
 7 maintained by 42 CFR Part 482.15 shall be maintained at the facility for at least three years and shall be made available
 8 to the Division during an inspection upon request.

9 (c) The facility shall comply with the "Rules Governing the Sanitation of Hospitals, Nursing Homes, Adult Care
 10 Homes, and Other Institutions," 15A NCAC 18A .1300 of the North Carolina Division of Public Health,
 11 Environmental Health Services Section.

12
 13 *History Note: Authority G.S. 131E-79;*
 14 *Eff. January 1, 1996; 1996;*
 15 *Readopted Eff. April 1, 2019.*

16 10A NCAC 13B .6103 is proposed for readoption with substantive changes as follows:

17
 18 **10A NCAC 13B .6103 APPLICATION OF PHYSICAL PLANT REQUIREMENTS EQUIVALENCY AND**
 19 **CONFLICTS WITH REQUIREMENTS**

20 The physical plant requirements for each facility shall be applied as follows:

- 21 (1) ~~New construction shall comply with the requirements of Section .6000 of this Subchapter;~~
 22 (2) ~~Existing buildings shall meet licensure and code requirements in effect at the time of construction,~~
 23 ~~alteration, or modification;~~
 24 (3) ~~New additions, alterations, modifications, and repairs shall meet the technical requirements of~~
 25 ~~Section .6000 of this Subchapter, however, where strict conformance with current requirements~~
 26 ~~would be impractical, the authority having jurisdiction may approve alternative measures where the~~
 27 ~~facility can demonstrate to the Division's satisfaction that the alternative measures do not reduce the~~
 28 ~~safety or operating effectiveness of the facility;~~
 29 (4) ~~Rules contained in Section .6000 of this Subchapter are minimum requirements and not intended to~~
 30 ~~prohibit buildings, systems or operational conditions that exceed minimum requirements;~~
 31 (5) ~~Equivalency: Alternate methods, procedures, design criteria, and functional variations from the~~
 32 ~~physical plant requirements, because of extraordinary circumstances, new programs, or unusual~~
 33 ~~conditions, may be approved by the authority having jurisdiction when the facility can effectively~~
 34 ~~demonstrate to the Division's satisfaction, that the intent of the physical plant requirements are met~~
 35 ~~and that the variation does not reduce the safety or operational effectiveness of the facility; and~~
 36 (6) ~~Where rules, codes, or standards have any conflict, the most stringent requirement shall apply.~~

1 (a) The Division may grant an equivalency to allow an alternate design or functional variation from the requirements
 2 in Rule .3102 and the Rules contained in Sections .6000 through .6200 of this Subchapter. The equivalency may be
 3 granted by the Division if a governing body submits a written equivalency request to the Division that indicates the
 4 following:

5 (1) the rule citation and the rule requirement that will not be met;

6 (2) the justification for the equivalency;

7 (3) how the proposed equivalency meets the intent of the corresponding rule requirement; and

8 (4) a statement by the governing body that the equivalency request will not reduce the safety and
 9 operational effectiveness of the facility design and layout.

10 The governing body shall maintain a copy of the approved equivalence issued by the Division.

11 (b) If the rules, codes, or standards contained in this Subchapter conflict, the most restrictive requirement shall apply.

13 *History Note: Authority G.S. 131E-79;*

14 *Eff. January 1, 1996. 1996;*

15 *Readopted Eff. April 1, 2019.*

16 10A NCAC 13B .6207 is proposed for readoption with substantive changes as follows:

18 **10A NCAC 13B .6207 OUTPATIENT SURGICAL FACILITIES**

19 (a) ~~When~~ If a facility elects to share outpatient surgical facilities with inpatient surgical facilities, the outpatient
 20 operating room and support areas shall meet the ~~same physical plant~~ requirements as ~~inpatient, general operating~~
 21 ~~rooms and support areas~~, set forth in Sections .6000 through .6200 of this Subchapter.

22 (b) ~~When~~ If a facility elects to provide separate, non-sharable outpatient surgical facilities, the operating rooms and
 23 support areas shall meet the ~~physical plant construction~~ requirements of ~~Outpatient Surgical Licensure requirements~~
 24 set forth in Section .1400 of 10A NCAC 13C .1400. 13C.

26 *History Note: Authority G.S. 131E-79;*

27 *Eff. January 1, 1996. 1996;*

28 *Readopted Eff. April 1, 2019.*