

NORTH CAROLINA REGISTER

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April 3, 2023

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PUBLISHED BY

The Office of Administrative Hearings

Rules Division

1711 New Hope Church Road

Raleigh, NC 27609

Telephone 984-236-1850

Fax 984-236-1947

Donald R. van der Vaart, Director

Ashley B. Snyder, Codifier of Rules

Dana McGhee, Publications Coordinator

Cathy Matthews-Thayer, Editorial Assistant

Julie B. Eddins, Register Drafter

Contact List for Rulemaking Questions or Concerns

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

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

Office of Administrative Hearings

Rules Division

1711 New Hope Church Road

Raleigh, North Carolina 27609

984-236-1850

984-236-1947 FAX

contact: Ashley B. Snyder, Codifier of Rules

ashley.snyder@oah.nc.gov

984-236-1941

Dana McGhee, Publications Coordinator

dana.mcghee@oah.nc.gov

984-236-1937

Cathy Matthews-Thayer, Editorial Assistant

cathy.thayer@oah.nc.gov

984-236-1901

Rule Review and Legal Issues

Rules Review Commission

1711 New Hope Church Road

Raleigh, North Carolina 27609

984-236-1850

984-236-1947 FAX

contact: Brian Liebman, Commission Counsel

brian.liebman@oah.nc.gov

984-236-1948

Lawrence Duke, Commission Counsel

lawrence.duke@oah.nc.gov

984-236-1938

William W. Peaslee, Commission Counsel

bill.peaslee@oah.nc.gov

984-236-1939

Seth M. Ascher, Commission Counsel

seth.ascher@oah.nc.gov

984-236-1934

Alexander Burgos, Paralegal

alexander.burgos@oah.nc.gov

984-236-1940

Julie B. Eddins, Administrative Assistant

julie.eddins@oah.nc.gov

984-236-1935

Fiscal Notes & Economic Analysis

Office of State Budget and Management

116 West Jones Street

Raleigh, North Carolina 27603-8005

Contact: Julie Ventaloro, Economic Analyst

osbmruleanalysis@osbm.nc.gov

984-236-0694

NC Association of County Commissioners

215 North Dawson Street

Raleigh, North Carolina 27603

contact: Amy Bason

919-715-2893

amy.bason@ncacc.org

NC League of Municipalities

424 Fayetteville Street, Suite 1900

Raleigh, North Carolina 27601

contact: Monica Jackson

919-715-2925

mjackson@nclm.org

Legislative Process Concerning Rulemaking

545 Legislative Office Building

300 North Salisbury Street

Raleigh, North Carolina 27611

919-733-2578

919-715-5460 FAX

Jason Moran-Bates, Staff Attorney

Chris Saunders, Staff Attorney

Aaron McGlothlin, Staff Attorney

NORTH CAROLINA REGISTER
Publication Schedule for January 2023 – December 2023

FILING DEADLINES			NOTICE OF TEXT		PERMANENT RULE			TEMPORARY RULES
Volume & issue number	Issue date	Last day for filing	Earliest date for public hearing	End of required comment Period	Deadline to submit to RRC for review at next meeting	RRC Meeting Date	Earliest Eff. Date of Permanent Rule	270 th day from publication in the Register
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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.

North Carolina License and Theft Bureau

PUBLIC NOTICE

This serves as a notice pursuant to G.S. § 20-288 of a license application submission by a manufacturer, factory branch, factory representative, distributor, distributor branch, or distributor representative that has not been previously issued a license by the Division.

Applicant's Name: MV Agusta Motorcycles North America Inc

Applicant's Address: 38429 Innovation CT, Murrieta CA 92563

Application Date: 12-28-2022

Names and titles of any individual listed on the application as an owner, partner, member or officer of the applicant:

John Hinz CEO

Oana D Roth CFO

Elisabeth Steinacker Secretary

North Carolina License and Theft Bureau

PUBLIC NOTICE

This serves as a notice pursuant to G.S. § 20-288 of a license application submission by a manufacturer, factory branch, factory representative, distributor, distributor branch, or distributor representative that has not been previously issued a license by the Division.

Applicant's Name: Legend Manufacturing Inc

Applicant's Address: 7945 N Alger Rd, Alma, MI 48801

Application Date: 1/17/2023

Names and titles of any individual listed on the application as an owner, partner, member or officer of the applicant:

Jason Beck owner

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

TITLE 10A – DEPARTMENT OF HEALTH AND HUMAN SERVICES

Notice is hereby given in accordance with G.S. 150B-21.2 and G.S. 150B-21.3A(c)(2)g. that the Radiation Protection Commission intends to amend the rule cited as 10A NCAC 15 .1001, repeal the rules cited as 10A NCAC 15 .1002, .1003, .1005, .1006, readopt with substantive changes the rule cited as 10A NCAC 15 .1601 and repeal through readoption the rules cited as 10A NCAC 15 .1004, .1007, .1008, .1602-.1649, and .1653.

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://info.ncdhhs.gov/dhsr/ruleactions.html>

Proposed Effective Date: October 1, 2023

Public Hearing:

Date: May 1, 2023

Time: 10:00 a.m.

Location: Dorothea Dix Park, Edgerton Building, Room 026, 809 Ruggles Drive, Raleigh, NC 27603

Reason for Proposed Action: Pursuant to G.S. 150B-21.3A, Periodic Review and Expiration of Existing Rules, all rules are reviewed at least every 10 years, or they shall expire. As a result of the periodic review of the rules in Chapter 10A NCAC 15, Radiation Protection, 53 rules proposed for readoption were part of the 257 rules from the N.C. Radiation Protection Commission determined as “Necessary With Substantive Public Interest,” requiring readoption. With input from advisory committees and working groups of the N.C. Radiation Protection Commission, substantive changes are proposed to one rule for readoption, one rule is proposed for amendment, and 56 rules are proposed for repeal or as readoption as a repeal for a total of 58 proposed rules.

The two rules proposed for amendment or readoption with substantive changes have been reorganized to incorporate by reference the federal Code of Federal Regulations (CFR) for Parts 19, and 20. Fifty -six rules are proposed for repeal or readoption as a repeal because they have are redundant and are therefore unnecessary because the federal regulations for these rules are incorporated by reference in Rules 10A NCAC 15 .1001 and .1601.

Comments may be submitted to: Nadine Pfeiffer, 809 Ruggles Drive, 2701 Mail Service Center, Raleigh, NC 27699-2701; email DHSR.RulesCoordinator@dhhs.nc.gov

Comment period ends: June 2, 2023

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

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

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

CHAPTER 15 - RADIATION PROTECTION

SECTION .1000 - NOTICES: INSTRUCTIONS: REPORTS AND INSPECTIONS

10A NCAC 15 .1001 SCOPE NOTICES, INSTRUCTIONS, AND REPORTS TO EMPLOYEES

~~This Section establishes requirements for notices, instructions and reports by licensees or registrants to individuals engaged in work under a license or registration and options available to such individuals in connection with agency inspections of licensees or registrants to ascertain compliance with the provisions of the Act and rules, orders and licenses issued thereunder regarding radiological working conditions. The rules in this Section apply to all persons who receive, possess, use, own or transfer sources of radiation licensed by or registered with the agency pursuant to the rules in Sections .0200, .0300, .0900 and .1200 of this Chapter.~~
(a) Persons registered with the agency pursuant to the rules in Section .0200 of this Chapter and persons licensed under the rules in Sections .0300, .0900, .1200, and .1300 of this Chapter shall comply with the provisions of 10 CFR 19 as follows, which are hereby incorporated by reference including subsequent amendments and editions, except that references to and requirements for 10 CFR 2, 50, 52, 54, 60, 63, 72, and 76 shall not apply:

- | | | | | | |
|---|--|--------------------------|--------------------------------------|--------------------------|--------------------------------|
| <p>(1) <u>10 CFR 19.1, "Purpose;"</u></p> <p>(2) <u>10 CFR 19.2, "Scope;"</u></p> <p>(3) <u>10 CFR 19.3, "Definitions," except that the definition of "regulated activities" and "regulated entities" shall not apply. For persons registered with the agency pursuant to the rules in Section .0200 of this Chapter, the following terms used in 19.3 shall have the following substitutions:</u></p> <p style="padding-left: 20px;">(A) <u>"license" shall have the same meaning as "registration" as defined in Rule .0104(131) of this Chapter;</u></p> <p style="padding-left: 20px;">(B) <u>"licensed" means registered pursuant to the rules in Section .0200 of this Chapter;</u></p> <p style="padding-left: 20px;">(C) <u>"licensee" shall have the same meaning as "registrant" as defined in Rule .0104(130) of this Chapter;</u></p> <p style="padding-left: 20px;">(E) <u>"materials" shall have the same meaning as "radiation machine" as defined in Rule .0104(122) of this Chapter;</u></p> <p style="padding-left: 20px;">(F) <u>"NRC-licensed" means registered pursuant to the rules in Section .0200 of this Chapter; and</u></p> <p style="padding-left: 20px;">(D) <u>"radioactive material" shall have the same meaning as "radiation machine" as defined in Rule .0104(122) of this Chapter;</u></p> <p>(4) <u>10 CFR 19.5, "Communications," except that licensees and registrants shall address communications and reports to the agency at the address shown in Rule .0111 of this Chapter in lieu of the NRC;</u></p> <p>(5) <u>10 CFR 19.11, "Posting of notices to workers," except that 19.11(b) and (e) shall not apply:</u></p> <p style="padding-left: 20px;">(A) <u>NRC Form 3 shall not be used in lieu of the Notice to Employees issued by the agency, except as authorized by the agency in writing;</u></p> <p style="padding-left: 20px;">(B) <u>licensees and registrants shall not post other notices, postings, notes, or other materials over the notice to employees, nor shall equipment be placed in such a manner that the notice to employees is obscured or hidden by that equipment; and</u></p> <p style="padding-left: 20px;">(C) <u>additional copies of the Notice to Employees may be obtained free of charge from the agency by contacting the agency at the address shown in Rule .0111 of this Chapter in lieu of the NRC, or online at https://radiation.ncdhhs.gov/;</u></p> <p>(6) <u>10 CFR 19.12, "Instructions to workers;"</u></p> <p>(7) <u>10 CFR 19.13, "Notifications and reports to individuals;"</u></p> | <p>(8) <u>10 CFR 19.14, "Presence of representatives of licensees and regulated entities, and workers during inspections;"</u></p> <p>(9) <u>10 CFR 19.15, "Consultation with workers during inspections;"</u></p> <p>(10) <u>10 CFR 19.16, "Requests by workers for inspections." Requests for inspections shall be submitted to the agency at the address shown in Rule .0111 of this Chapter in lieu of the NRC;</u></p> <p>(11) <u>10 CFR 19.17, "Inspections not warranted; informal review." Communications regarding the agency's decisions with respect to a request for inspection submitted to the agency under Subparagraph (a)(10) shall be submitted to the agency at the address shown in Rule .0111 of this Chapter in lieu of the NRC;</u></p> <p>(12) <u>10 CFR 19.18, "Sequestration of witnesses and exclusion of counsel in interviews conducted under subpoena;"</u></p> <p>(13) <u>10 CFR 19.20, "Employee protection;"</u></p> <p>(14) <u>10 CFR 19.31, "Application for exemptions," except that the request for exemption shall be made on the licensee's or registrant's business letterhead. Requests for exemptions from the requirements of this Rule shall be made to the agency at the address shown in Rule .0111 of this Chapter in lieu of the NRC or as otherwise instructed by the agency. To request an exemption, the following information shall be submitted to the agency:</u></p> <p style="padding-left: 20px;">(A) <u>licensee or registrant name;</u></p> <p style="padding-left: 20px;">(B) <u>license or registration number;</u></p> <p style="padding-left: 20px;">(C) <u>name of the individual requesting the exemption;</u></p> <p style="padding-left: 20px;">(D) <u>contact information for the individual requesting the exemption;</u></p> <p style="padding-left: 20px;">(E) <u>a description of the exemption being requested; and</u></p> <p style="padding-left: 20px;">(F) <u>an explanation describing why the exemption is necessary.</u></p> <p>(b) <u>Notwithstanding Subparagraph (a)(5) of this Rule, registrants temporarily working in North Carolina and licensees working in North Carolina under reciprocity may post the Notice to Employees, NRC Form 3, or an equivalent form issued under the authority of the regulatory agency issuing the registration or license.</u></p> <p>(c) <u>Copies of these regulations are available free of charge at https://www.nrc.gov/reading-rm/doc-collections/cfr/part019/.</u></p> <p style="margin-top: 10px;"><i>Authority G.S. 104E-7; 104E-12.</i></p> <table border="0" style="width: 100%; margin-top: 10px;"> <tr> <td style="width: 50%;">10A NCAC 15 .1002</td> <td>POSTING OF NOTICES TO WORKERS</td> </tr> <tr> <td>10A NCAC 15 .1003</td> <td>INSTRUCTIONS TO WORKERS</td> </tr> </table> <p style="margin-top: 10px;"><i>Authority G.S. 104E-7; 104E-10; 104E-12.</i></p> | 10A NCAC 15 .1002 | POSTING OF NOTICES TO WORKERS | 10A NCAC 15 .1003 | INSTRUCTIONS TO WORKERS |
| 10A NCAC 15 .1002 | POSTING OF NOTICES TO WORKERS | | | | |
| 10A NCAC 15 .1003 | INSTRUCTIONS TO WORKERS | | | | |

**10A NCAC 15 .1004 NOTIFICATIONS AND
REPORTS TO INDIVIDUALS**

Authority G.S. 104E-7; 104E-10(b); 104E-12.

**10A NCAC 15 .1005 PRESENCE OF
REPRESENTATIVES DURING INSPECTIONS
10A NCAC 15 .1006 CONSULTATION WITH
WORKERS**

Authority G.S. 104E-7; 104E-10; 104E-11.

**10A NCAC 15 .1007 REQUESTS FOR INSPECTIONS
10A NCAC 15 .1008 INSPECTIONS NOT
WARRANTED**

Authority G.S. 104E-7; 104E-10.

**SECTION .1600 - STANDARDS FOR PROTECTION
AGAINST RADIATION**

**10A NCAC 15 .1601 PURPOSE AND SCOPE
STANDARDS FOR PROTECTION AGAINST
RADIATION**

~~(a) The rules in this Section establish standards for protection against ionizing radiation resulting from activities conducted under licenses and registrations issued by the agency pursuant to the rules in this Chapter.~~

~~(b) It is the purpose of the rules in this Section to control the receipt, possession, use, transfer, and disposal of sources of radiation by any licensee or registrant in such a manner that the total dose to an individual, including doses resulting from all sources of radiation other than background radiation, does not exceed the standards for protection against radiation prescribed in the rules in this Section. However, nothing in this Section shall be construed as limiting actions that may be necessary to protect health and safety.~~

~~(c) The rules in this Section apply to persons licensed or registered by the agency to receive, possess, use, transfer, or dispose of radioactive material or other sources of radiation. The limits in this Section do not apply to doses due to background radiation, to exposure of patients to radiation for the purpose of medical diagnosis or therapy, to voluntary participation in medical research programs, or to exposure from individuals administered radioactive material and released in accordance with Rule .0358 of this Chapter.~~

~~(d) Nothing in this Section shall relieve a licensee engaged in operation of a radioactive waste disposal facility, as defined in Rule .0104 of this Chapter, from responsibility for complying with the requirements in Section .1200 of this Chapter.~~

~~(e) Effective January 1, 1994 all licensees and registrants shall comply with the rules in this Section and cease to comply with the requirements in Section .0400 of this Chapter, except as provided otherwise in Rule .1602 of this Section.~~

(a) Persons registered with the agency pursuant to the rules in Section .0200 of this Chapter and persons licensed pursuant to the rules in Section .0300, .0900, .1200, or .1300 of this Chapter shall comply with the provisions of 10 CFR 20 as follows, which are hereby incorporated by reference including subsequent

amendments and editions, except references to and requirements for 10 CFR 50, 52, 60, 63, 72, 73, and 76 shall not apply:

- (1) 20.1001, "Purpose," except that non-ionizing radiation from radiation machines registered in accordance with the rules in Section .0200 of this Chapter shall also be regulated by this Rule;
- (2) 20.1002, "Scope;"
- (3) 20.1003, "Definitions," except that for persons registered with the agency pursuant to the rules in Section .0200 of this Chapter, the following terms used in 20.1003 shall have the following substitutions:
 - (A) "license" shall have the same meaning as "registration" as defined in Rule .0104(131) of this Chapter;
 - (B) "licensed" means registered pursuant to the rules in Section .0200 of this Chapter;
 - (C) "licensed material" shall have the same meaning as "radiation machine" as defined in Rule .0104(122) of this Chapter, and
 - (D) "licensee" shall have the same meaning as "registrant" as defined in Rule .0104(130) of this Chapter;
- (4) 20.1004, "Units of radiation dose;"
- (5) 20.1005, "Units of radioactivity;"
- (6) 20.1007, "Communications," except that licensees and registrants shall address communications regarding these rules, notifications, and reports to the agency at the address shown in Rule .0111 of this Chapter in lieu of the NRC;
- (7) 20.1101, "Radiation protection programs;"
- (8) 20.1201, "Occupational dose limits for adults;"
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- (10) 20.1203, "Determination of external dose from airborne radioactive material;"
- (11) 20.1204, "Determination of internal exposure;"
- (12) 20.1206, "Planned special exposures;"
- (13) 20.1207, "Occupational dose limits for minors;"
- (14) 20.1208, "Dose equivalent to an embryo/fetus;"
- (15) 20.1301, "Dose limits for individual members of the public;"
- (16) 20.1302, "Compliance with dose limits for individual members of the public;"
- (17) 20.1401, "General provisions and scope;"
- (18) 20.1402, "Radiological criteria for unrestricted use;"
- (19) 20.1403, "Criteria for license termination under restricted conditions;"
- (20) 20.1404, "Alternate criteria for license termination;"
- (21) 20.1405, "Public notification and public participation," except the agency shall not publish a notice in the Federal Register;
- (22) 20.1406, "Minimization of contamination;"

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| <p>(23) <u>20.1501, "General;"</u></p> <p>(24) <u>20.1502, "Conditions requiring individual monitoring of external and internal occupational dose;"</u></p> <p>(25) <u>20.1601, "Control of access to high radiation areas;"</u></p> <p>(26) <u>20.1602, "Control of access to very high radiation areas;"</u></p> <p>(27) <u>20.1701, "Use of process or other engineering controls;"</u></p> <p>(28) <u>20.1702, "Use of other controls;"</u></p> <p>(29) <u>20.1703, "Use of individual respiratory protection equipment;"</u></p> <p>(30) <u>20.1704, "Further restrictions on the use of respiratory equipment;"</u></p> <p>(31) <u>20.1705, "Application for use of higher assigned protection factors;"</u></p> <p>(32) <u>20.1801, "Security of stored material;"</u></p> <p>(33) <u>20.1802, "Control of material not in storage;"</u></p> <p>(34) <u>20.1901, "Caution signs;"</u></p> <p>(35) <u>20.1902, "Posting requirements;"</u></p> <p>(36) <u>20.1903, "Exceptions to posting requirements;"</u></p> <p>(37) <u>20.1904, "Labeling containers;"</u></p> <p>(38) <u>20.1905, "Exemptions to labeling requirements;"</u></p> <p>(39) <u>20.1906, "Procedures for receiving and opening packages;"</u></p> <p>(40) <u>20.2001, "General requirements;"</u></p> <p>(41) <u>20.2002, "Method for obtaining approval of proposed disposal procedures;"</u></p> <p>(42) <u>20.2003, "Disposal by release to sanitary sewerage;"</u></p> <p>(43) <u>20.2004, "Treatment or disposal by incineration;"</u></p> <p>(44) <u>20.2005, "Disposal of specific wastes;"</u></p> <p>(45) <u>20.2006, "Transfer for disposal and manifests;"</u></p> <p>(46) <u>20.2007, "Compliance with environmental and health protection regulations;"</u></p> <p>(47) <u>20.2008, "Disposal of certain byproduct material;"</u></p> <p>(48) <u>20.2101, "General provisions;"</u></p> <p>(49) <u>20.2102, "Records of radiation protection programs;"</u></p> <p>(50) <u>20.2103, "Records of surveys;"</u></p> <p>(51) <u>20.2104, "Determination of prior occupational dose;"</u></p> <p>(52) <u>20.2105, "Records of planned special exposures;"</u></p> <p>(53) <u>20.2106, "Records of individual monitoring results;"</u></p> <p>(54) <u>20.2107, "Records of dose to individual members of the public;"</u></p> <p>(55) <u>20.2108, "Records of waste disposal;"</u></p> <p>(56) <u>20.2110, "Form of records;"</u></p> <p>(57) <u>20.2201, "Reports of theft or loss of material." Persons registered with the agency pursuant to the rules in Section .0200 of this Chapter shall make telephone reports of the theft or loss of</u></p> | <p style="text-align: right;">radiation machines in accordance with 20.2201(a)(1)(i);</p> <p style="text-align: right;">(58) <u>20.2202, "Notifications of incidents;"</u></p> <p style="text-align: right;">(59) <u>20.2203, "Reports of exposures, radiation levels, and concentrations of radioactive material exceeding the constraints or limits;"</u></p> <p style="text-align: right;">(60) <u>20.2204, "Reports of planned special exposures;"</u></p> <p style="text-align: right;">(61) <u>20.2205, "Reports to individuals exceeding dose limits;"</u></p> <p style="text-align: right;">(62) <u>20.2206, "Reports of individual monitoring," except 20.2206(a)(3). The report required by 20.2206(b) shall be submitted upon request by the agency in lieu of the requirements of 20.2206(c);</u></p> <p style="text-align: right;">(63) <u>20.2207, "Reports of transactions involving nationally tracked sources." Notwithstanding Subparagraph (a)(6) of this Rule, reports required by this Subparagraph shall be made in accordance with 20.2207(f) and (g);</u></p> <p style="text-align: right;">(64) <u>20.2301, "Application for exemptions," except that the request for exemption shall be made on the licensee's or registrant's business letterhead. Requests for exemptions from the requirements of this Rule shall be made to the agency at the address shown in Rule .0111 of this Chapter in lieu of the NRC or as otherwise instructed by the agency. To request an exemption, the following information shall be submitted to the agency:</u></p> <p style="text-align: right;">(A) <u>licensee or registrant name;</u></p> <p style="text-align: right;">(B) <u>license or registration number;</u></p> <p style="text-align: right;">(C) <u>name and contact information for the individual requesting the exemption;</u></p> <p style="text-align: right;">(D) <u>a description of the exemption being requested, and</u></p> <p style="text-align: right;">(E) <u>an explanation describing why the exemption is necessary;</u></p> <p style="text-align: right;">(65) <u>20.2302, "Additional requirements;"</u></p> <p style="text-align: right;">(66) <u>Appendix A to Part 20, "Assigned Protection Factors for Respirators;"</u></p> <p style="text-align: right;">(67) <u>Appendix B to Part 20, "Annual Limits on Intake (ALIs) and Derived Air Concentrations (DACs) of Radionuclides for Occupational Exposure; Effluent Concentrations; Concentrations for Release to Sewerage;"</u></p> <p style="text-align: right;">(68) <u>Appendix C to Part 20, "Quantities of Radioactive Material Requiring Labeling;"</u></p> <p style="text-align: right;">(69) <u>Appendix E to Part 20, "Nationally Tracked Source Thresholds," and</u></p> <p style="text-align: right;">(70) <u>Appendix G to Part 20, "Requirements for Transfers of Low-Level Radioactive Waste Intended for Disposal at Licensed Land Disposal Facilities and Manifests."</u></p> <p style="text-align: right;">(b) <u>Exposure of a personnel monitoring device to deceptively indicate a dose delivered to an individual is prohibited.</u></p> <p style="text-align: right;">(c) <u>Licensees and registrants shall continue to perform all activities required by the rules of this Chapter, license or registration condition, and shall pay annual fees as instructed on</u></p> |
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an invoice issued by the agency until the license or registration is terminated. Registrants shall maintain registration of all radiation machines under their control until those units are disposed.

(d) Nothing in the rules of this Chapter shall relieve any person of responsibility for complying with other applicable North Carolina laws and rules.

(e) Copies of these regulations are available free of charge at <https://www.nrc.gov/reading-rm/doc-collections/cfr/part020/>.

Authority G.S. 104E-7(a)(2).

10A NCAC 15 .1602 IMPLEMENTATION
 10A NCAC 15 .1603 RADIATION PROTECTION PROGRAMS
 10A NCAC 15 .1604 OCCUPATIONAL DOSE LIMITS FOR ADULTS
 10A NCAC 15 .1605 REQUIREMENTS FOR SUMMATION OF EXTERNAL, INTERNAL DOSES
 10A NCAC 15 .1606 EXTERNAL DOSE FROM AIRBORNE RADIOACTIVE MATERIAL
 10A NCAC 15 .1607 DETERMINATION OF INTERNAL EXPOSURE
 10A NCAC 15 .1608 PLANNED SPECIAL EXPOSURES
 10A NCAC 15 .1609 OCCUPATIONAL DOSE LIMITS FOR MINORS
 10a ncac 15 .1610 DOSE EQUIVALENT TO AN EMBRYO/FETUS
 10A NCAC 15 .1611 DOSE LIMITS FOR INDIVIDUAL MEMBERS OF THE PUBLIC
 10A NCAC 15 .1612 COMPLIANCE WITH DOSE LIMITS FOR MEMBERS OF THE PUBLIC
 10a ncac 15 .1613 SURVEYS
 10A NCAC 15 .1614 MONITORING OF EXTERNAL AND INTERNAL OCCUPATIONAL DOSE
 10A NCAC 15 .1615 CONTROL OF ACCESS TO HIGH RADIATION AREAS
 10A NCAC 15 .1616 CONTROL OF ACCESS TO VERY HIGH RADIATION AREAS
 10A NCAC 15 .1617 ACCESS TO VERY HIGH RADIATION AREAS: IRRADIATORS
 10A NCAC 15 .1618 USE OF PROCESS OR OTHER ENGINEERING CONTROLS
 10A NCAC 15 .1619 USE OF OTHER CONTROLS TO RESTRICT INTERNAL EXPOSURE
 10A NCAC 15 .1620 USE OF INDIVIDUAL RESPIRATORY PROTECTION EQUIPMENT
 10A NCAC 15 .1621 RESTRICTIONS ON THE USE OF RESPIRATORY PROTECTION EQUIPMENT
 10A NCAC 15 .1622 SECURITY OF SOURCES OF RADIATION
 10A NCAC 15 .1623 CAUTION SIGNS
 10A NCAC 15 .1624 POSTING REQUIREMENTS
 10A NCAC 15 .1625 EXCEPTIONS TO POSTING REQUIREMENTS
 10A NCAC 15 .1626 LABELING REQUIREMENTS AND EXEMPTIONS
 10A NCAC 15 .1627 PROCEDURES FOR RECEIVING AND OPENING PACKAGES

10A NCAC 15 .1628 GENERAL REQUIREMENTS FOR WASTE DISPOSAL
 10A NCAC 15 .1629 METHOD FOR OBTAINING APPROVAL OF DISPOSAL PROCEDURES
 10A NCAC 15 .1630 DISPOSAL BY RELEASE INTO SANITARY SEWERAGE
 10A NCAC 15 .1631 TREATMENT OR DISPOSAL BY INCINERATION
 10A NCAC 15 .1632 DISPOSAL OF SPECIFIC WASTES
 10A NCAC 15 .1633 TRANSFER FOR DISPOSAL AND MANIFESTS
 10A NCAC 15 .1634 COMPLIANCE WITH ENV. AND HEALTH PROTECTION REGULATIONS
 10A NCAC 15 .1635 GENERAL PROVISIONS FOR RECORDS
 10A NCAC 15 .1636 RECORDS OF RADIATION PROTECTION PROGRAMS
 10A NCAC 15 .1637 RECORDS OF SURVEYS
 10A NCAC 15 .1638 DETERMINATION OF PRIOR OCCUPATIONAL DOSE
 10A NCAC 15 .1639 RECORDS OF PLANNED EXPOSURES
 10A NCAC 15 .1640 RECORDS OF INDIVIDUAL MONITORING RESULTS
 10A NCAC 15 .1641 RECORDS OF DOSE TO INDIVIDUAL MEMBERS OF THE PUBLIC
 10A NCAC 15 .1642 RECORDS OF WASTE DISPOSAL
 10A NCAC 15 .1643 RECORDS OF TESTING ENTRY CONTROL DEVICES
 10A NCAC 15 .1644 FORM OF RECORDS
 10A NCAC 15 .1645 REPORTS OF THEFT OR LOSS OF LICENSED RADIOACTIVE MATERIAL
 10A NCAC 15 .1646 NOTIFICATION OF INCIDENTS
 10A NCAC 15 .1647 REPORTS OF RADIATION EXCEEDING THE LIMITS
 10A NCAC 15 .1648 REPORTS OF PLANNED SPECIAL EXPOSURES
 10A NCAC 15 .1649 REPORTS OF INDIVIDUAL MONITORING

Authority G.S. 104E-7(a)(2); 104E-7(a)(3); 104E-7(a)(5); 104E-12; 104E-12(a); 104E-15; 10 C.F.R. Chapter 1, Commission Notices, Policy Statements, Agreement States, 46 F.R 7540.

10A NCAC 15 .1653 RADIOLOGICAL REQUIREMENTS FOR LICENSE TERMINATION

Authority G.S. 104E-7(a)(2); 104E-10(b).

TITLE 12 – DEPARTMENT OF JUSTICE

Notice is hereby given in accordance with G.S. 150B-21.2 that the Criminal Justice Education and Training Standards Commission intends to amend the rules cited as 12 NCAC 09B .0101, .0209, .0403, .0501, .0502; 09C .0306; 09F .0103-.0105; 09G .0405 and .0406.

Link to agency website pursuant to G.S. 150B-19.1(c):
<https://ncdoj.gov/law-enforcement-training/criminal-justice/forms-and-publications/>

Proposed Effective Date: *October 1, 2023*

Public Hearing:

Date: *August 9, 2023*

Time: *10:00 a.m.*

Location: *Wake Technical Community College, Public Safety Training Center, 321 Chapanoke Road, Raleigh, NC 27603*

Reason for Proposed Action: *To update certification requirements for School Directors, CCH Instructors and Law Enforcement Officers, to update course requirements for the Instructor Training course and CCH Course.*

Comments may be submitted to: *Michelle Schilling, NC Department of Justice, Criminal Justice Standards Division, PO Drawer 149, Raleigh, NC 27602-0149; email MSchilling@ncdoj.gov*

Comment period ends: *August 9, 2023*

Procedure for Subjecting a Proposed Rule to Legislative Review:

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

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

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

CHAPTER 09 - CRIMINAL JUSTICE EDUCATION AND TRAINING STANDARDS

SUBCHAPTER 09B - STANDARDS FOR CRIMINAL JUSTICE EMPLOYMENT: EDUCATION: AND TRAINING

SECTION .0100 - MINIMUM STANDARDS FOR CRIMINAL JUSTICE EMPLOYMENT

12 NCAC 09B .0101 MINIMUM STANDARDS FOR LAW ENFORCEMENT OFFICERS

Every law enforcement officer who is employed in or has received a conditional offer of employment for a certified position by an agency in North Carolina shall:

- (1) be a citizen of the United States;
- (2) be at least 20 years of age;
- (3) be a high school graduate, or the equivalent as defined in 12 NCAC 09B .0106;
- (4) have been fingerprinted by the employing agency in the manner provided in 12 NCAC 09B .0103;
- (5) have had a medical examination as required by 12 NCAC 09B .0104;
- (6) have produced a negative result on a drug screen as described in 12 NCAC 09C .0310;
- (7) have been administered a psychological screening examination in accordance with G.S. 17C-10(c). The psychological screening shall be valid for a period of one year from the date on which it was administered.
- (8) have been interviewed as described in 12 NCAC 09B .0105;
- (9) have a background investigation conducted by the employing agency, including a personal interview as required by 12 NCAC 09B .0102;
- (10) not have committed or been convicted of a crime or crimes as specified in 12 NCAC 09B .0111;
- (11) not have committed or been convicted of a crime that requires registration under Article 27A of Chapter 14 of the General Statutes.
- ~~(44)~~(12) for personnel who are authorized to carry a firearm in the execution of their duties, satisfactorily complete the employing agency's in-service firearms training program as prescribed in 12 NCAC 09E .0105 and .0106. Such firearms training compliance must have occurred prior to submission of the application for appointment to the Commission and must be completed using the agency approved service handgun(s) and any other weapon(s) that the applicant has been issued or authorized to use by the agency; and
- ~~(42)~~(13) be of good moral character as defined in: In re Willis, 288 N.C. 1, 215 S.E. 2d 771 appeal dismissed 423 U.S. 976 (1975); State v. Harris, 216 N.C. 746, 6 S.E. 2d 854 (1940); In re Legg, 325 N.C. 658, 386 S.E. 2d 174 (1989); in re Applicants for License, 143 N.C. 1, 55 S.E. 635 (1906); In re Dillingham, 188 N.C. 162, 124 S.E. 130 (1924); State v. Benbow, 309 N.C. 538, 308 S.E. 2d 647 (1983); and later court decisions.
- ~~(43)~~(14) Make the following notifications:
 - (a) within five business days of the qualifying event notify the Standards Division and the appointing agency head in writing of all criminal offenses

for which the officer is charged, arrested, pleads no contest, pleads guilty, or of which the officer is found guilty. This shall include traffic offenses identified in the Class B Misdemeanor Manual and offenses of driving under the influence (DUI) or driving while impaired (DWI);

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

~~(14)~~(15) The requirements of this Rule shall apply to all applicants for certification and shall also apply at all times during which the law enforcement officer is certified by the Commission.

SECTION .0200 – MINIMUM STANDARDS FOR CRIMINAL JUSTICE SCHOOLS AND CRIMINAL JUSTICE TRAINING PROGRAMS OR COURSES OF INSTRUCTION

12 NCAC 09B .0209 CRIMINAL JUSTICE INSTRUCTOR TRAINING

(a) The Instructor Training course required for General Instructor certification shall consist of a minimum of 40 hours of classroom instruction, plus the time required to conduct practical exercises, student presentations, and post testing presented during a period of no more than 15 business days. If the Governor declares a State of Emergency pursuant to G.S. 166A-19.3(19), the Director of the Criminal Justice Standards Division shall allow additional breaks in a specific course delivery when the Director determines that doing so is necessary based on consideration of the following factors:

- (1) Whether instruction has begun in the course or whether course initiation may be postponed;
- (2) The risk of harm to students that may be caused by continuation of the course;
- (3) Whether those enrolled in the course have been or will likely be called on action to help address the State of Emergency;
- (4) The specific need for the waiver; and
- (5) The degree of benefit to the public in allowing a break in instruction.

Notice of waivers granted pursuant to the Section shall be posted on the CJETS website <https://ncdoj.gov/law-enforcement-training/criminal-justice/>. The waivers granted pursuant to this Section shall only apply to courses that began during the effective period of the State of Emergency.

(b) Each Instructor Training course shall be designed to provide the trainee with the skills and knowledge to perform the functions of a criminal justice instructor.

(c) Each Instructor Training course shall include the following identified topic areas and minimum instructional hours for each area:

- (1) Orientation and Pre-Test 4 ~~2~~ Hour
- (2) Instructional Systems Design (ISD) 5 ~~3~~ Hours
- (3) Law Enforcement Instructor Liabilities and Legal Responsibilities 2 Hours
- (4) Criminal Justice Instructional Leadership 4 Hours
- (5) Lesson Plan Preparation: Professional Resources 2 Hours
- (6) Lesson Plan Development and Formatting 3 Hours
- (7) Adult Learning 2 Hours
- (8) Instructional Styles and Platform Skills 5 Hours
- (9) Classroom Management 3 Hours
- (10) Active Learning: Demonstration and Practical Exercises 3 Hours
- (11) The Evaluation Process of Learning 4 ~~3~~ Hours
- (12) Audio Visual Aids 5 Hours
- (13) Course Closing and Post-test 1 Hour

Authority G.S. 17C-6; 17C-10.

- (14) Completion of tasks associated with practical exercises, student presentations, and post testing; the number of hours required to complete this portion of the curriculum shall be based on the number of enrolled students, available facilities, and number of instructors.

(d) The most current version of the "Instructor Training" manual published by the North Carolina Justice Academy shall be the curriculum for instructor training courses. Copies of this publication may be inspected at the agency:

Criminal Justice Standards Division
North Carolina Department of Justice
1700 Tryon Park Drive
Post Office Drawer 149
Raleigh, North Carolina 27602

and may be purchased at the cost of printing and postage from the Academy at the following address:
North Carolina Justice Academy
Post Office Drawer 99
Salemberg, North Carolina 28385

Authority G.S. 17C-6.

SECTION .0400 - MINIMUM STANDARDS FOR COMPLETION OF TRAINING

12 NCAC 09B .0403 EVALUATION FOR TRAINING WAIVER

(a) The Standards Division staff shall evaluate each law enforcement officer's training and experience to determine if equivalent training has been completed as specified in Rule .0402(a) of this Section. Applicants for certification with prior law enforcement experience shall have been employed in a full-time, sworn law enforcement position in order to be considered for training evaluation under this Rule. Applicants for certification with a combination of full-time and part-time experience shall be evaluated on the basis of the full-time experience only. The following criteria shall be used by Standards Division staff in evaluating a law enforcement officer's training and experience to determine eligibility for a waiver of training requirements:

- (1) Persons having completed a Commission-accredited basic training program and not having been duly appointed and sworn as a law enforcement officer within one year of completion of the program shall complete a subsequent Commission-accredited basic training program, as prescribed in Rule .0405(a) of this Section, and shall achieve a passing score on the State Comprehensive Examination prior to obtaining probationary law enforcement certification, unless the Director determines that a delay in applying for certification was not due to neglect on the part of the applicant, in which case the Director shall accept a Commission-accredited basic training program that is over one year old. The appointing agency shall request in writing the extension of the one year period, which shall not exceed 30 days from the first year

- anniversary of the passing of the State Comprehensive Examination;
- (2) Out-of-state transferees shall be evaluated to determine the amount and quality of their training and experience. Out-of-state transferees shall not have a break in service exceeding three years. At a minimum, out-of-state transferees shall have two years' full-time, sworn law enforcement experience and have completed a basic law enforcement training course accredited by the transferring state. An individual's attendance at his or her basic law enforcement class shall not count towards the two years' full-time sworn law enforcement experience. Prior to employment as a certified law enforcement officer, out-of-state transferees shall complete with a passing score the employing agency's in-service firearms training and qualification program as prescribed in 12 NCAC 09E .0106. In addition, out-of-state transferees shall complete the Legal Unit in a Commission-accredited Basic Law Enforcement Training Course as prescribed in Rule .0205(b)(1) of this Subchapter and shall achieve a passing score on the State Comprehensive Examination within the 12 month probationary period;
- (3) Persons who have completed a 369-hour basic law enforcement training program accredited by the Commission under guidelines administered beginning October 1, 1984, have been separated from a sworn position for over one year but less than three years, and who have had a minimum of two years' experience as a full-time, sworn law enforcement officer in North Carolina shall complete the Legal Unit in a Commission-accredited Basic Law Enforcement Training Course as prescribed in Rule .0205(b)(1) of this Subchapter and shall achieve a passing score on the State Comprehensive Examination within the 12 month probationary period. Prior to employment as a certified law enforcement officer, these persons shall complete with a passing score the employing agency's in-service firearms training and qualification program as prescribed in 12 NCAC 09E;
- (4) Persons who have completed a 396-hour basic law enforcement training program accredited by the Commission under guidelines administered beginning October 1, 1984, have been separated from a sworn position more than one year but less than five years and who have a minimum of two years' experience as a full-time, sworn law enforcement officer in North Carolina, who have not been convicted of a disqualifying criminal offense as listed in Rule .0111(1) of this Subchapter, and who have successfully completed the mandatory in-

service training requirements pursuant to 12 NCAC 09E .0105 or 12 NCAC 10B .2005, with the exception of Firearms Training and Requalification, during each year the person was separated from a sworn position prior to employment as a certified law enforcement officer shall complete the topic areas within the following time frames:

- (A) Prior to employment as a certified law enforcement officer, the person shall complete the appointing agency's in-service firearms training and qualification program as prescribed in 12 NCAC 09E;
- (B) Prior to employment as a certified law enforcement officer, the person shall achieve a passing score on the practical skills testing for the First Responder, Law Enforcement Driver Training, and Subject Control Arrest Techniques topics set forth in Rule .0205(b)(5) of this Subchapter. The person shall also successfully complete the Police Officer Physical Abilities Test. The practical skills testing and the Police Officer Physical Abilities Test may be completed either in a Commission-accredited Basic Law Enforcement Training course or under the instruction of a Commission-certified instructor for that particular skill. The person shall also meet the requirements per Rule .0101 of this Subchapter; and
- (C) Within 12 months of being issued probationary certification, the person shall complete the remaining topics in the legal unit of instruction in the Basic Law Enforcement Training course as set forth in Rule .0205(b)(1) of this Subchapter. The person shall achieve a passing score on the appropriate topic tests for each course. The person may undertake each of these legal unit topics of instruction either in a Commission-accredited Basic Law Enforcement Training course or under the instruction of a Commission-certified instructor for that particular topic of instruction.

An individual's attendance at his or her basic law enforcement class shall not count towards the two years' full-time sworn law enforcement experience. Persons who meet the criteria of this Part shall be processed as a probationary certification and shall serve a one-year probationary period as defined in 12 NCAC 09C .0303;

- (5) Persons out of the law enforcement profession for over one year but less than three years who have had less than two years' experience as a full-time, sworn law enforcement officer in North Carolina shall complete a Commission-accredited basic training program, as prescribed in Rule .0405(a) of this Section, and achieve a passing score on the State Comprehensive Examination;
- (6) Persons out of the law enforcement profession for over three years who do not meet the criteria of Subparagraph (4) of this Paragraph shall complete a Commission-accredited basic training program, as prescribed in Rule .0405(a) of this Section, regardless of prior training or experience, and shall achieve a passing score on the State Comprehensive Examination;
- (7) Persons who separated from law enforcement employment during their probationary period after having completed a Commission-accredited basic training program and who have separated from a sworn law enforcement position for more than one year shall complete a subsequent Commission-accredited basic training program and shall achieve a passing score on the State Comprehensive Examination;
- (8) Persons who separated from a sworn law enforcement position during their probationary period after having completed a Commission-accredited basic training program and who have separated from a sworn law enforcement position for less than one year shall serve a new 12 month probationary period as prescribed in Rule .0401(a) of this Section, but shall not be required to complete an additional training program;
- (9) Persons who have completed a minimum 160-hour basic law enforcement training program accredited by the North Carolina Criminal Justice Training and Standards Council under guidelines administered beginning on July 1, 1973, and continuing through September 30, 1978, and who have separated from a sworn law enforcement position for over one year but less than two years shall complete the Legal Unit and the topical area entitled "Law Enforcement Driver Training" of a Commission-accredited Basic Law Enforcement Training Course as prescribed in Rule .0205(b)(1) and .0205(b)(5)(C) of this Subchapter and shall achieve a passing score on the State Comprehensive Examination within the 12 month probationary period;
- (10) Persons who have completed a minimum 160-hour basic law enforcement training program accredited by the North Carolina Criminal Justice Training and Standards

- Council under guidelines administered beginning on July 1, 1973, and continuing through September 30, 1978, and have been separated from a sworn law enforcement position for two or more years shall complete a Commission-accredited basic training program, as prescribed in Rule .0405 of this Section, regardless of training and experience, and shall achieve a passing score on the State Comprehensive Examination;
- (11) Persons who have completed a minimum 240-hour basic law enforcement training program accredited by the Commission under guidelines administered beginning October 1, 1978, and continuing through September 30, 1984, and have been separated from a sworn position over one year but less than three years shall complete the Legal Unit in a Commission-accredited Basic Law Enforcement Training Course as prescribed in Rule .0205(b)(1) of this Subchapter and shall achieve a passing score on the State Comprehensive Examination within the 12 month probationary period;
 - (12) Persons previously holding law enforcement certification in accordance with G.S. 17C-10(a) who have been separated from a sworn law enforcement position for over one year and who have not previously completed a minimum basic training program accredited by either the North Carolina Criminal Justice Training and Standards Council or the Commission shall complete a Commission-accredited basic training program, as prescribed in Rule .0405 of this Section, and shall achieve a passing score on the State Comprehensive Examination prior to employment;
 - (13) Individuals seeking certification with the Commission who have been appointed as a Criminal Investigator, as defined in 5 U.S.C. 5541(3) and the Office of Personnel Management GS-1811 series in the General Schedule classification system, Special Agents with the Federal Bureau of Investigation; United States Secret Service; Bureau of Alcohol, Tobacco and Firearms; and Drug Enforcement Administration; as well as United States Marshals and Deputy United States Marshals, who have not had a break in service exceeding three years, shall be evaluated to determine the amount and quality of their training and experience. At a minimum, federal law enforcement officers shall have two years' full-time, sworn law enforcement experience and have completed a basic law enforcement training course as required by their appointing federal agency. Prior to employment as a certified law enforcement officer, these individuals shall complete with a passing score the employing agency's in-service firearms training and qualification program as prescribed in 12 NCAC 09E .0106. These individuals shall complete the Basic Law Enforcement Training topics pursuant to 12 NCAC 09B .0205(b)(1)(A), (b)(1)(C), (b)(1)(D), (b)(1)(F), (b)(2)(A), (b)(2)(C), (b)(2)(E), (b)(2)(F), (b)(2)(I), (b)(3)(B), (b)(3)(D), (b)(4)(E), (b)(5)(A), (b)(6)(A), (b)(6)(B), (b)(6)(C), and shall achieve a passing score on the State Comprehensive Examination pursuant to 12 NCAC 09B .0406 within the 12 month probationary period. Individuals who submit to the Commission documentation of completion of training equivalent to the topics set forth in 12 NCAC 09B .0205(b)(2)(A), (b)(2)(C), (b)(2)(E), (b)(2)(F), (b)(2)(I), (b)(3)(B), (b)(3)(D), (b)(4)(E), (b)(5)(A), (b)(6)(A), (b)(6)(B), and (b)(6)(C) shall not be required to complete those topics;
 - (14) Federal law enforcement transferees other than those listed in Paragraph (13) of this Rule who have not had a break in service exceeding three years shall be evaluated to determine the amount and quality of their training and experience. At a minimum, federal law enforcement officers shall have two years' full-time, sworn law enforcement experience and have completed a basic law enforcement training course as required by their appointing federal agency. Prior to employment as a certified law enforcement officer, transferees shall complete with a passing score the employing agency's in-service firearms training and qualification program as prescribed in 12 NCAC 09E .0106. At a minimum, transferees shall complete the Legal Unit in a Commission-accredited Basic Law Enforcement Training Course as prescribed in Rule .0205(b)(1) of this Subchapter and shall achieve a passing score on the State Comprehensive Examination within 12 month probationary period;
 - (15) Applicants with part-time experience who have a break in service in excess of one year shall complete a Commission-accredited basic training program, as prescribed in Rule .0405 of this Section, and shall achieve a passing score on the State Comprehensive Examination prior to employment;
 - (16) Applicants who hold or previously held certification issued by the North Carolina Sheriffs' Education and Training Standards Commission (Sheriffs' Commission) shall be subject to evaluation based on the applicant's active or inactive certification status with the Sheriffs' Commission. A deputy sheriff certified with the Sheriffs' Commission shall be considered active if he or she has performed any law enforcement function during the previous 12 months. A deputy sheriff certified with the

Sheriffs' Commission shall be considered inactive if he or she has not performed a law enforcement function during the previous 12 months.

(A) The Standards Division shall issue certification to an applicant holding active general certification with the Sheriffs' Commission provided that the applicant:

- (i) Does not have a break in service of greater than 12 months;
- (ii) Has completed the mandatory in-service training requirements pursuant to 12 NCAC 10B .2005 for each year certification was held; and
- (iii) Held active status with the Sheriffs' Commission within 12 months of the date the applicant achieved a passing score on the Basic Law Enforcement Training State Comprehensive Examination.

(B) The Standards Division shall issue certification to an applicant holding inactive certification with the Sheriffs' Commission provided that the applicant:

- (i) Holds inactive probationary or general certification with the Sheriffs' Commission;
- (ii) Has served a minimum of 24 months of full time sworn service or does not have a break in service of greater than 12 months;
- (iii) Has completed the mandatory in-service training requirements pursuant to 12 NCAC 10B .2005, with the exception of Firearms Training and ~~Requalification, during each year certification was held; Requalification;~~ and
- (iv) Held active status with the Sheriffs' Commission within 12 months of the date the applicant achieved a passing score on the Basic Law Enforcement Training State Comprehensive Examination.

(C) An applicant awarded certification with the Sheriffs' Commission by means of the Sheriffs' Standards

BLET Challenge as prescribed in 12 NCAC 10B .0505(6)(b) shall meet the following requirements in order to obtain probationary certification from the Commission:

- (i) Have a minimum of 24 months of sworn, full-time law enforcement service;
- (ii) Not have a break in service of greater than 12 months; and
- (iii) Have completed all mandatory in-service requirements pursuant to 12 NCAC 10B .0505 during the previous two years.

(D) An applicant who is a criminal justice officer, as defined in G.S. 17C-2(3), and who is elected Sheriff shall be reinstated by the Commission upon the conclusion of the period of service as Sheriff and in conformance with 12 NCAC 09C .0303;

(17) Alcohol law enforcement agents who received basic alcohol law enforcement training prior to November 1, 1993, and transfer to another law enforcement agency in a sworn capacity shall be subject to evaluation of their prior training and experience on an individual basis. The Standards Division staff shall determine the amount of training required of these applicants, based upon the type of certification held by the applicant and the length of any break in the applicant's sworn, full-time service;

(18) Wildlife enforcement officers who separate from employment with the Wildlife Enforcement Division and transfer to another law enforcement agency in a sworn capacity shall be subject to evaluation of their prior training and experience on an individual basis. The Standards Division staff shall determine the amount of training required of these applicants, based upon the type of certification held by the applicant and the length of any break in the applicant's sworn, full-time service;

(19) Active duty, guard, or reserve military members failing to complete all of the required annual in-service training topics, as defined in 12 NCAC 09E .0105 of this Chapter, due to military obligations are subject to the following training requirements as a condition for return to active criminal justice status. The agency head shall verify the person's completion of the appropriate training by submitting a statement, on Form F-9C, Return to Duty Request form. This form is located on the agency's website: <https://ncdoj.gov/law-enforcement-training/criminal-justice/forms-and-publications/>;

- (A) Active duty members of the armed forces eligible for probationary certification pursuant to this Paragraph and active duty, guard, or reserve military members holding probationary or general certification as a criminal justice officer who fail to complete all of the required annual in-service training topics due to military obligations for up to a period of three years shall complete the previous year's required in-service training topics, the current year's required in-service training topics, and complete with a passing score the appointing agency's in-service firearms training and qualification program as prescribed in 12 NCAC 09E prior to their return to active criminal justice status;
- (B) Active duty, guard, or reserve military members holding probationary or general certification as a criminal justice officer who fail to complete all of the required annual in-service training topics due to military obligations for a period greater than three years shall complete the following topic areas within the following time frames:
 - (i) The person shall complete the previous year's required in-service training topics, the current year's required in-service training topics, and complete the appointing agency's in-service firearms training and qualification program as prescribed in 12 NCAC 09E prior to their return to active criminal justice status;
 - (ii) The person shall achieve a passing score on the practical skills testing for the First Responder, Law Enforcement Driver Training, and Subject Control Arrest Techniques topics enumerated in Rule .0205(b)(5) of this Subchapter prior to returning to active criminal justice status. This practical skills testing may be completed either in a Commission-accredited Basic Law Enforcement Training course or under the instruction of a Commission-certified instructor for that particular skill. The person shall complete one physical fitness assessment in lieu of the Fitness Assessment and Testing topic. The person shall also be examined by a physician per Rule .0104(b) of this Subchapter; and
 - (iii) The person shall complete some of the topics in the legal unit of instruction in the Basic Law Enforcement Training course as set forth in Rule .0205(b)(1) of this Subchapter. The required topics include Motor Vehicle Law; Juvenile Laws and Procedures; Arrest, Search and Seizure/Constitutional Law; and ABC Laws and Procedures. The person shall achieve a passing score on the appropriate topic tests for each course. The person may undertake each of these legal unit topics of instruction either in a Commission-accredited Basic Law Enforcement Training course or under the instruction of a Commission-certified instructor for that particular topic of instruction. The person shall complete each of the enumerated topics of instruction within 12 months from the beginning of his or her return to active criminal justice status; and
- (20) An active duty member of the armed forces who completes the basic training course in its entirety as prescribed in Rule .0405 of this Subchapter, annually completes the mandatory in-service training topics as prescribed in 12 NCAC 09E .0105, with the exception of the Firearms and Qualification testing requirements contained in 12 NCAC 09E .0105(a)(3) for each year subsequent to the completion of the basic training course, and achieves a passing score on the State Comprehensive Examination as prescribed in Rule .0406 of this Subchapter within five years of separating from active duty status shall be eligible for probationary certification as prescribed in 12 NCAC 09C .0303 for a period of 12 months from the date he or she separates from active duty status in the armed forces. All

mandatory in-service training topics as prescribed in 12 NCAC 09E .0105 shall be completed by the individual prior to receiving probationary certification.

(b) In the event the applicant's prior training is not equivalent to the Commission's standards, the Commission shall prescribe as a condition of certification supplementary or remedial training to equate previous training with current standards.

(c) If certifications issued by the Commission require satisfactory performance on a written examination as part of the training, the Commission shall require the examinations for the certification.

(d) If an evaluation of the applicant's prior training and experience determines that required attendance in the entire Basic Law Enforcement Training Course is unnecessary, the Director of the Standards Division shall determine the amount of training the individual shall complete during his or her probationary period.

(e) The following criteria shall be used by Standards Division staff in evaluating prior training and experience of local confinement personnel to determine eligibility for a waiver of training requirements:

- (1) Persons who hold probationary, general, or grandfather certification as local confinement personnel and separate after having completed a Commission-accredited course as prescribed in Rule .0224 or .0225 of this Subchapter and have been separated for one year or more shall complete a subsequent Commission-accredited training course and achieve a passing score on the State Comprehensive Examination during the probationary period as prescribed in Rule .0401(a) of this Section;
- (2) Persons who separated from a local confinement personnel position after having completed a Commission-accredited course as prescribed in Rule .0224 or .0225 of this Subchapter and who have been separated for less than one year shall serve a new 12 month probationary period, but shall be required to complete an additional training program;
- (3) Applicants who hold or previously held "Detention Officer Certification" issued by the North Carolina Sheriffs' Education and Training Standards Commission shall be subject to evaluation of their prior training and experience on an individual basis. No additional training shall be required where the applicant obtained certification and successfully completed the required 120 hour training course and has not had a break in service in excess of one year; and
- (4) Persons holding certification for local confinement facilities who transfer to a district or county confinement facility shall complete the course for district and county confinement facility personnel, as adopted by reference in Rule .0224 of this Subchapter, and achieve a passing score on the State Comprehensive Examination during the probationary period as prescribed in Rule .0401(a) of this Section.

Authority G.S. 17C-2; 17C-6; 17C-10; 93B-15.1.

SECTION .0500 - MINIMUM STANDARDS FOR CRIMINAL JUSTICE SCHOOL DIRECTORS

12 NCAC 09B .0501 CERTIFICATION OF SCHOOL DIRECTORS

(a) Any person designated to act as, or who performs the duties of, a School Director in the delivery or presentation of a Commission-certified criminal justice training course shall be and continuously remain certified by the Commission as a school director.

(b) To qualify for initial certification as a School Director, an applicant shall:

- (1) ~~Attend and complete a Commission-certified instructor training course or an equivalent instructor training program as determined by the Commission (if certified after July 1, 2004);~~ Hold current General Instructor certification as issued by the North Carolina Criminal Justice Education and Training Standards Commission;

- (2) Present documentary evidence showing that the applicant:

- (A) is a high school, college, or university graduate or has received a high school equivalency credential as awarded from colleges or universities accredited by the Department of Education of the state in which the institution is located, from an accredited body recognized by either the U.S. Department of Education or the Council for Higher Education Accreditation, or from the state university of the state in which the institution is located ~~recognized by the issuing state~~ and has acquired five years of practical experience as a criminal justice officer or as an administrator or specialist in a field directly related to the criminal justice system. At least one year of the required five years experience must have been while actively participating in criminal justice training as a Commission-certified instructor; or
- (B) has been awarded an associate degree and has acquired four years of practical experience as a criminal justice officer or as an administrator or specialist in a field directly related to the criminal justice system. At least one year of the required four years experience must have been while directly participating in criminal justice training as a Commission-certified instructor; or

- (C) has been awarded a baccalaureate degree from a regionally accredited institution of higher learning;
- (3) Attend or must have attended the most current offering of the School Director's orientation as developed and presented by the Commission staff, otherwise an individual orientation with a staff member shall be required; and
- (4) Submit a written request for the issuance of such certification executed by the executive officer of the institution or agency currently certified, or which may be seeking certification, by the Commission to make presentation of certified training programs and for whom the applicant will be the designated School Director.

(c) To qualify for certification as a School Director in the presentation of the Criminal Justice Instructor Training Course, an applicant shall:

- (1) Document that he or she has been awarded a baccalaureate degree from colleges or universities accredited by the Department of Education of the state in which the institution is located, from an accredited body recognized by either the U.S. Department of Education or the Council for Higher Education Accreditation, or from the state university of the state in which the institution is located; a regionally accredited institution of higher learning;
- (2) ~~Present evidence showing completion of a Commission certified instructor training course or an equivalent instructor training course utilizing the Instructional Systems Design model, an international model with applications in education, military training, and private enterprise;~~
- (3)(2) Be currently certified as a criminal justice General Instructor ~~instructor~~ by the Commission; and
- (4)(3) Document completion of ~~a special program~~ the Instructor Training Orientation presented by the North Carolina Justice Academy on delivery of the instructor training course and trainee evaluation.

Authority G.S. 17C-6.

12 NCAC 09B .0502 TERMS AND CONDITIONS OF SCHOOL DIRECTOR CERTIFICATION

(a) The term of certification as a School Director is two years from the date the Commission issues the certification, unless earlier terminated by action of the Commission. Upon application, the certification may subsequently be renewed by the Commission for three-year periods. The application for renewal shall contain documentation meeting the requirements of Rule .0501(b)(2) and (3) of this Section.

(b) To retain certification as a Basic Law Enforcement Training School Director, the School Director shall:

- (1) Participate in annual training conducted by commission staff;
- (2) Maintain and comply with the current version of the "Basic Law Enforcement Training Course Management Guide";
- (3) Maintain and ensure compliance with the current version of the "Basic Law Enforcement Training Instructor Notebook" assigned to each certified school; and
- (4) Perform the duties and responsibilities of a School Director as specifically required in Rule .0202 of this Subchapter.

(c) To retain certification as a Speed Measuring Instrument, Instructor Training, ~~or~~ Specialized Instructor Training, Training School Director, Juvenile Justice, or Diversion Investigator/Supervisor Training School Director, the school director shall:

- (1) Participate in annual training conducted by commission staff;
- (2) Maintain and ensure compliance with the current version of the specific speed measuring instrument or Instructor Training notebook assigned to each certified school; and
- (3) Perform the duties and responsibilities of a School Director as specifically required in Rule .0202 of this Subchapter.

(d) The Director may grant a waiver of attendance at the annual training for just cause. For purposes of this Rule, just cause means accident, illness, emergency, or other exceptional circumstances, which precluded the School Director from attending the scheduled annual training. School Directors who receive a waiver of attendance shall be required to complete a make up training session prior to the end of the calendar year in which the training requirement applies.

Authority G.S. 17C-6.

SUBCHAPTER 09C - ADMINISTRATION OF CRIMINAL JUSTICE EDUCATION AND TRAINING STANDARDS

SECTION .0300 - CERTIFICATION OF CRIMINAL JUSTICE OFFICERS

12 NCAC 09C .0306 LATERAL TRANSFER OF LAW ENFORCEMENT OFFICERS

(a) A law enforcement officer with general certification from either the Criminal Justice Education and Training Standards Commission or the Sheriffs' Education and Training Standards Commission may transfer from one law enforcement agency to another law enforcement agency with less than a 12 month break in law enforcement service. Prior to employing the officer, the employing agency shall:

- (1) verify the certification of the officer with the Criminal Justice Standards Division or the Sheriffs' Standards Division;
- (2) submit a new fingerprint check to the North Carolina State Bureau of Investigation, in compliance with the requirements set forth in 12 NCAC 09B .0103(a) and (b), in the same

manner as prescribed for non-certified new applicants. No certification shall be transferred if the holder has been convicted since initial certification of any offense for which revocation or suspension of certification is authorized;

- (3) advise the officer that he will be serving under a probationary appointment with the agency for one year; ~~and~~
- (4) notify the Commission by submitting a Report of Appointment that the officer is being employed and stating the date on which employment will ~~commence~~ commence; and
- (5) complete a background investigation on all applicants for certification, as set forth in 12 NCAC 09B .0102.

(b) Prior to transfer of certification, the law enforcement officer shall:

- (1) complete a Medical History Statement Form within one year prior to the transfer to the employing agency;
- (2) submit to examination by a surgeon, physician, physician assistant, or nurse practitioner licensed to practice medicine in North Carolina in the same manner prescribed for non-certified new applicants in 12 NCAC 09B .0104 within one year prior to the transfer to the employing agency;
- (3) submit results of the physical examination to the employing agency for placement in the officer's permanent personnel file;
- (4) produce a negative result on a drug screen administered according to the specifications outlined in 12 NCAC 09B ~~.0101(5);~~ .0101(6); and
- (5) either:
 - (A) submit a copy of the Commission's annual in-service training report form to the employing agency for placement in the officer's permanent personnel file when the duty and off duty weapons remain the same as those previously used to qualify. Such in-service training compliance shall have occurred within the 12 month period preceding transfer; or
 - (B) satisfactorily complete the employing agency's in-service firearms training program as prescribed in 12 NCAC 09E .0105 and .0106.

(c) Officers previously certified who were not previously required to meet the educational or basic training requirements shall not be required to meet such requirements when laterally transferring to another agency with less than a 12-month break in law enforcement service.

(d) For currently certified full time officers with no break in service, upon written request from the department head of the hiring agency, the Division shall waive for a period of no more than 60-days from the receipt of the Report of Appointment by

the Standards Division the requirements of Subparagraphs of (b)(1), (b)(2), (b)(3), (b)(4), and (b)(5) of this Rule. The Report of Appointment Form is located on the agency's website: [http://www.ncdoj.gov/getdoc/64d263a3-a598-4c45-9541-04ef088cf288/F-5A-\(DJJDP\)--6-11.aspx](http://www.ncdoj.gov/getdoc/64d263a3-a598-4c45-9541-04ef088cf288/F-5A-(DJJDP)--6-11.aspx).

Authority G.S. 17C-6; 17C-10.

SUBCHAPTER 09F - CONCEALED HANDGUN TRAINING

SECTION .0100 - CONCEALED HANDGUN TRAINING PROGRAM

12 NCAC 09F .0103 APPROVAL OF COURSES

(a) An approved course is one that:

- (1) meets or exceeds the criteria as specified in Rule .0102 of this Section;
- (2) is certified or sponsored by one of the agencies listed in G.S. 14-415.12(a)(4)(a), (b), and (c); and
- (3) is approved by the Commission.

(b) The Commission shall review and ensure that submitted courses meet or exceed the general guidelines as specified in Rule .0102 of this Section.

(c) Courses submitted for review shall be submitted by the instructor who is to deliver the instruction by mailing the course to the Commission.

(d) Any modification of an approved course shall be submitted for approval and approved prior to the delivery of any such modified course and shall be submitted by the instructor who is to deliver the instruction by mailing the course to the Commission.

(e) All courses are to be taught in person. Virtually delivered courses are not approved by the Commission.

Authority G.S. 14-415.12.

12 NCAC 09F .0104 INSTRUCTOR QUALIFICATIONS

(a) To be approved to deliver the "Concealed Carry Handgun Training" course, instructors shall:

- (1) hold one of the following certifications:
 - (a) ~~"Specific~~ "Specialized Instructor Certification-Firearms" issued by the Criminal Justice Education and Training Standards Commission (Commission);
 - ~~(b) Private Protective Services Firearms Trainer Certification; or~~
 - ~~(c) "Firearms Instructor Certification" in Personal Protection, Basic Pistol, or Police Firearms issued by the National Rifle Association; or~~
 - (c) "Firearms Instructor Certification – Concealed Carry and Home Defense" issued by the United States Concealed Carry Association;
- (2) hold a certificate issued by the North Carolina Justice Academy showing completion of the

course "Laws Governing Concealed Handgun and Use of Deadly Force"; and

- (3) be eligible to receive or possess a firearm under Federal and North Carolina State Law.

(b) If the instructor fails to file with the Commission a concealed carry handgun course outline and proof of firearm's instructor certification as specified in Paragraph (a)(1) of this Rule for two consecutive years, he or she must repeat the course "Laws Governing Concealed Handgun and Use of Deadly Force" conducted by the North Carolina Justice Academy, provide to the Commission proof of a current firearms instructor certification as specified in Paragraph (a)(1) of this Rule, and maintain eligibility to possess a firearm as specified in Paragraph (a) of this Rule prior to instructing a concealed carry handgun course.

(c) The instructor shall notify the Criminal Justice Standards Division of all court orders, domestic violence orders of protection, and criminal offenses for which the instructor is charged which would prohibit the instructor from being eligible to receive or possess a firearm under Federal and North Carolina State Law. The notifications required under this Paragraph must be in writing, must specify the nature of the offense, the court in which the case is being handled, the date of arrest, court order, and domestic violence order of protection or criminal charge. The notification required under this Paragraph must be received by the Criminal Justice Standards Division within 10 days of the date of the court order, domestic violence order of protection, arrest, or criminal charge.

Authority G.S. 14-415.12.

12 NCAC 09F .0105 INSTRUCTOR RESPONSIBILITIES

In delivering the "Concealed Carry Handgun Training" (CCH) course the instructor shall:

- (1) have a valid Concealed Carry Handgun instructor certification issued by the Criminal Justice ~~Standards Division~~; Education and Training Standards Commission (Commission);
- (2) file a copy of the proposed firearms course description, outline, and proof of instructor certification along with a written request to conduct the "~~Concealed Carry Handgun Training~~" CCH course for approval by the Commission prior to delivery of any instruction required by G.S. 14-415.12;
- (3) file a copy of all modifications;
- (4) be issued by Commission staff a quantity of certificates as requested by the instructor for course participants that shall bear the instructor's name, the instructor's assigned number, be sequentially numbered, and bear the raised seal of the Commission;
- (5) if a Concealed Carry Handgun Instructor relinquishes his or her certification and wants to transfer his or her assigned participants' certificates to another Concealed Carry Handgun instructor, a written request shall be submitted to the Criminal Justice Standards

Division (Division) Director for approval. The written request shall include the following:

- (a) instructor name and identification number;
 - (b) name of business;
 - (c) business phone number and email address;
 - (d) recipient instructor name and identification number;
 - (e) recipient business name;
 - (f) recipient business phone number, email address; and
 - (g) list of the assigned certificate numbers for participants to be transferred;
- (6) affix the student's name to one certificate and issue that certificate to the student who successfully completes the "~~Concealed Carry Handgun Training~~" CCH course;
 - (7) conduct the training consistent with the guidelines established in Rule .0102 of this Section;
 - (8) administer a written examination, that includes at a minimum questions provided by the Commission, which the student shall pass with a minimum score of 70 percent on the questions provided by the Commission; and
 - (9) administer a proficiency examination that demonstrates the student is competent in the firing and safe handling of a handgun. Such examination shall include, at a minimum, the following:
 - (a) The student fires 30 rounds of ammunition at a bulls-eye or silhouette target from three, five, and seven yard distances;
 - (b) At each yard distance the student shall fire a minimum ten rounds; and
 - (c) 21 of the 30 rounds fired by the student hit the target.
 - (d) For safety purposes, steel or metal targets will not be used at distances less than 10 yards from the target.
 - (10) Not fewer than 30 days before commencing delivery of the course, submit to the Commission a Pre-Delivery Report of Training Course Presentation [Form F-10A (CCH)] with the following information:
 - (a) Instructor(s) name(s);
 - (b) Type of course (NCJA model, NRA, or USCCA as approved by the Commission);
 - (c) Date and location of course;
 - (d) Hours of course (minimum of 8 hours);
 - (11) Not more than 10 days after course completion, submit to the Commission a Post-Delivery Report [Form F-10B(CCH)] containing the following information:

- (a) Instructor(s) name(s), if changes were made;
- (b) Actual number of attendees;
- (12) Maintain a roster of all students completing each CCH course in compliance with the North Carolina Department of Natural and Cultural Resources Retention and Disposition Schedule established to G.S. 121-4 and G.S. 132-8.1. This roster must include, at a minimum, each student's legal name and contact information. The instructor must be able to produce the student list for inspection by Division staff for audit purposes.
- (13) Provide each student with a current copy of the "Concealed Carry Handgun Training" (Red book) manual as published by the North Carolina Justice Academy. The contents of this manual must be included in the curriculum for the CCH course. Copies of this publication may be inspected at the agency:
Criminal Justice Standards Division
North Carolina Department of Justice
1700 Tryon Park Drive
Post Office Drawer 149
Raleigh, North Carolina 27602
and may be purchased at the cost of printing and postage from the Academy at the following address:
North Carolina Justice Academy
Post Office Drawer 99
Salemburg, NC 28385

- (2) present documentary evidence showing that the applicant:
 - (A) is a high school, college or university graduate or has received a high school equivalency credential as awarded from colleges or universities accredited by the Department of Education of the state in which the institution is located, or from an accredited body recognized by either the U.S. Department of Education or the Council for Higher Education Accreditation ~~recognized by the issuing state and has acquired five years of practical as recognized by the issuing state~~ and has acquired five years of practical experience as a criminal justice officer, corrections officer, or as an administrator or specialist in a field directly related to the corrections system. At least one year of the required five years experience must have been while actively participating in corrections training as a Commission-certified instructor;
 - (B) has been awarded an associate degree from colleges or universities accredited by the Department of Education of the state in which the institution is located, from an accredited body recognized by either the U.S. Department of Education or the Council for Higher Education Accreditation, or from the state university of the state in which the institution is located ~~recognized by the issuing state~~ and has acquired four years of practical experience as a criminal justice officer, corrections officer, or as an administrator or specialist in a field directly related to the corrections system. At least one year of the required four years experience must have been while directly participating in corrections training as a Commission-certified instructor; or
 - (C) has been awarded a baccalaureate degree from colleges or universities accredited by the Department of Education of the state in which the institution is located, from an accredited body recognized by either the U.S. Department of Education or the Council for Higher Education Accreditation, or from the state university of the state in which the institution is located; ~~recognized by~~

Authority G.S. 14-415.12; 14-415.13.

SUBCHAPTER 09G - STANDARDS FOR CORRECTIONS EMPLOYMENT, TRAINING, AND CERTIFICATION

SECTION .0400 – MINIMUM STANDARDS FOR TRAINING OF CORRECTIONAL OFFICERS, PROBATION/PAROLE OFFICER, AND PROBATION/PAROLE OFFICERS-SURVEILLANCE

12 NCAC 09G .0405 CERTIFICATION OF SCHOOL DIRECTORS

- (a) Any person designated to act as, or who performs the duties of, a School Director in the delivery or presentation of a Commission-certified corrections training course shall be and continuously remain certified by the Commission as a School Director.
- (b) To qualify for initial certification as a corrections School Director, an applicant shall:
 - (1) ~~Attend and successfully complete a Commission certified instructor training course or an equivalent instructor training program as determined by the Commission (if certified after January 1, 2006);~~ Hold current General Instructor Certification as issued by the North Carolina Criminal Justice Education and Training Standards Commission;

~~the issuing state a regionally accredited institution of higher learning;~~

- (3) attend or have attended the most current offering of the School Director's orientation as developed and presented by the Commission staff, otherwise an individual orientation with a staff member shall be required; and
- (4) submit a completed Form F-10(SD), Request for School Director Certification to the Commission for the issuance of such certification. This request shall be executed by the executive officer of the Office of Staff Development and Training of the North Carolina Department of ~~Public Safety, Division of Adult Correction and Juvenile Justice~~. The Form F-10(SD) is located on the agency's website: [http://ncdoj.gov/getdoc/f23e5e4d-d56d-4aba-af1e-44712690d5d5/F-10\(SD\)-6-11.aspx](http://ncdoj.gov/getdoc/f23e5e4d-d56d-4aba-af1e-44712690d5d5/F-10(SD)-6-11.aspx).

(c) To qualify for certification as a School Director in the presentation of the "Criminal Justice Instructor Training Course" an applicant shall:

- (1) document that he or she has been awarded a baccalaureate degree from colleges or universities accredited by the Department of Education of the state in which the institution is located, from an accredited body recognized by either the U.S. Department of Education or the Council for Higher Education Accreditation, or from the state university of the state in which the institution is located; a regionally accredited institution of higher learning;
- (2) ~~present evidence showing successful completion of a Commission certified instructor training course or an equivalent instructor training program as determined by the Commission; Hold current General Instructor certification; and~~
- (3) ~~be currently certified as a criminal justice instructor by the Commission; and~~
- (4)(3) document successful participation in a special program successful completion of Instructor Training Orientation presented by the North Carolina Justice Academy for purposes of familiarization and supplementation relevant to delivery of the instructor training course and trainee evaluation.

Authority G.S. 17C-6.

12 NCAC 09G .0406 TERMS AND CONDITIONS OF SCHOOL DIRECTOR CERTIFICATION

(a) The term of certification as a School Director is two years from the date the Commission issues the certification, unless earlier terminated by action of the Commission. Upon application the certification may subsequently be renewed by the Commission for two-year periods. The application for renewal

shall contain documentation meeting the requirements of 12 NCAC 09G .0405(b)(2) and (b)(3).

(b) To retain certification as a School Director, the School Director shall perform the duties and responsibilities of a School Director as specifically required in 12 NCAC 09G .0408.

(c) To retain certification, School Directors must participate in annual training conducted by commission staff. The Director may grant a waiver of attendance at the annual training for just cause. For purposes of this Rule, just cause means accidents, illness, emergency, or other exceptional circumstances which precluded the School Director from attending the scheduled annual training. School Directors who receive a waiver of attendance shall be required to complete a make up training session prior to the end of the calendar year in which the training requirement applies.

Authority G.S. 17C-6.

TITLE 14B – DEPARTMENT OF PUBLIC SAFETY

Notice is hereby given in accordance with G.S. 150B-21.2 that the Private Protective Services Board intends to amend the rules cited as 14B NCAC 16 .0205 and .1101.

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

Proposed Effective Date: August 1, 2023

Public Hearing:

Date: April 18, 2023

Time: 2:00 p.m.

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

Reason for Proposed Action: A corporation ceases to exist (except for "winding up") immediately upon dissolution or suspension of its corporate status. During a recent complaint investigation the Board discovered it had no rule governing a corporate licensee in such instances therefore the "company business license" rule is being amended. During the discussions regarding the new Digital Forensics Examiner license the Board made the decision that the Associate should maintain the trainee log and not the Associate's supervisor. A corresponding change is being made for the Private Investigator Associates.

(Note: A Notice of Text for these rule amendments was published in 37:15 NCR 1034, however the agency failed to post them on its website. They are being re-noticed.)

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

Comment period ends: June 2, 2023

Procedure for Subjecting a Proposed Rule to Legislative Review: If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules

Review Commission after the adoption of the Rule. If the Rules Review Commission receives written and signed objections after the adoption of the Rule in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 984-236-1850.

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

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

CHAPTER 16 - PRIVATE PROTECTIVE SERVICES BOARD

SECTION .0200 - LICENSES: TRAINEE PERMITS

14B NCAC 16 .0205 COMPANY BUSINESS LICENSE

(a) Any firm, association, or corporation required to be licensed pursuant to G.S. 74C-2(a) shall upload on the Board's website an application for a company business license on a form provided by the Board. Only a sole proprietorship that is owned and operated by an individual licensee shall be exempt from this Rule. This application for license shall require such information as the firm, association, or corporation name; the address of its principal office within the State; any past conviction for criminal offenses of any company director, or officer; information concerning the past revocation, suspension, or denial of a business or professional license to any director or officer; a list of all directors and officers of the firm, association, or corporation; a list of all persons, firms, associations, corporations or other entities owning 10 percent or more of the outstanding shares of any class of stock; and the name and address of the qualifying agent.

(b) In addition to the items required in Paragraph (a) of this Rule, an out-of-state corporation shall file with its application for a license, a copy of its certificate of authority to transact business in this State issued by the North Carolina Secretary of State in accordance with G.S. 55-15-01. The corporation shall also file a consent to service of process and pleadings that shall be authenticated by its corporate seal and accompanied by a duly certified copy of the resolution of the board of directors authorizing the proper officer or officers to execute the consent.

(c) After filing a completed application with the Board, the Board shall conduct a background investigation to determine if the qualifying agent is in a management position. The Board shall also determine if the directors or officers have the requisite good moral character as defined in G.S. 74C-8(d)(2). For purposes of this Rule, "conviction" means and includes the entry of a plea of

guilty or no contest or a verdict rendered in open court by a judge or jury.

(d) Upon satisfactory completion of the background investigation, a company business license shall be issued. This license shall be conspicuously displayed at the principle place of business within North Carolina.

(e) The company business license shall be issued only to the business entity and shall not be construed to extend to the licensing of its officers and employees.

(f) The issuance of the company business license is issued to the firm, association, or corporation in addition to the license issued to the qualifying agent. The qualifying agent for the firm, association, or corporation which has been issued the company business license shall be responsible for assuring compliance with G.S. 74C.

(g) Dissolution or administrative suspension of corporate status shall result in suspension of the company business license by operation of law and may result in disciplinary action for unlicensed activity.

Authority G.S. 74C-2(a); 74C-5.

SECTION .1100 - TRAINING AND SUPERVISION FOR PRIVATE INVESTIGATOR ASSOCIATES

14B NCAC 16 .1101 DEFINITIONS

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

- (1) "Private Investigator Associate" refers to an individual training to become a Private Investigator. A Private Investigator Associate may also be referred to as a "trainee" in these Rules. A Private Investigator Associate must complete three training levels as set out in this Section.
- (2) "One-on-one Supervision" means person-to-person contact whereby the licensed investigator is personally and directly supervising or training the Associate. The training investigator must be the sponsoring licensed Private Investigator or any licensed Private Investigator who is a member of the sponsoring Private Investigator's firm, association, or corporation. The Private Investigator Associate may not subcontract his or her employment to another Private Investigator. However, the sponsoring Private Investigator may subcontract the Private Investigator Associate if the sponsor obtains prior written approval from the Board's Director by showing that the Private Investigator Associate will receive an educational benefit from the subcontract employment and the Associate will receive one-on-one supervision from another licensed Private Investigator. One-on-one supervision may also be satisfied if the Associate undergoes training from an individual or educational

- course approved by the Board's Director prior to the Associate receiving the training.
- (3) "Training Checklist" refers to the document(s) that shall state all areas of training and work that the Associate has performed. The supervising Private Investigator is responsible for maintaining the training checklist and providing a copy of the checklist to the Associate. The Training Checklist must reflect the date the Associate advances from one level to another. The training checklist must be signed by the Associate and the sponsoring Private Investigator at the end of each reporting period. In the event the Associate transfers employment to another Private Investigator, the Associate must provide the new supervising Private Investigator with the training checklist and the new sponsoring Private Investigator will then be responsible for the maintenance of the checklist. The Training Checklist must be updated on a quarterly basis for Level One Associates and on a yearly basis for Level Two and Level Three Associates. The training checklist must be maintained pursuant to Rule .0108 of this Chapter. When an Associate completes Level Three, the Training Checklist must be made a part of the Associate's application for a Private Investigator's license. The Board shall have immediate access to the training checklist.
- (4) "Associate Log" refers to the document(s) maintained by the ~~sponsoring Private Investigator~~ Associate which shall list each case the Associate has worked, the number of hours spent on the case, and the type of work performed. Details of the one-on-one training must be documented within the Associate's log.

Authority G.S. 74C-2(c); 74C-5(2).

TITLE 15A – DEPARTMENT OF ENVIRONMENTAL QUALITY

Notice is hereby given in accordance with G.S. 150B-21.2 that the Wildlife Resources Commission intends to amend the rules cited as 15A NCAC 10B .0113; 10F .0102, .0104 and .0109.

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

Proposed Effective Date: August 1, 2023

Public Hearing:

Date: May 16, 2023

Time: 2:30 p.m.

Location:

Zoom meeting. Registration required at: https://ncwildlife.org.zoomgov.com/webinar/register/WN_C0oqNGdXSvivvd5xGjp iJg

Reason for Proposed Action: *The proposed amendments to 15A NCAC 10B .0113 expand the recording and reporting options to include new technology the WRC is implementing as part of its transition to a third-party license vendor, that will allow hunters to validate and register their big game harvests through the WRC's mobile app.*

Amendments to 15A NCAC 10F .0100 Rules are needed to update vessel data collection points and certificate of number terminology to match United States Coast Guard regulations.

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

Comment period ends: June 2, 2023

Procedure for Subjecting a Proposed Rule to Legislative Review:

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

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

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

CHAPTER 10 - WILDLIFE RESOURCES AND WATER SAFETY

SUBCHAPTER 10B - HUNTING AND TRAPPING

SECTION .0100 - GENERAL REGULATIONS

15A NCAC 10B .0113 **BIG GAME HARVEST REPORTS REPORTING**

(a) Definitions. The following definitions shall apply in this Rule:

- (1) "Authorization number" means the number or code issued by the ~~Electronic Big Game Reporting System~~ Commission upon completion of big game harvest registration,

which shall serve as proof of registration and allow continued possession of the carcass.

- (2) "Big Game" means bear, wild turkey, and white-tailed deer, as defined in G.S. 113- 129.
- (3) "Big Game Harvest Report Card" means the non-transferrable physical or electronic reporting card supplied issued to the hunter an individual by the Commission as part of ~~the~~ their big game license, upon which ~~the successful hunter validates and records they validate and record~~ the authorization ~~a~~ number for a big game harvest.
- (4) "DMAP" means Deer Management Assistance Program as defined in G.S. 113-291.2(e).
- ~~(4)~~(5) "Field Dress" means the bleeding or removal of the digestive, respiratory, and circulatory organs.
- ~~(5)~~(6) "Validate" or "validation" means electronically recording a harvest or cutting or punching-out the day and month of the harvest occurred on the appropriate line of the Big Game Harvest Report Card or Bonus Antlerless Deer Harvest Report Card or by affixing a Commission-issued DMAP tag. Deer Management Assistance Program (DMAP) tag, as required by G.S. 113-291.2(e).
- ~~(6)~~(7) "Register" or "Registration" means the process by which the big game harvest of big game is reported through the Electronic Big Game Reporting System to the Commission and an authorization number is issued. issued by the Commission.
- ~~(7)~~(8) "Remote Area" means an area where ~~access to the Electronic Big Game Reporting System cellular phone signal, internet access or the Mobile app~~ is unavailable.
- ~~(8)~~(9) "Site of kill" or "site of harvest" means the location that a person takes possession of harvested big game.
- ~~(9)~~(10) "Successful hunter" means a person that has lawfully taken and reduced to possession a big game animal.
- (11) "Mobile app" means a unique Commission application that may be downloaded to a mobile device allowing successful hunters to validate and register a big game harvest.

(b) Any individual hunting big game animals, including license exempt individuals, shall have an electronic or paper version of the Big Game Harvest Report Card, Bonus Antlerless Deer Harvest Report Card, or DMAP tag pursuant to G.S. 113-291.2, on their person while hunting.

~~(b)(c)~~ Validation. ~~The~~ A successful hunter shall validate ~~the~~ their Big Game Harvest Report Card or the Bonus Antlerless Deer Harvest Report Card or affix a Commission-issued DMAP tag before moving any big game from the site of kill. Deer harvested pursuant to the Deer Management Assistance Program (DMAP), that are not validated by the Big Game Harvest Report Card or the Bonus Antlerless Deer Harvest Report Card, shall be validated by affixing a Commission-issued DMAP tag.

~~(e)~~(d) Field Dressing. Harvested big game may be field dressed at the site of kill or before registration. Further processing that obscures the identification of the harvested animal's species, age, or sex shall be prohibited without a valid authorization number.

~~(d)~~(e) Registration. Harvested big game shall be registered via ~~the Electronic Big Game Reporting System~~ the Commission's mobile app, online at www.newwildlife.org or www.ncwildlife.org, by calling 1-800-446-8663, 1-800-446-8663, or as described in the DMAP license. Harvested big game shall be registered before the animal is:

- (1) skinned; or
- (2) dismembered; or
- (3) left unattended by the successful hunter; or
- (4) placed in the possession of another person.

Harvested big game animals that are not skinned, dismembered, left unattended by the successful hunter, or placed in the possession of another person, shall be registered by 12pm noon the day following the harvest.

~~(e)~~(f) Registration in Remote Areas. Big game harvested in remote areas shall be registered by 12pm noon, the day after leaving the remote area. Notwithstanding the registration requirements in Paragraph ~~(d)~~(e) of this Rule, big game harvested in remote areas may:

- (1) be placed in the possession of another, provided that the person in possession of the big game has the successful hunter's name and date of kill on their person; and
- (2) be skinned and dismembered before registration, if the carcass cannot be transported intact.

~~(f)~~(g) Authorization number. Successful hunters using the paper Big Game Harvest Report Card or Bonus Antlerless Deer Harvest Report Card, the ~~The~~ authorization number shall be recorded in the space provided for the appropriate harvested big game animal. ~~animal on the Big Game Harvest Report Card or on the Bonus Antlerless Deer Harvest Report Card. Successful hunters validating a deer harvest by affixing using a Commission-issued DMAP tag shall record and maintain the authorization number upon registration.~~ as described in the DMAP license.

~~(g)~~(h) Unattended Harvests. Except as otherwise provided by rule or law, successful hunters that leave a harvested big game animal unattended or in the possession of another person shall identify the carcass by attaching the authorization number issued at the time of registration. Except as provided in Paragraph ~~(e)~~(f) of this Rule, a person that takes possession of a big game animal from a successful hunter shall retain the authorization number of that animal.

~~(h)~~ Exceptions. Requirements of this Rule shall not be applicable to special deer tags issued pursuant to G.S. 113-291.2(e).

~~(i)~~ Any person hunting big game animals, including license exempt persons, shall have a valid Big Game Harvest Report Card, valid Bonus Antlerless Deer Harvest Report Card, or special tag pursuant to G.S. 113-291.2 in their possession. ~~The Big Game Harvest Report Card or Bonus Antlerless Deer Harvest Report Card is part of the big game license and shall not be transferrable.~~

~~(j)~~ Any persons who has requested a Big Game Harvest Report Card by phone or internet but has not yet received the Big Game Harvest Report Card by mail, shall validate the kill by affixing the harvest ID number provided by the Commission to the carcass and

~~shall register in accordance with Paragraphs (d) or (e) of this Rule. The successful hunter shall retain all authorization numbers from reported harvests and shall transcribe those authorization numbers to the Big Game Harvest Report Card upon receipt of the card. Authority G.S. 113-134; 113-270.3; 113-276.1; 113-291.~~

SUBCHAPTER 10F - MOTORBOATS AND WATER SAFETY

SECTION .0100 - MOTORBOAT REGISTRATION

15A NCAC 10F .0102 APPLICATION FOR CERTIFICATE OF VESSEL NUMBER

(a) Definitions. The definitions in G.S. 75A-2 shall apply throughout this Subchapter and to all forms prescribed pursuant to this Subchapter. As used in this Subchapter, the following definitions shall also apply:

- (1) "Boating Accident" means a collision, accident, casualty, or occurrence involving a vessel or its equipment and resulting in:
 - (A) damage by or to the vessel, its equipment, or other property;
 - (B) injury or loss of life to any person; or
 - (C) the disappearance of any person from a vessel under circumstances that indicate the possibility of death or injury.

A "boating accident" includes capsizing, collision, foundering, flooding, fire, explosion, and the disappearance of a vessel other than by theft.
- (2) "Certificate of Title" means a document that serves as evidence of ownership of a vessel.
- (3) "Charter Fishing Vessel" means a vessel carrying passengers for hire who are engaged in recreational fishing.
- ~~(3)~~(4) "Dealer" means a person, firm, or corporation engaged in the business of offering vessels for sale at retail or wholesale from an established location.
- ~~(4)~~(5) "Government Agency Vessel" means a vessel owned and operated by the United States or a federal agency, a state, or a subdivision of a state.
- ~~(5)~~(6) "Livery Vessel" "Rent or Lease Vessel" means a vessel that is rented or leased by the owners to an individual for a defined period of time.
- ~~(6)~~(7) "Manufacturer" means a person, firm, or corporation engaged in the business of manufacturing vessels either upon prior commission or for the purpose of sale after manufacture.
- ~~(7)~~(8) "Nonprofit Rescue Squad Vessel" means a vessel owned and operated by a nonprofit rescue squad exclusively for rescue purposes, including rescue training.
- ~~(8)~~(9) "Proof of Ownership Document" means a document that provides evidence of ownership, including a Certificate of Number or a

Certificate of Title issued by the Commission or any similar document issued by another state or country, an affidavit, a bill of sale, a manufacturer's statement of origin, or any other document that establishes ownership.

~~(9)~~(10) "Vessel Agent" means an individual or business authorized by the Commission to conduct vessel transactions.

(b) General. The certificate of numbering and certificate of titling requirements of G.S. 75A-4, 75A-7, 75A-34, and 75A-35 shall apply to all vessels operated on the public waters of North Carolina, including ~~livery~~ rented and leased vessels, commercial fishing vessels, and commercial passenger vessels. Vessels operated pursuant to a dealer's or manufacturer's certificate of number for demonstration or testing purposes, government agency vessels, and non-profit rescue squad vessels shall not be subject to the titling requirements of G.S. 75A-34 and G.S. 75A-35 but shall remain subject to the certificate of numbering requirements of G.S. 75A-4 and G.S. 75A-7. Every owner applying for a certificate of number and certificate of title of a vessel, if applicable, shall apply to the Commission or to one of its vessel agents using an application available on the Commission website at www.ncwildlife.org. The application shall include the following information:

- (1) the name of the owners;
- (2) the address, telephone number, date of birth, and North Carolina driver license number of the owners;
- (3) the current or previous certificate of number, if applicable;
- (4) the desired period of certificate of number, either one or three years;
- (5) the primary ~~use~~ operation of the vessel:
 - (A) pleasure;
 - (B) ~~livery; rent or lease;~~
 - (C) dealer or manufacturer demonstration;
 - (D) commercial fishing;
 - (E) commercial passenger;
 - (F) other commercial; ~~or~~
 - (G) ~~other; charter fishing; or~~
 - (H) other.
- (6) the model of the vessel, if known;
- (7) the manufacturer, if known;
- (8) the year of manufacture or model year, if known;
- (9) the manufacturer's hull identification number, if any;
- (10) the length of the vessel in feet and inches;
- (11) the type of vessel:
 - (A) ~~open; open motorboat;~~
 - (B) ~~eabin; cabin motorboat;~~
 - (C) houseboat;
 - (D) personal watercraft;
 - (E) pontoon; ~~or~~
 - (F) ~~other; air boat;~~
 - (G) auxiliary sail;
 - (H) inflatable;
 - (I) paddlecraft/canoe;
 - (J) paddlecraft/kayak;

- (K) rowboat;
- (L) sail only; or
- (M) other.
- (12) the hull material:
 - (A) wood;
 - (B) ~~metal;~~ aluminum;
 - (C) ~~fiberglass;~~ steel;
 - (D) ~~plastic;~~ fiberglass;
 - (E) ~~inflatable; or rubber/vinyl/canvas;~~
 - (F) ~~other;~~ plastic; or
 - (G) other.
- (13) the type of propulsion:
 - (A) ~~inboard;~~ propeller;
 - (B) ~~outboard;~~ sail;
 - (C) ~~inboard-outdrive;~~ water jet;
 - (D) ~~sail;~~ manual;
 - (E) ~~auxiliary sail with inboard;~~ air thrust;
or
 - (F) ~~auxiliary sail with outboard; or other.~~
 - (G) jet Drive;
- (14) the type of fuel:
 - (A) gasoline;
 - (B) diesel;
 - (C) electric; or
 - (D) ~~other;~~ other.
- (15) the engine drive type:
 - (A) inboard;
 - (B) outboard;
 - (C) stern drive;
 - (D) pod drive;
 - (E) other; or
 - (F) none.
- ~~(15)~~(16) a proof of ownership document;
- ~~(16)~~(17) the signature of the owners;
- ~~(17)~~(18) the make of motor if over 25 horsepower, including serial number and purchase price of ~~motor;~~ motor, if known;
- ~~(18)~~(19) the lien holder name, address, and telephone ~~number;~~ number, if applicable;
- ~~(19)~~(20) the effective lien ~~date;~~ date, if applicable;
- ~~(20)~~(21) the county where vessel is taxed; and
- ~~(21)~~(22) proof of United States Coast Guard documentation, if applicable.

(c) Application for certificate of number and certificate of title. The owners shall complete and submit an application for a certificate of number, proof of ownership documents, and applicable fees to the Commission or one of its vessel agents for processing within 15 days of the date of sale. A new certificate of number shall be issued for new or never-before registered vessels. For a period of 60 days following the date of sale, the new owners may use a copy of the proof of ownership document as a temporary certificate of number pending receipt of the original certificate, provided it contains the date of sale. If required, a certificate of title shall be issued and all reported liens shall be recorded.

(d) ~~Livery~~ Rented or Leased Vessel Owners. Upon receipt of a completed application and a copy of the lease or rental agreement form and fee, the Commission shall issue to the applicant a certificate of number and, if applicable, a certificate of title.

(e) Dealers and Manufacturers of Vessels. Upon receipt of a completed application and fee, the Commission shall issue to the applicant a certificate of number that may be used in connection with the operation of any vessel in the possession of the dealer or manufacturer when the vessel is being demonstrated. Dealer and manufacturer certificates of number shall not be transferred. A new certificate of number shall be issued upon sale or transfer. Demonstration vessels shall not be titled so long as the vessel is owned by the dealer or manufacturer. Vessels owned or possessed by dealers or manufacturers for personal use or for any use other than for demonstration and testing purposes shall be individually registered in the name of the dealer or manufacturer in accordance with the certificate of number requirements of Paragraph (b) of this Rule. Additional dealer or manufacturer certificates of number may be obtained by making application in the same manner as prescribed for the initial certificate with payment of a fee for each additional certificate. Dealers and manufacturers may register individual vessels in accordance with Rule .0104(a) of this Section.

(f) Government Agency and Nonprofit Rescue Squad Vessels. Upon receipt of a completed application and proof of ownership documents from a government agency or non-profit rescue squad, the Commission shall issue to the applicant a permanent certificate of number. There shall be no fee for a permanent government agency or non-profit rescue squad certificate of number and the certificate shall be valid until the vessel is transferred to another government agency, an individual, a business, or a dealer. Government agency and nonprofit rescue squad registered vessels shall not be titled.

(g) Commercial Fishing Vessel. The standard application for a certificate of number shall be used for commercial fishing vessels with the term "commercial fishing" marked in the section designated for "primary use." Upon receipt of a completed application, proof of ownership document, and fee, the Commission shall issue to the applicant a certificate of number and, if applicable, a certificate of title.

(h) Commercial Passenger Vessel. Upon receipt of a completed application, proof of ownership document, and fee, the Commission shall issue to the applicant a certificate of number and, if applicable, a certificate of title.

Authority G.S. 75A-3; 75A-5; 75A-7; 75A-19; 75A-34; 75A-35; 33 C.F.R. 174.17; CFR 174.17.

15A NCAC 10F .0104 CERTIFICATE OF NUMBER

(a) General. Upon receipt of a completed application, a proof of ownership document, and the applicable fees as provided in G.S. 75A-5(a1) and G.S. 75A-5.2(c), the Commission shall issue to the applicant a certificate of number authorizing the operation of the vessel. The certificate of number shall be carried while operating the vessel and shall be presented for inspection to any law enforcement officer upon request. The certificate of number shall include the following information:

- (1) the name of the owners, dealer, or manufacturer;
- (2) the address, including zip code, of the primary owners, dealer, or manufacturers;
- (3) the title indicator;
- (4) the certificate of number awarded to vessel;

- (5) the expiration date of the certificate of number;
- (6) ~~vessel use type:~~ the primary operation of the vessel:
 (A) pleasure;
 (B) ~~livery;~~ rent or lease;
 (C) dealer or manufacturer demonstration;
 (D) commercial fishing;
 (E) commercial passenger;
 (F) other commercial; ~~or~~
 (G) ~~other;~~ charter fishing; or
 (H) other.
- (7) the model of vessel, if known;
- (8) the manufacturer, if known;
- (9) the year of manufacture or model year, if known;
- (10) the manufacturer's hull identification number, if any;
- (11) the ~~overall~~ length of ~~vessel;~~ vessel in feet and inches;
- (12) the type of vessel:
 (A) ~~open;~~ open motorboat;
 (B) ~~cabin;~~ cabin motorboat;
 (C) houseboat;
 (D) personal watercraft;
 (E) pontoon; ~~or~~
 (F) ~~other;~~ air boat;
 (G) auxiliary sail;
 (H) inflatable;
 (I) paddlecraft/canoe;
 (J) paddlecraft/kayak;
 (K) rowboat;
 (L) sail only; or
 (M) other.
- (13) the hull material:
 (A) wood;
 (B) ~~metal;~~ aluminum;
 (C) ~~fiberglass;~~ steel;
 (D) ~~plastic;~~ fiberglass;
 (E) ~~inflatable; or~~ rubber/vinyl/canvas;
 (F) ~~other;~~ plastic; or
 (G) other.
- (14) the type of ~~Propulsion:~~ propulsion:
 (A) ~~inboard;~~ propeller;
 (B) ~~outboard;~~ sail;
 (C) ~~inboard outdrive;~~ water jet;
 (D) ~~sail;~~ manual;
 (E) ~~auxiliary sail with inboard;~~ air thrust;
 or
 (F) ~~auxiliary sail with outboard;~~ other.
 (G) ~~jet drive;~~
- (15) the type of fuel:
 (A) gasoline;
 (B) diesel;
 (C) electric; or
 (D) ~~other;~~ other.
- (16) the engine drive type:
 (A) inboard;
 (B) outboard;
 (C) stern drive;

- (D) pod drive;
 (E) other; or
 (F) none.

- (16)(17) a notice to owner that he shall report within 30 days changes of address or ownership, and destruction or abandonment of vessel;
- (17)(18) the signature of the owners; and
- (18)(19) a notice to the owner that the operator shall:
 (A) always carry this certificate on vessel when in use;
 (B) report any accident involving injury or death to persons or property damage in excess of two thousand dollars (\$2,000.00); and
 (C) stop and render assistance if involved in boating accident.

(b) Dealers and Manufacturers. A dealer or manufacturer demonstrating or testing a vessel may use a set of dealer numbers and the corresponding dealer certificate of number to operate a vessel held for sale, but only for demonstration or testing purposes. Vessels owned or possessed by dealers or manufacturers for personal use or for any use other than for demonstration and testing purposes shall be individually registered in the name of the dealer in accordance with Paragraph (a) of this Rule.

(c) Government agency. There shall be no title indicator or expiration date listed for permanent certificate of numbers.

(d) Vessel Agents. Vessel dealers, manufacturers, and other businesses that operate from locations within North Carolina may be appointed as vessel agents of the Commission and be authorized to issue temporary certificates of number for new registrations, transfers of ownership, renewals, and duplicate transactions. All official certificates of number shall be processed and mailed from the Commission headquarters. Rules governing the appointment and operations of vessel agents are contained in 15A NCAC 10G .0400 WILDLIFE SERVICE AGENTS.

Authority G.S. 75A-3; 75A-5; 75A-5.2; 75A-7; 75A-19; 33 C.F.R. 174.19; CFR 174.19.

15A NCAC 10F .0109 TEMPORARY CERTIFICATE OF NUMBER

(a) When a vessel agent processes the final transaction to issue, renew, or transfer a certificate of number or to issue a duplicate certificate of number, the new owner shall be issued a temporary certificate of number. For a period not exceeding 60 days following the date of the transaction, the vessel may be operated with the temporary certificate of number.

(b) The temporary certificate of number shall contain the following:

- (1) the name of issuing wildlife service agent;
- (2) the name and address of the owners, dealer, or manufacturer;
- (3) the title indicator;
- (4) the certificate of number;
- (5) the ~~vessel use type:~~ primary operation of the vessel:
 (A) pleasure;
 (B) ~~livery;~~ rent or lease;

- (C) dealer or ~~manufacturer~~; manufacturer demonstration;
- (D) ~~permanent~~; commercial fishing;
- (E) commercial ~~fishing~~; passenger;
- (F) ~~commercial~~ — ~~passenger~~; other commercial;
- (G) ~~other commercial~~; charter fishing; or
- (H) ~~other~~; other.
- (6) the model of ~~vessel~~; the vessel, if known;
- (7) the ~~manufacturer~~; manufacturer, if known;
- (8) the year of manufacture or model ~~year~~; year, if known;
- (9) the manufacturer's hull identification ~~number~~; number, if any;
- (10) the length of ~~vessel~~; vessel in feet and inches;
- (11) the type of vessel:
 - (A) ~~open~~; open motorboat;
 - (B) ~~cabin~~; cabin motorboat;
 - (C) houseboat;
 - (D) personal watercraft;
 - (E) pontoon; ~~or~~
 - (F) ~~other~~; air boat;
 - (G) auxiliary sail;
 - (H) inflatable;
 - (I) paddlecraft/canoe;
 - (J) paddlecraft/kayak;
 - (K) rowboat;
 - (L) sail only; or
 - (M) other.
- (12) the hull material:
 - (A) wood;
 - (B) ~~metal~~; aluminum;
 - (C) ~~fiberglass~~; steel;
 - (D) plastic; ~~fiberglass~~;
 - (E) ~~inflatable~~; or rubber/vinyl/canvas;
 - (F) ~~other~~; plastic; or
 - (G) other.
- (13) the type of propulsion:
 - (A) ~~inboard~~; propeller;
 - (B) ~~outboard~~; sail;
 - (C) ~~inboard outdrive~~; water jet;
 - (D) sail; manual;
 - (E) auxiliary sail with inboard; air thrust; or
 - (F) auxiliary sail with outboard; or other.
 - (G) jet drive;
- (14) the type of fuel:
 - (A) gasoline;
 - (B) diesel;
 - (C) electric; or
 - (D) ~~other~~; other.
- (15) the engine drive type:
 - (A) inboard;
 - (B) outboard;
 - (C) stern drive;
 - (D) pod drive;
 - (E) other; or
 - (F) none.

- ~~(15)~~(16) the date the temporary certificate of number is issued;
- ~~(16)~~(17) the date the temporary certificate of number expires;
- ~~(17)~~(18) the type of transaction pending; and
- ~~(18)~~(19) the signature of the owners.

Authority G.S. 75A-3; 75A-5; 33 ~~C.F.R. 174.21~~; CFR 174.21.

Notice is hereby given in accordance with G.S. 150B-21.2 that the Wildlife Resources Commission intends to amend the rules cited as 15A NCAC 10F .0310 and .0374.

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

Proposed Effective Date: August 1, 2023

Public Hearing:

Date: May 11, 2023

Time: 2:00 p.m.

Location:

Virtual Hearing. Registration required at: https://ncwildlife.org.zoomgov.com/webinar/register/WN_otwI8dcASaOxwdBycQgUrQ

Reason for Proposed Action:

Proposed amendments to 15A NCAC 10F .0310 will create no-wake zones in the waters of Motts Creek and at seven boating access areas in Dare County that are owned or operated by the Wildlife Resources Commission.

Proposed amendments to the 15A NCAC 10F .0347 change the name Cube Yadkin Generation to Cube Hydro Carolinas and add Safety Zones and Restricted Areas at High Rock Hydroelectric Station, Tuckertown Hydroelectric Station, Narrows Hydroelectric Station, and Falls Hydroelectric Station, located in Rowan, Davidson, Stanly, and Montgomery counties on the Yadkin River chain.

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

Comment period ends: June 2, 2023

Procedure for Subjecting a Proposed Rule to Legislative

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

service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 984-236-1850.

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

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

CHAPTER 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.
 - (A) the waters of Doughs Creek ~~off of~~ off Shallowbag Bay and all canals off of Shallowbag Bay.
 - (B) within 50 yards of the Bowsertown Boating Access Area on Croatan Sound at 35.89810 N, 75.67710 W.
- (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~~ Manns Harbor.
 - (A) Old Ferry Dock Road Canal, beginning at a point at 35.90654 N, 75.76916 W.
 - (B) within 50 yards of the Manns Harbor Boating Access Area on Croatan Sound at 35.91020 N, 75.77150 W.
 - (C) within 50 yards of the Mashoes Boating Access Area on East Lake at 35.92820 N, 75.81470 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 curving to the southwest roughly parallel to SR 1289 otherwise known as C B Daniels SR Road to its end.
- (6) Stumpy Point.
 - (A) Stumpy Point Canal shore to shore on Pamlico Sound, beginning 50 yards west of the ~~Wildlife Resources Commission boating access area.~~ Stumpy Point Boating Access Area, 321 Bayview Drive.
 - ~~(7)(B)~~ 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.
- ~~(7)~~ Rodanthe. Within 50 yards of the Rodanthe Boating Access Area in Roanoke Sound, 23170 Myrna Peters Road.
- (8) Town of Southern Shores. ~~Canals~~ The 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 waters ~~contained~~ in the canals of Kitty Hawk Landing Subdivision.
- (11) Washington Baum ~~Bridge.~~ Bridge Boating Access Area, 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. The waters within 150 yards north and south and 300 yards east of the Washington Baum Boating Access Area in Roanoke Sound, at 35.89380 N, 75.63710 W.
- (12) Kill Devil Hills.
 - (A) Baum Bay Harbor, beginning at a point at 36.00572 N, 75.68105 W.

- (B) the waters within 50 yards of the Avalon Beach Boating Access Area in Kitty Hawk Bay, 2025 Bay Street.
- (13) Avon. 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. The waters of 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.
- (16) Cape Hatteras National Seashore. The waters of Motts Creek in Roanoke Sound, shore to shore at a line from a point on the north shore where the Oregon Inlet U.S. Coast Guard Station is located, to a point near the south shore of Motts Creek at 35.792070 N, 75.54903 W, then northward to include the waters at the Oregon Inlet Fishing Center and Marina, Oregon Inlet Public Boat Ramp, kayak launch area, and U. S. Coast Guard Station and Launch Area.

(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 vessel 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~~ are 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~~ designated in ~~Subparagraph (a)(1) Part (a)(1)(A) 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;~~

- (2) the Board of Commissioners of Dare County for the areas designated in Paragraph (c), Subparagraphs (a)(2); (a)(4); (a)(5); (a)(8) through (10); (a)(13) through (15); and Parts (a)(3)(A); (a)(6)(B); and (a)(12)(A) of this Rule;
- (3) the Board of Commissioners of the Town of Southern Shores for the areas ~~indicated~~ designated in Subparagraph (a)(8) of this Rule; and Rule;
- (4) the Board of Commissioners of the Town of Kitty Hawk for the area ~~indicated~~ designated in Subparagraph (a)(10) of this Rule. Rule;
- (5) the National Park Service for the area designated in Subparagraph (a)(16) of this Rule; and
- (6) the North Carolina Wildlife Resources Commission for the areas designated in Subparagraphs (a)(7) and (a)(11); and Parts (a)(1)(B); (a)(3)(B) and (C); (a)(6)(A); and (a)(12)(B) of this Rule.

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

**15A NCAC 10F .0374 ~~CUBE YADKIN GENERATION~~
CUBE HYDRO CAROLINAS SAFETY ZONES AND
RESTRICTED ZONES AREAS**

(a) Regulated Areas. This Rule shall apply to the ~~area one hundred feet upstream or and downstream from the stations and dams, associated structures, abutments, and equipment at the following stations:~~ following hydroelectric stations, dams, associated structures, abutments, and equipment:

- (1) ~~Narrows Hydroelectric Station on the Yadkin River in Stanly and Montgomery Counties;~~
- (2) ~~High Rock Hydroelectric Station on the Yadkin River in Rowan and Davidson Counties.~~
- (1) High Rock Hydroelectric Station on the Yadkin River in Rowan and Davidson counties;
- (2) Tuckertown Hydroelectric Station on the Yadkin River in Stanly and Montgomery counties;
- (3) Narrows Hydroelectric Station on the Yadkin River in Stanly and Montgomery counties; and
- (4) Falls Hydroelectric Station on the Yadkin River in Stanly and Montgomery counties.

(b) Safety Zones. With the exception of authorized persons and vessels, no entry shall be allowed in the waters listed below:

- (1) Yadkin River in Rowan and Davidson counties, 200 feet downstream from the powerhouse, turbines, or generator discharge that mechanically propels or accelerates the flow of water at the High Rock Hydroelectric Station;
- (2) Yadkin River in Stanly and Montgomery counties, 200 feet downstream from the powerhouse, turbines, or generator discharge that mechanically propels or accelerates the flow of water at the Tuckertown Hydroelectric Station;

- (3) Yadkin River in Stanly and Montgomery counties, one hundred feet directly in front of the powerhouse, turbines, or generator discharge that mechanically propel or accelerate the flow of water at the Narrows Hydroelectric Station; and

- (4) Yadkin River in Stanly and Montgomery counties, 100 feet downstream from the powerhouse, turbines, or generator discharge that mechanically propels or accelerates the flow of water at the Falls Hydroelectric Station.

(c) Restricted Areas. Restricted Areas shall be located 200 feet upstream and 200 feet downstream from the hydroelectric stations described in Paragraph (a) of this Rule. Individuals in or upon a vessel in a restricted area shall wear a U.S. Coast Guard-approved personal flotation device as described in Rule .0201 of this Subchapter at all times.

(d) Swimming. Swimming shall be prohibited in restricted areas.

(e) Firearms. No person shall discharge a firearm within a restricted area.

(b) Fishing. Except as otherwise provided in this Paragraph or in Paragraph (c) of this Rule, no person shall enter the waters within the regulated areas described in Paragraph (a) of this Rule, except persons engaged in fishing within the regulated areas described in Paragraph (a) of this Rule may enter these waters in connection with such fishing activities provided that they shall wear at all times a U.S. Coast Guard approved personal flotation device in serviceable condition and of appropriate size for the wearer.

(c) Boating. Any person in or upon a boat, raft, or other floating object that enters into the regulated areas described in Paragraph (a) of this Rule shall wear at all times a U.S. Coast Guard approved personal flotation device in serviceable condition and of appropriate size for the wearer.

(d)(f) No vessel shall tie off to any part of the hydroelectric station structure or the accessory portions thereof within restricted areas described in Paragraph (a) of this Rule or nor anchor or otherwise secure a vessel in these areas.

(e)(g) Paragraph (d) Paragraph (f) of this Rule shall not apply to persons who enter with consent of Cube Yadkin Generation Cube Hydro Carolinas for the purpose of maintaining, repairing, or evaluating facilities of Cube Yadkin Generation; Cube Hydro Carolinas; law enforcement or emergency personnel; or N.C. state employees acting in an official capacity.

(f)(h) Placement and Maintenance of Markers. Cube Yadkin Generation Cube Hydro Carolinas shall be the designated entity for placement and maintenance of buoys and other signs implementing this Rule.

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

TITLE 20 – OFFICE OF THE STATE TREASURER

Notice is hereby given in accordance with G.S. 150B-21.2 that the Local Government Commission intends to adopt the rules cited as 20 NCAC 03 .0710-.0715 and repeal the rules cited as 20 NCAC 03 .0701-.0709.

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.nctreasurer.com/about/transparency/commitment-transparency/nc-administrative-code-rules>

Proposed Effective Date: August 1, 2023

Instructions on How to Demand a Public Hearing: *(must be requested in writing within 15 days of notice): Submit a written request for public hearing within 15 days after publication of the Notice of Text to: Dept of State Treasurer, Attn: Rulemaking Coordinator, 3200 Atlantic Avenue, Raleigh, NC 27604 or DST.NCAC@nctreasurer.com.*

Reason for Proposed Action: *Based on research and analysis performed by Commission and Department of State Treasurer staff, Commission staff determined that the current mutual fund rules should be revised to better align both the requirements of the Administrative Code and the process of mutual fund certification with current legal and regulatory requirements.*

Comments may be submitted to: Laura Rowe, 3200 Atlantic Avenue, Raleigh, NC 27604

Comment period ends: June 2, 2023

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

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

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

CHAPTER 03 - LOCAL GOVERNMENT COMMISSION

SECTION .0700 - MUTUAL FUND FOR LOCAL GOVERNMENT INVESTMENT

20 NCAC 03 .0701	GENERAL INFORMATION
20 NCAC 03 .0702	DEFINITION OF TERMS
20 NCAC 03 .0703	MINIMUM FUND STANDARDS
20 NCAC 03 .0704	REQUIREMENTS FOR THE RFP
20 NCAC 03 .0705	ISSUANCE OF THE RFP
20 NCAC 03 .0706	CERTIFICATION AND
	TERMINATION OF MANAGER
20 NCAC 03 .0707	TERMINATION FOR CAUSE
20 NCAC 03 .0708	REVIEW OF MANAGER
20 NCAC 03 .0709	DELEGATION OF AUTHORITY

Authority G.S. 159-3(f); 159-30(c)(7); 159-(c6a).

20 NCAC 03 .0710 GENERAL INFORMATION

(a) This Section sets forth the manner in which a mutual fund for local government investment shall be certified as required by G.S. 159-30(c)(8).

(b) All correspondence to the State Treasurer under this Section shall be addressed to: Secretary, Local Government Commission, Department of State Treasurer, 3200 Atlantic Avenue, Raleigh, North Carolina 27604.

Authority G.S. 159-3(f); 159-30(c)(8).

20 NCAC 03 .0711 DEFINITION OF TERMS

The following words and phrases used in this Section are defined as follows:

- (1) "Active Participants" means local governments and public authorities as defined in G.S. 159-7, school administrative units, local ABC boards, community colleges, public hospitals, and other entities authorized by law to use forms of investment allowed by G.S. 159-30, that are currently invested in a Fund.
- (2) "Affiliate" means, with respect to any party, any person, entity, or organization that either directly or indirectly controls, is controlled by, or is under common control with such party, including any employee, officer, or director of such party.
- (3) "Broker-Dealer" means either a "broker" or a "dealer" as both are defined in the Securities Exchange Act of 1934 which is hereby incorporated by reference, including subsequent amendments and editions and is available online, at no cost, at <https://uscode.house.gov/browse/prelim@title15/chapter2B&edition=prelim>.
- (4) "Decertification Period" means the period of time beginning on the date the Commission adopts a resolution terminating the certification of a Fund and ending either 30 calendar days thereafter or on a date specified in such resolution.
- (5) "Enforcement Event" means:
 - (a) any civil, administrative, or criminal enforcement action under either state or federal law against a Fund, a

Manager, or any Affiliate of a Fund or Manager.

(b) any notice from the SEC that SEC staff intends to recommend an enforcement action against a Fund, a Manager, or any Affiliate of a Fund or Manager, or

(c) any non-routine SEC inquiry or investigation or any similar inquiry or investigation from any similar federal, state, or self-regulatory body or organization against a Fund, a Manager, or any Affiliate of a Fund or Manager.

(6) "Fund" means a mutual fund certified under this Section.

(7) "Manager" means the investment adviser managing a Fund certified under this Section as required by Rule .0712(f) of this Section.

(8) "Money Market Mutual Fund" means a money market fund that complies with 17 CFR 270.2a-7 and which maintains a stable one-dollar net asset value (NAV) per share.

(9) "SEC" means the U.S. Securities and Exchange Commission.

Authority G.S. 159-3(f); 159-30(c)(8).

20 NCAC 03 .0712 MINIMUM FUND STANDARDS

(a) Moneys of a Fund may be invested only in securities permitted by G.S. 159-30. The maximum maturity of any security purchased shall not be set by the Commission; however, no maturity shall exceed seven years.

(b) A Fund shall be registered with the SEC as an investment company under the Investment Company Act of 1940 and shall comply with all applicable SEC rules, regulations, and reporting requirements. The SEC requirements of 17 CFR Chapter 2 are hereby incorporated by reference, including subsequent amendments and editions, and are available online, at no cost, at <https://www.ecfr.gov/current/title-17/chapter-II>. SEC registration and compliance do not modify the requirement that a Fund comply with G.S. 159-30. The Investment Company Act of 1940 is hereby incorporated by reference, including subsequent amendments and editions and is available online, at no cost, at <https://uscode.house.gov/browse/prelim@title15/chapter2D/subchapter1&edition=prelim>.

(c) A Fund shall be established and operated in such a manner that any local, state, or federal income tax liability will be passed through to the Active Participants.

(d) A Fund shall assign a benchmark that is specified in advance and is representative of the Fund's current investment strategy and shall periodically report performance in conformance with SEC rules and regulations, 17 CFR Chapter 2.

(e) A Fund shall calculate a daily net asset value according to US "generally accepted accounting principles" (GAAP) and allow investors to transact daily at the net asset value.

(f) A Fund shall be managed by an investment adviser registered with either the SEC as an investment adviser under the Investment Advisers Act of 1940, or the North Carolina Secretary of State as

an investment adviser under the North Carolina Investment Advisers Act, and such investment adviser shall comply with all applicable federal and state rules, regulations, and reporting requirements. The Investment Advisers Act of 1940 is hereby incorporated by reference, including subsequent amendments and editions and is available online, at no cost, at <https://uscode.house.gov/browse/prelim@title15/chapter2D/subchapter2&edition=prelim>. The North Carolina Investment Advisers Act, G.S. 78C is hereby incorporated by reference, including subsequent amendments and editions and is available online, at no cost, at https://www.ncleg.gov/EnactedLegislation/Statutes/HTML/ByChapter/Chapter_78C.html.

(g) The sale and marketing of a Fund must adhere to all applicable state and federal laws and regulations.

(h) A Fund shall bear one of the two highest ratings of at least one nationally recognized rating service and shall not bear a rating below one of the two highest ratings by any nationally recognized rating service which rates the Fund.

Authority G.S. 159-3(f); 159-30(c)(8).

20 NCAC 03 .0713 CERTIFICATION OF A FUND

(a) Certification of a Fund may be requested by submitting a proposal to the Secretary, in a method prescribed by the Secretary, containing the following information:

- (1) the name of the Fund;
- (2) the address of the Fund;
- (3) the Fund prospectus;
- (4) the most recent holdings report;
- (5) the most recent annual report;
- (6) an attestation that the Fund meets, and will maintain compliance with, the minimum Fund standards set forth in Rule .0712 of this Section;
- (7) if the Fund is seeking certification as a Money Market Mutual Fund, an attestation that the Fund meets, and will maintain compliance with, the definition of Money Market Mutual Fund; and
- (8) a list of all Broker-Dealers selling or marketing the Fund.

(b) The Commission will review the proposal and may request supporting information as needed to assist in its review of the proposal.

(c) If the Commission certifies a Fund, it shall identify the Fund as a "Certified Money Market Mutual Fund," if the Fund is a Money Market Mutual Fund as defined in this Section; otherwise, it shall identify the Fund as a "Certified Mutual Fund."

(d) Certification is effective the day after the Commission adopts a resolution certifying the Fund and is effective until termination of certification pursuant to Rule .0715 of this Section.

Authority G.S. 159-3(f); 159-30(c)(8).

20 NCAC 03 .0714 REVIEW OF FUND

(a) Beginning one year after the effective date of the certification of a Fund, and by December 31 each year thereafter, the Manager shall submit an attestation to the Secretary, in a method prescribed by the Secretary:

- (1) attesting that the Fund continues to meet all minimum Fund standards provided in Rule .0712 of this Section;
- (2) attesting that no Enforcement Event has occurred;
- (3) attesting that the sale and marketing of the Fund adheres to all applicable state and federal laws and regulations;
- (4) if the Fund is a Certified Money Market Mutual Fund, attesting that the Fund continues to comply with the definition in Rule .0711 of this Section; and
- (5) providing a list of all Broker-Dealers selling or marketing the Fund.

(b) The Commission may request an attestation at any other time to review and confirm compliance of the Fund with the rules in this Section.

(c) Any changes to a Fund's or investment adviser's federal or state registration documents shall be reported to the Secretary within 30 days of the filing of the updated registration documents, with all changes marked and identified.

(d) The Manager shall, upon request from the Commission, provide documentation supporting any attestation with specific reference to the location within such supporting documentation which demonstrates that the minimum Fund standards of Rule .0712 of this Section have been met.

(e) The Commission shall have access to all Fund documents, shall be able to make any examinations it deems necessary to ensure compliance with the rules in this Section, and shall have the right to copies of all Fund documents at the expense of the Manager of the Fund.

Authority G.S. 159-3(f); 159-30(c)(8).

20 NCAC 03 .0715 TERMINATION OF CERTIFICATION

(a) The Commission may adopt a resolution terminating the certification of a Fund due to one or more of the following:

- (1) A Manager or a Fund violates any of the rules in this Section.
- (2) A Fund fails to meet any state or federal legal requirement.
- (3) A Fund fails to submit an attestation pursuant to Rule .0714 of this Section within 30 calendar days of the due date.
- (4) The Manager of a Fund requests termination of certification.
- (5) A Fund is dissolved or terminated.

(b) A Decertification Period shall commence upon the Commission's adoption of a resolution terminating certification of a Fund, during which time the Manager of the Fund shall notify all Active Participants of the termination of certification and provide instructions on withdrawing assets from the Fund.

(c) Termination of certification shall be effective upon the conclusion of the Decertification Period.

Authority G.S. 159-3(f); 159-30(c)(8).

TITLE 21 - OCCUPATIONAL LICENSING BOARDS AND COMMISSIONS

☐ Approved by OSBM
☒ No fiscal note required

CHAPTER 06 – BOARD OF BARBER AND ELECTROLYSIS EXAMINERS

Notice is hereby given in accordance with G.S. 150B-21.2 that the Board of Barber and Electrolysis Examiners intends to adopt the rule cited as 21 NCAC 06N .0117 and amend the rule cited as 21 NCAC 06N .0111.

Link to agency website pursuant to G.S. 150B-19.1(c):
<https://www.barbers.nc.gov/news.html>

Proposed Effective Date: August 1, 2023

Public Hearing:

Date: April 19, 2023

Time: 10:00 a.m.

Location: By videoconference at <https://bit.ly/bbeeapr2023permrules> or by teleconference at (984) 204-1487, conference ID 278 048 985#

Reason for Proposed Action:

The amendment to 21 NCAC 06N .0111 would require schools to report student hours online rather than by paper forms. The rule saves time for and reduces errors by both schools and the board. The adoption in 21 NCAC 06N .0117 sets the requirements for a request for a temporary permit under G.S. 86B-27. It also requires requests to be submitted through an online process except for extraordinary circumstances.

Comments may be submitted to: Dennis Seavers, 7001 Mail Service Center, Raleigh, NC 27699-7000; phone (919) 814-0641; fax (919) 981-5068; email dennis.seavers@nc.gov

Comment period ends: June 2, 2023

Procedure for Subjecting a Proposed Rule to Legislative Review:

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

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

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

SUBCHAPTER 06N – FEES AND FORMS

21 NCAC 06N .0111 FORM BAR-10

(a) The Form BAR-10 is a report that shall be filed monthly by the ~~manager of the~~ school for each student enrolled in barber school. It requires the following:

- (1) the name of the school submitting the report;
- (2) the ~~name and date of enrollment of the student;~~ student's name;
- (3) the month and year for which the report is filed; and
- (4) ~~the dates and hours of the student's absences;~~
- (5)(4) ~~the dates and number of hours of the student's attendance; student attended during the month and year for which the report is filed.~~
- (6) ~~the number of patrons served for clinical services; and~~
- (7) ~~the subject matter covered in practical and theory courses.~~

(b) The school shall submit Form BAR-10 ~~shall be submitted to the Board over the signature of the manager of the school and co-signed by the student.~~ online at the website address listed in 21 NCAC 06A .0102.

(c) If Notwithstanding the requirement in Paragraph (b) of this Rule to submit the Form BAR-10 online, if a student completes his or her course of study, drops out of school, or transfers to another school, the barber school shall return submit a paper version of the Form BAR-10 to the Board:

- (1) within five business days; or
- (2) within 30 days if the student's enrollment ends during the effective period of a state of emergency declared by the Governor.

Authority G.S. 86B-38.

21 NCAC 06N .0117 REQUEST FOR TEMPORARY PERMIT

(a) An individual who wishes to request a temporary permit shall submit the following information using the form available at the website listed in 21 NCAC 06A .0102:

- (1) the requester's name, mailing address, phone number, and email address;
- (2) if the requester attended a North Carolina barber school, the name of the school;
- (3) the type of license application the requester has submitted; and
- (4) the name, permit number, and physical address of the barbershop where the requester would like to work.

(b) Except as set forth in Paragraph (c) of this Rule, the Board shall not accept requests for temporary permits submitted in paper form.

(c) If an individual wishes to submit a request for a temporary permit in paper form because he or she cannot submit the request online, the individual shall submit a paper version of the form in Paragraph (a) of this Rule to the address listed in 21 NCAC 06A

.0102, along with an explanation for why the request cannot be submitted online. The Board shall determine whether good cause exists for the individual not to submit a request online. For the purpose of this Rule, "good cause" means that the applicant could not have submitted the request online as set forth in Paragraph (a) of this Rule due to circumstances such as disability or lack of access to a computer or mobile device.

Authority G.S. 86B-2; 86B-27.

TITLE 26 – OFFICE OF ADMINISTRATIVE HEARINGS

Notice is hereby given in accordance with G.S. 150B-21.2 that the Office of Administrative Hearings intends to amend the rule cited as 26 NCAC 03 .0106.

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

Proposed Effective Date: *August 1, 2023*

Public Hearing:

Date: *April 18, 2023*

Time: *2:00 p.m.*

Location: *Commission Room, Office of Administrative Hearings, 1711 New Hope Church Rd., Raleigh, NC 27609*

Reason for Proposed Action: *The Office of Administrative Hearings is proposing this change to promote transparency and provide easier access to public records.*

Comments may be submitted to: *Ashley Snyder, 1711 New Hope Church Rd., Raleigh, NC 27609; email ashley.snyder@oah.nc.gov*

Comment period ends: *June 2, 2023*

Procedure for Subjecting a Proposed Rule to Legislative Review: If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission after the adoption of the Rule. If the Rules

Review Commission receives written and signed objections after the adoption of the Rule in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 984-236-1850.

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

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

CHAPTER 03 - HEARINGS DIVISION

SECTION .0100 - HEARING PROCEDURES

26 NCAC 03 .0106 CONSENT ORDER: SETTLEMENT: STIPULATION

(a) Informal disposition may be made of a contested case or an issue in a contested case by stipulation, agreement, or consent order at any time during the proceedings. Parties may enter into such agreements on their own or may ask for a settlement conference with an administrative law judge to promote consensual disposition of the case.

(b) If an agency enters into a settlement agreement after the commencement of a contested case, the agency shall file a copy of the settlement agreement with OAH. The settlement agreement shall be included in the official record of the contested case consistent with G.S. 132-1.3.

Authority G.S. 7A-750; 7A-751; 150B-31(b); 150B-37.

APPROVED RULES

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

Rules approved by the Rules Review Commission at its meeting on February 16, 2023 Meeting.

**REGISTER CITATION TO THE
NOTICE OF TEXT****MEDICAL CARE COMMISSION**

<u>Nutrition and Food Service</u>	10A NCAC 13F .0904*	36:24 NCR
<u>Nutrition and Food Service</u>	10A NCAC 13G .0904*	36:24 NCR

LABOR, DEPARTMENT OF

<u>Introduction</u>	13 NCAC 18 .0101*	G.S. 150B-21.5(b)(1)
<u>Definitions</u>	13 NCAC 18 .0102*	G.S. 150B-21.5(b)(1)
<u>Licensing Procedures</u>	13 NCAC 18 .0103*	G.S. 150B-21.5(b)(1)
<u>Surety Bonds</u>	13 NCAC 18 .0104*	G.S. 150B-21.5(b)(1)
<u>Contracts</u>	13 NCAC 18 .0105*	G.S. 150B-21.5(b)(1)
<u>Records</u>	13 NCAC 18 .0106*	G.S. 150B-21.5(b)(1)
<u>Advertising</u>	13 NCAC 18 .0107*	G.S. 150B-21.5(b)(1)
<u>Prohibited Acts</u>	13 NCAC 18 .0108*	G.S. 150B-21.5(b)(1)
<u>Review of Job Listing Services</u>	13 NCAC 18 .0109*	G.S. 150B-21.5(b)(1)
<u>Penalty</u>	13 NCAC 18 .0110*	G.S. 150B-21.5(b)(1)

ENVIRONMENTAL MANAGEMENT COMMISSION

<u>Purpose</u>	15A NCAC 02E .0401*	36:20 NCR
<u>Definitions</u>	15A NCAC 02E .0402*	36:20 NCR
<u>Applicability</u>	15A NCAC 02E .0403*	36:20 NCR
<u>Notifications</u>	15A NCAC 02E .0404	36:20 NCR
<u>Environmental Documents</u>	15A NCAC 02E .0405*	36:20 NCR
<u>Petition</u>	15A NCAC 02E .0406*	36:20 NCR
<u>Settlement/Mediation</u>	15A NCAC 02E .0407	36:20 NCR
<u>Final Determination</u>	15A NCAC 02E .0408*	36:20 NCR
<u>Emergency Transfers</u>	15A NCAC 02E .0409*	36:20 NCR

COASTAL RESOURCES COMMISSION

<u>Consideration of Application by Local Permit Officer</u>	15A NCAC 07I .0508*	34:09 NCR
<u>Commitment to Adopt Local Management Plan as Ordinance</u>	15A NCAC 07I .0511*	34:09 NCR
<u>Policy Statements</u>	15A NCAC 07M .1102*	34:09 NCR

WILDLIFE RESOURCES COMMISSION

<u>Safety Equipment</u>	15A NCAC 10F .0201*	36:11 NCR
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**TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM BOARD OF TRUSTEES/LOCAL GOVERNMENTAL
EMPLOYEES' RETIREMENT SYSTEM BOARD OF TRUSTEES**

<u>Organization: Authority</u>	20 NCAC 02A .0101*	36:23 NCR
<u>Exercise of Authority</u>	20 NCAC 02A .0102*	36:23 NCR
<u>Delegation of Authority to Director</u>	20 NCAC 02A .0103*	36:23 NCR
<u>Exercise of Employer Options</u>	20 NCAC 02A .0104*	36:23 NCR

<u>Establishment of Procedural Rights</u>	20 NCAC 02A .0201	36:23 NCR
<u>Definitions</u>	20 NCAC 02A .0202*	36:23 NCR
<u>Establishment of Procedural Rights</u>	20 NCAC 02A .0301	36:23 NCR
<u>Definitions</u>	20 NCAC 02A .0302*	36:23 NCR
<u>Reconsideration of Declaratory Rulings</u>	20 NCAC 02A .0303	36:23 NCR
<u>Establishment of Procedural Rights</u>	20 NCAC 02A .0401*	36:23 NCR
<u>Dual Membership - Computation of Service and Benefits</u>	20 NCAC 02A .0503*	36:23 NCR
<u>Direct Deposit of Monthly Benefit Payments</u>	20 NCAC 02A .0504*	36:23 NCR
<u>Administrative Fees for Service Purchasers</u>	20 NCAC 02A .0505*	36:23 NCR

TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM BOARD OF TRUSTEES

<u>General Information</u>	20 NCAC 02B .0101*	36:23 NCR
<u>Actuarial Tables: Rates and Assumptions</u>	20 NCAC 02B .0202*	36:23 NCR
<u>Medical Board</u>	20 NCAC 02B .0210*	36:23 NCR
<u>Optional Retirement Program</u>	20 NCAC 02B .0211*	36:23 NCR
<u>Disability Retirement Allowance Defined</u>	20 NCAC 02B .0213	36:23 NCR
<u>Designation</u>	20 NCAC 02B .0301	36:23 NCR
<u>Principal Beneficiary</u>	20 NCAC 02B .0302*	36:23 NCR
<u>Contingent Beneficiary</u>	20 NCAC 02B .0303*	36:23 NCR
<u>No Living Beneficiary</u>	20 NCAC 02B .0304*	36:23 NCR
<u>Beneficiary Who Is Minor</u>	20 NCAC 02B .0305*	36:23 NCR
<u>Change in Beneficiary</u>	20 NCAC 02B .0307*	36:23 NCR
<u>Special Rule: Beneficiary Before July 1, 1967</u>	20 NCAC 02B .0308*	36:23 NCR
<u>Refunds</u>	20 NCAC 02B .0401*	36:23 NCR
<u>Forwarding Of Employer Contributions</u>	20 NCAC 02B .0402*	36:23 NCR
<u>Due Date Of Contributions</u>	20 NCAC 02B .0404*	36:23 NCR
<u>Anti-Pension Spiking Contribution-Based Benefit Cap Facto...</u>	20 NCAC 02B .0405	36:23 NCR
<u>Disability Retirement Examination</u>	20 NCAC 02B .0501*	36:23 NCR
<u>Disability Retirement Reports</u>	20 NCAC 02B .0502*	36:23 NCR
<u>Fees: Independent Medical Exam-Disability Retirements</u>	20 NCAC 02B .0503	36:23 NCR
<u>Interest Credits</u>	20 NCAC 02B .0504	36:23 NCR
<u>Pensions</u>	20 NCAC 02B .0510	36:23 NCR
<u>Educational Leaves of Absence</u>	20 NCAC 02B .0701*	36:23 NCR
<u>Workers' Compensation Leaves of Absence</u>	20 NCAC 02B .0706*	36:23 NCR
<u>Fee</u>	20 NCAC 02B .0801	36:23 NCR
<u>Qualifying for Credit</u>	20 NCAC 02B .0802	36:23 NCR
<u>Computation of Cost</u>	20 NCAC 02B .0803	36:23 NCR
<u>Civil Service Participation</u>	20 NCAC 02B .0804*	36:23 NCR
<u>Service Connected Disability</u>	20 NCAC 02B .0805*	36:23 NCR
<u>Recalculation of Benefits</u>	20 NCAC 02B .0806*	36:23 NCR
<u>Change in Benefits</u>	20 NCAC 02B .0807*	36:23 NCR
<u>Restoring Membership</u>	20 NCAC 02B .0810*	36:23 NCR
<u>Fee</u>	20 NCAC 02B .0901	36:23 NCR
<u>Qualifying for Credit</u>	20 NCAC 02B .0902*	36:23 NCR
<u>Definition</u>	20 NCAC 02B .0903*	36:23 NCR
<u>Computation of Cost</u>	20 NCAC 02B .0904	36:23 NCR
<u>Recalculation of Benefits</u>	20 NCAC 02B .0905*	36:23 NCR
<u>Change in Benefits</u>	20 NCAC 02B .0906	36:23 NCR

<u>Prior Service with General Assembly</u>	20 NCAC 02B .1003	36:23 NCR
<u>Temporary Service Purchase (Inchoate Rights Only)</u>	20 NCAC 02B .1004*	36:23 NCR
<u>Temporary Service Purchase: Full Actuarial Liability</u>	20 NCAC 02B .1005	36:23 NCR
<u>Part-Time Service Purchase: Full Actuarial Liability</u>	20 NCAC 02B .1006*	36:23 NCR
<u>Local Government Service Purchase: Full Actuarial Liability</u>	20 NCAC 02B .1007	36:23 NCR
<u>Fee</u>	20 NCAC 02B .1101	36:23 NCR
<u>Qualification</u>	20 NCAC 02B .1102	36:23 NCR
<u>Recalculation of Benefits</u>	20 NCAC 02B .1104	36:23 NCR
<u>Definitions</u>	20 NCAC 02B .1204	36:23 NCR
<u>Computation of Cost</u>	20 NCAC 02B .1205	36:23 NCR
<u>Special Rule for Retired Applicants</u>	20 NCAC 02B .1207	36:23 NCR

LOCAL GOVERNMENTAL EMPLOYEES' RETIREMENT SYSTEM BOARD OF TRUSTEES

<u>General Information</u>	20 NCAC 02C .0101*	36:23 NCR
<u>Actuarial Tables: Rates and Assumptions</u>	20 NCAC 02C .0201*	36:23 NCR
<u>Facility of Payment</u>	20 NCAC 02C .0204*	36:23 NCR
<u>Medical Board</u>	20 NCAC 02C .0205*	36:23 NCR
<u>Designation</u>	20 NCAC 02C .0301*	36:23 NCR
<u>Principal Beneficiary</u>	20 NCAC 02C .0302*	36:23 NCR
<u>No Living Beneficiary</u>	20 NCAC 02C .0303*	36:23 NCR
<u>Payment to Beneficiaries</u>	20 NCAC 02C .0304*	36:23 NCR
<u>Beneficiary Change</u>	20 NCAC 02C .0306*	36:23 NCR
<u>Contingent Beneficiary</u>	20 NCAC 02C .0307*	36:23 NCR
<u>Employer's Contributions</u>	20 NCAC 02C .0402*	36:23 NCR
<u>Refunds</u>	20 NCAC 02C .0403*	36:23 NCR
<u>Due Date of Contributions</u>	20 NCAC 02C .0404*	36:23 NCR
<u>Anti-Pension Spiking Contribution-Based Benefit Cap Facto...</u>	20 NCAC 02C .0405	36:23 NCR
<u>Disability Examination</u>	20 NCAC 02C .0501*	36:23 NCR
<u>Disability Retirement Reports</u>	20 NCAC 02C .0502*	36:23 NCR
<u>Fees: Independent Medical Exam-Disability Retirements</u>	20 NCAC 02C .0503	36:23 NCR
<u>Reinstatement to Active Service</u>	20 NCAC 02C .0504	36:23 NCR
<u>Workers' Compensation Leaves of Absence</u>	20 NCAC 02C .0704*	36:23 NCR
<u>Leave</u>	20 NCAC 02C .0901*	36:23 NCR
<u>Fee</u>	20 NCAC 02C .0902	36:23 NCR
<u>Computation of Cost</u>	20 NCAC 02C .0904	36:23 NCR
<u>Civil Service Program</u>	20 NCAC 02C .0906*	36:23 NCR
<u>Exclusion</u>	20 NCAC 02C .0907*	36:23 NCR
<u>Recalculation of Benefits</u>	20 NCAC 02C .0908*	36:23 NCR
<u>Change in Benefits</u>	20 NCAC 02C .0909	36:23 NCR
<u>Fee</u>	20 NCAC 02C .1001	36:23 NCR
<u>Qualifying for Credit</u>	20 NCAC 02C .1002	36:23 NCR
<u>Other Governmental Subdivision</u>	20 NCAC 02C .1003*	36:23 NCR
<u>Computation of Cost</u>	20 NCAC 02C .1004	36:23 NCR
<u>Recalculation of Benefits</u>	20 NCAC 02C .1006*	36:23 NCR
<u>Change in Benefits</u>	20 NCAC 02C .1007	36:23 NCR
<u>Service Retirement</u>	20 NCAC 02C .1201	36:23 NCR
<u>Fee</u>	20 NCAC 02C .1301	36:23 NCR
<u>Qualifying for Credit</u>	20 NCAC 02C .1302	36:23 NCR

<u>Application of Section</u>	20 NCAC 02C .1501	36:23 NCR
<u>Definitions</u>	20 NCAC 02C .1503	36:23 NCR
<u>Computation of Cost</u>	20 NCAC 02C .1504	36:23 NCR
<u>Extent of Service to be Purchased</u>	20 NCAC 02C .1505	36:23 NCR
<u>Special Rule for Retired Applicants</u>	20 NCAC 02C .1506	36:23 NCR

TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM BOARD OF TRUSTEES

<u>General Information</u>	20 NCAC 02F .0101*	36:23 NCR
<u>Actuarial Tables: Rates and Assumptions</u>	20 NCAC 02F .0104*	36:23 NCR
<u>Final Compensation for Three-Fourths Limitation</u>	20 NCAC 02F .0107*	36:23 NCR
<u>Full Actuarial Cost</u>	20 NCAC 02F .0108	36:23 NCR

TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM BOARD OF TRUSTEES/LOCAL GOVERNMENTAL EMPLOYEES' RETIREMENT SYSTEM BOARD OF TRUSTEES

<u>General Information</u>	20 NCAC 02L .0101*	36:23 NCR
<u>Definitions</u>	20 NCAC 02L .0103*	36:23 NCR
<u>Retired Members</u>	20 NCAC 02L .0202	36:23 NCR
<u>Accident and Hospital Benefits</u>	20 NCAC 02L .0302	36:23 NCR
<u>Definitions</u>	20 NCAC 02M .0101*	36:23 NCR
<u>Agency and Authority of Director</u>	20 NCAC 02M .0102*	36:23 NCR
<u>Time and Date</u>	20 NCAC 02M .0104	36:23 NCR
<u>Eligibility to Elect Coverage</u>	20 NCAC 02M .0201*	36:23 NCR
<u>When First Eligible</u>	20 NCAC 02M .0202	36:23 NCR
<u>Reinstatement</u>	20 NCAC 02M .0206*	36:23 NCR
<u>Contribution Rates</u>	20 NCAC 02M .0301*	36:23 NCR
<u>Member Contribution</u>	20 NCAC 02M .0302*	36:23 NCR
<u>Payment of Contribution</u>	20 NCAC 02M .0303*	36:23 NCR
<u>Amount of Benefit Payable</u>	20 NCAC 02M .0304	36:23 NCR
<u>Payment of Interest on Benefit</u>	20 NCAC 02M .0305*	36:23 NCR
<u>Benefits Payable after Cancellation</u>	20 NCAC 02M .0307	36:23 NCR

LOCAL GOVERNMENTAL EMPLOYEES' RETIREMENT SYSTEM BOARD OF TRUSTEES

<u>Office of The Director</u>	20 NCAC 02N .0106*	36:23 NCR
<u>Divisional Rules</u>	20 NCAC 02N .0108*	36:23 NCR
<u>Applying for Membership</u>	20 NCAC 02N .0208*	36:23 NCR
<u>Military Service</u>	20 NCAC 02N .0215*	36:23 NCR
<u>Retirement Benefits</u>	20 NCAC 02N .0218	36:23 NCR
<u>Refunds of Deceased Members' Payments</u>	20 NCAC 02N .0219*	36:23 NCR

ELECTRICAL CONTRACTORS, BOARD OF EXAMINERS OF

<u>Requirements for All Examination Applicants</u>	21 NCAC 18B .0201	37:05 NCR
<u>Alternative Examination</u>	21 NCAC 18B .0213	37:05 NCR
<u>Bidding Projects Pursuant to G.S. 87-1.1</u>	21 NCAC 18B .0308*	37:05 NCR

OPTOMETRY, BOARD OF EXAMINERS IN

<u>Approved Schools of Optometry</u>	21 NCAC 42B .0101*	37:09 NCR
<u>Failure to Meet Continuing Education Requirement</u>	21 NCAC 42B .0303*	37:09 NCR
<u>Definitions</u>	21 NCAC 42D .0101	37:09 NCR

<u>Function</u>	21 NCAC 42D .0102*	37:09 NCR
<u>Definitions</u>	21 NCAC 42M .0101*	37:09 NCR
<u>Termination</u>	21 NCAC 42M .0106*	37:09 NCR

PHARMACY, BOARD OF

<u>COVID-19 Drug Preservation Rule</u>	21 NCAC 46 .1819	37:08 NCR
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PLUMBING, HEATING AND FIRE SPRINKLER CONTRACTORS, BOARD OF EXAMINERS OF

<u>Use of License</u>	21 NCAC 50 .0403*	37:05 NCR
<u>Proposal, Bid, Estimate, Performance Under G.S. 87-1.1</u>	21 NCAC 50 .0415*	37:05 NCR
<u>Residential Fire Sprinkler Design Contractor License</u>	21 NCAC 50 .0519*	37:05 NCR
<u>Examination Fees</u>	21 NCAC 50 .1101*	37:05 NCR

ENGINEERS AND SURVEYORS, BOARD OF EXAMINERS FOR

<u>Disbursement of Funds</u>	21 NCAC 56 .0303*	37:04 NCR
<u>Requirements for Licensing</u>	21 NCAC 56 .0601*	37:04 NCR
<u>Surveyor Intern</u>	21 NCAC 56 .0608*	37:04 NCR
<u>Definitions</u>	21 NCAC 56 .1702*	37:04 NCR
<u>Requirements</u>	21 NCAC 56 .1703*	37:04 NCR
<u>Units</u>	21 NCAC 56 .1704*	37:04 NCR
<u>Determination of Credit</u>	21 NCAC 56 .1705*	37:04 NCR
<u>Exemptions</u>	21 NCAC 56 .1707	37:04 NCR
<u>Sponsors</u>	21 NCAC 56 .1713*	37:04 NCR

TITLE 10A - DEPARTMENT OF HEALTH AND HUMAN SERVICES

10A NCAC 13F .0904 NUTRITION AND FOOD SERVICE

(a) Food Procurement and Safety in Adult Care Homes:

- (1) Facilities with a licensed capacity of 7 to 12 residents shall ensure food services comply with Rules Governing the Sanitation of Residential Care Facilities set forth in 15A NCAC 18A .1600 which are hereby incorporated by reference, including subsequent amendments, assuring storage, preparation, and serving food and beverage under sanitary conditions.
- (2) Facilities with a licensed capacity of 13 or more residents shall ensure food services comply with Rules Governing the Sanitation of Hospitals, Nursing Homes, Adult Care Homes and Other Institutions set forth in 15A NCAC 18A .1300 which are hereby incorporated by reference, including subsequent amendments, assuring storage, preparation, and serving of food and beverage under sanitary conditions.
- (3) Only meat processed at a USDA-approved processing plant shall be served.
- (4) There shall be a three-day supply of perishable food and a five-day supply of non-perishable food in the facility based on the menus

established in Paragraph (c) of this Rule for both regular and therapeutic diets. For the purpose of this Rule "perishable food" is food that is likely to spoil or decay if not kept refrigerated at 40 degrees Fahrenheit or below, or frozen at zero degrees Fahrenheit or below and "non-perishable food" is food that can be stored at room temperature and is not likely to spoil or decay within seven days.

(b) Food Preparation and Service in Adult Care Homes:

- (1) Table service shall include a napkin and non-disposable place setting consisting of at least a knife, fork, spoon, plate, and beverage containers.
- (2) Hot foods shall be served hot and cold foods shall be served cold as set forth in Rule 15A NCAC 18A .1620(a) for facilities with a licensed capacity of 7 to 12 residents and as set forth in Rule 15A NCAC 18A .1323 Food Protection in Activity Kitchens, Rehabilitation Kitchens, and Nourishment Stations for facilities with a licensed capacity of 13 or more residents, which are hereby incorporated by reference, including subsequent amendments.
- (3) If residents require feeding assistance, food shall be maintained at serving temperature until assistance is provided.

(c) Menus in Adult Care Homes:

- (1) Menus shall be prepared at least one week in advance with serving quantities specified and in accordance with the daily food requirements in Paragraph (d) of this Rule.
- (2) Menus shall be maintained in the kitchen and identified as to the current menu day for guidance of food service staff.
- (3) Any substitutions made in the menu shall be of equal nutritional value, in order to maintain the daily dietary requirements in Subparagraph (d)(3) of this Rule, appropriate for therapeutic diets, and documented in records maintained in the kitchen to indicate the foods actually served to residents.
- (4) Menus shall be planned to take into account the food preferences of the residents as documented on the Resident Register.
- (5) Menus as served, invoices, and other receipts for food or beverage purchases shall be maintained in the facility for 30 days.
- (6) Menus for all therapeutic diets shall be planned or reviewed by a licensed dietitian/nutritionist. The facility shall maintain verification of the licensed dietitian/nutritionist's approval of the therapeutic diets.
- (7) The facility shall have a matching therapeutic diet menu for any resident's physician-ordered therapeutic diet for guidance of food service staff.

(d) Food Requirements in Adult Care Homes:

- (1) Each resident shall be served a minimum of three nutritionally adequate meals based on the requirements in Subparagraph (d)(3) of this Rule. Meals shall be served at regular times comparable to normal meal times in the community. There shall be at least 10 hours between the breakfast and evening meals.
- (2) Foods and beverages shall be offered in accordance with each residents' prescribed diet or made available to all residents as snacks between each meal for a total of three snacks per day and shown on the menu as snacks.
- (3) Daily menus for regular diets shall be based on the U.S. Department of Agriculture Dietary guidelines for Americans 2020-2025, which are hereby incorporated by reference including subsequent amendments and editions. These guidelines can be found at https://dietaryguidelines.gov/sites/default/files/2021-03/Dietary_Guidelines_for_Americans-2020-2025.pdf for no cost.
- (4) Water shall be served to each resident at each meal, in addition to other beverages.

(e) Therapeutic Diets in Adult Care Homes:

- (1) All therapeutic diet orders including thickened liquids shall be in writing from the resident's physician. Where applicable, the therapeutic diet order shall be specific to calorie, gram, or consistency, such as for calorie-controlled

ADA diets, low sodium diets, or thickened liquids, unless there are written orders that include the definition of any therapeutic diet identified in the facility's therapeutic menu approved by a licensed dietitian/nutritionist. For the purpose of this Rule "therapeutic diet" is a diet ordered by a physician, physician assistant, nurse practitioner, or a licensed dietitian/nutritionist as delegated by the physician that is part of the treatment for a disease or clinical condition, to eliminate, decrease, or increase certain substances in the diet (e.g., sodium or potassium), or to provide mechanically altered food when indicated.

- (2) Physician orders for nutritional supplements shall be in writing from the resident's physician and be brand-specific, unless the facility has defined a house supplement in its communication to the physician, and shall specify quantity and frequency.
- (3) The facility shall maintain a current listing of residents with physician-ordered therapeutic diets for guidance of food service staff.
- (4) All therapeutic diets, including nutritional supplements and thickened liquids, shall be served as ordered by the resident's physician.

(f) Individual Feeding Assistance in Adult Care Homes:

- (1) The facility shall provide staff for individual feeding assistance in accordance to residents' needs.
- (2) Residents needing help in eating shall be assisted upon receipt of the meal and the assistance shall be unhurried and in a manner that maintains or enhances each resident's dignity and respect.

(g) Variations from the required three meals or time intervals between meals to meet individualized needs or preferences of residents shall be documented in the resident's record. Each resident shall receive three meals in accordance with resident preferences as documented in the resident's record.

*History Note: Authority G.S. 131D-2.1(4); 131D-2.16; 131D-4.4; 143B-165;
Eff. January 1, 1977;
Readopted Eff. October 31, 1977;
Amended Eff. April 1, 1984;
Temporary Amendment Eff. July 1, 2003;
Amended Eff. June 1, 2004;
Readopted Eff. March 1, 2023.*

10A NCAC 13G .0904 NUTRITION AND FOOD SERVICE

(a) Food Procurement and Safety in Family Care Homes:

- (1) Food services shall comply with Rules Governing the Sanitation of Residential Care Facilities set forth in 15A NCAC 18A .1600 which are hereby incorporated by reference, including subsequent amendments, assuring

storage, preparation, and serving food under sanitary conditions.

- (2) Only meat processed at a USDA-approved processing plant shall be served.
- (3) There shall be a three-day supply of perishable food and a five-day supply of non-perishable food in the facility based on the menus established in Paragraph (c) of this Rule, for both regular and therapeutic diets. For the purpose of this Rule "perishable food" is food that is likely to spoil or decay if not kept refrigerated at 40 degrees Fahrenheit or below, or frozen at zero degrees Fahrenheit or below and "non-perishable food" is food that can be stored at room temperature and is not likely to spoil or decay within seven days.

(b) Food Preparation and Service in Family Care Homes:

- (1) Table service shall include a napkin and non-disposable place setting consisting of a knife, fork, spoon, plate, and beverage containers.
- (2) Hot foods shall be served hot and cold foods shall be served cold as set forth in Rule 15A NCAC 18A .1620(a) which is hereby incorporated by reference, including subsequent amendments.
- (3) If residents require feeding assistance, food shall be maintained at serving temperature until assistance is provided.

(c) Menus in Family Care Homes:

- (1) Menus shall be prepared at least one week in advance with serving quantities specified and in accordance with the daily food requirements in Paragraph (d) of this Rule.
- (2) Menus shall be maintained in the kitchen and identified as to the current menu day for guidance of food service staff.
- (3) Any substitutions made in the menu shall be of equal nutritional value, in order to maintain the daily dietary requirements in Subparagraph (d)(3) of this Rule, appropriate for therapeutic diets, and documented in records maintained in the kitchen to indicate the foods actually served to residents.
- (4) Menus shall be planned to take into account the food preferences of the residents as documented on the Resident Register.
- (5) Menus as served, invoices, and other receipts for food or beverage purchases shall be maintained in the facility for 30 days.
- (6) Menus for all therapeutic diets shall be planned or reviewed by a licensed dietitian/nutritionist. The facility shall maintain verification of the licensed dietitian/nutritionist's approval of the therapeutic diets.
- (7) The facility shall have a matching therapeutic diet menu for any resident's physician-ordered therapeutic diet for guidance of food service staff.

(d) Food Requirements in Family Care Homes:

- (1) Each resident shall be served a minimum of three nutritionally adequate meals based on the requirements in Subparagraph (d)(3) of this Rule. Meals shall be served at regular times comparable to normal meal times in the community. There shall be at least 10 hours between the breakfast and evening meals.

- (2) Foods and beverages shall be offered in accordance with each residents' prescribed diet or made available to all residents as snacks between each meal for a total of three snacks per day and shown on the menu as snacks.

- (3) Daily menus for regular diets shall be based on the U.S. Department of Agriculture Dietary Guidelines for Americans 2020-2025, which are hereby incorporated by reference, including subsequent amendments and editions. These guidelines can be found at https://dietaryguidelines.gov/sites/default/files/2021-03/Dietary_Guidelines_for_Americans-2020-2025.pdf, at no cost.

- (4) Water shall be served to each resident at each meal, in addition to other beverages.

(e) Therapeutic Diets in Family Care Homes:

- (1) All therapeutic diet orders including thickened liquids shall be in writing from the resident's physician. Where applicable, the therapeutic diet order shall be specific to calorie, gram, or consistency, such as for calorie-controlled ADA diets, low sodium diets, or thickened liquids, unless there are written orders that include the definition of any therapeutic diet identified in the facility's therapeutic menu approved by a licensed dietitian/nutritionist. For the purpose of this Rule "therapeutic diet" is a diet ordered by a physician, physician assistant, nurse practitioner, or a licensed dietitian/nutritionist as delegated by the physician that is part of the treatment for a disease or clinical condition, to eliminate, decrease, or increase certain substances in the diet (e.g., sodium or potassium), or to provide mechanically altered food when indicated.

- (2) Physician orders for nutritional supplements shall be in writing from the resident's physician and be brand-specific, unless the facility has defined a house supplement in its communication to the physician, and shall specify quantity and frequency.

- (3) The facility shall maintain a current listing of residents with physician-ordered therapeutic diets for guidance of food service staff.

- (4) All therapeutic diets, including nutritional supplements and thickened liquids, shall be served as ordered by the resident's physician.

(f) Individual Feeding Assistance in Family Care Homes:

- (1) The facility shall provide staff for individual feeding assistance as in accordance with residents' needs.

- (2) Residents needing help in eating shall be assisted upon receipt of the meal and the assistance shall be unhurried and in a manner that maintains or enhances each resident's dignity and respect.

(g) Variations from the required three meals or time intervals between meals to meet individualized needs or preferences of residents shall be documented in the resident's record. Each resident shall receive three meals in accordance with resident preferences as documented in the resident's record.

History Note: Authority G.S. 131D-2.1(4); 131D-2.16; 131D-4.4; 143B-165;

Eff. January 1, 1977;

Amended Eff. October 1, 1977; April 22, 1977;

Readopted Eff. October 31, 1977;

Amended Eff. August 3, 1992; July 1, 1990; September 1, 1987; April 1, 1987;

Temporary Amendment Eff. July 1, 2003;

Amended Eff. June 1, 2004;

Readopted Eff. March 1, 2023.

TITLE 13 – DEPARTMENT OF LABOR

13 NCAC 18 .0101	INTRODUCTION
13 NCAC 18 .0102	DEFINITIONS
13 NCAC 18 .0103	LICENSING PROCEDURES
13 NCAC 18 .0104	SURETY BONDS
13 NCAC 18 .0105	CONTRACTS
13 NCAC 18 .0106	RECORDS
13 NCAC 18 .0107	ADVERTISING
13 NCAC 18 .0108	PROHIBITED ACTS
13 NCAC 18 .0109	REVIEW OF JOB LISTING SERVICES
13 NCAC 18 .0110	PENALTY

History Note: Authority G.S. 95-47.4; 95-47.9; 95-47.19; 95-47.21; 95-47.22; 95-47.23; 95-47.24; 95-47.25; 95-47.26; 95-47.29; 95-47.30; 95-47.31;

Eff. January 1, 1996;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 22, 2018;

Repealed Eff. June 1, 2023.

TITLE 15A - DEPARTMENT OF ENVIRONMENTAL QUALITY

15A NCAC 02E .0401 PURPOSE

The purpose of the rules in this Section is to implement the provisions of G.S. 143-215.22L.

History Note: Authority G.S. 143-215.22L; 143B-282(a)(2);

Eff. September 1, 1994;

Readopted Eff. March 1, 2023.

15A NCAC 02E .0402 DEFINITIONS

The following definitions apply to this Section.

- (1) "Co-applicant" means an entity other than the primary applicant identified on an Interbasin Transfer Certificate, issued after 30 June 1993, as being eligible to send or receive transferred water, often purchased from the primary applicant. A co-applicant is subject to all the terms, conditions, limitations, benefits, and entitlements applicable to the primary applicant.
- (2) "Commission" means the Environmental Management Commission.
- (3) "Department" means the North Carolina Department of Environmental Quality.
- (4) "Division" means the Division of Water Resources.
- (5) "Emergency transfer" means a temporary transfer of surface water meeting the requirements of, and satisfying water demand needs, defined in G.S. 143-215.22L(q), for situations in which the public health, safety, or welfare requires a transfer of water between river basins as defined in G.S. 143-215.22G(1b).
- (6) "Interbasin Transfer Certificate" or "IBT Certificate" means an authorization issued by the Commission to transfer up to a specified amount of water between two river basins as defined in G.S. 143-215.22G(1b).
- (7) "Large community water system" means a community water system, as defined in G.S. 130A-313(10), that regularly serves 1,000 or more service connections or 3,000 or more individuals.
- (8) "Major river basin" means the combination of the river basins, as defined in G.S. 143-215.22G(1b), sharing the numerical digits preceding the hyphen.
- (9) "Preexisting transfer capacity" means the existing water system transfer capacity prior to 1 July 1993, as defined in G.S. 143-215.22L(b). The transfer capacity of a water system is limited by its most restrictive system element: potable water capacity, maximum transfer capacity of distribution system, or discharge capacity in receiving basin.
 - (a) Potable water (treatment and/or purchase) capacity is the sum of all surface water inputs to the system, including water treatment plant capacity and regular surface water contracts.
 - (b) Maximum transfer capacity of the distribution network is the calculation of the physical ability of the distribution system to transmit water across a basin boundary, based on pipe sizing or pump systems.

- (c) Discharge capacity in the receiving basin is a combination of wastewater discharges and consumptive losses.
- (10) "Primary applicant" means the entity who owns an existing or planned water line used to transmit raw or finished water from one river basin to another, as defined in G.S. 143-215.22G(1b). For water systems that involve crossing multiple river basin boundaries, the primary applicant represents the transfer pipe owner where the first river basin boundary crossing occurs.

History Note: Authority G.S. 143-215.22L; 143B-282(a)(2); Eff. September 1, 1994; Readopted Eff. March 1, 2023.

15A NCAC 02E .0403 APPLICABILITY

(a) The amount of a transfer shall be calculated as a net total, determined by the amount of surface water moved from the source river basin to the receiving basin, minus any water returned to the source river basin.

(b) Notwithstanding the definition of "river basin" in G.S. 143-215.22G, the following are not transfers that require issuance of an IBT Certificate:

- (1) The discharge point is situated upstream of the withdrawal point such that the water discharged will naturally flow past the withdrawal point.
- (2) The discharge point is situated downstream of the withdrawal point such that water flowing past the withdrawal point will naturally flow past the discharge point.
- (3) The withdrawal and discharge points are located in the same water impoundment.

(c) The withdrawal of surface water from one river basin by one entity and the transmission of all or any part of this water between river basins by one or more entities, resulting in a discharge to another river basin, shall be considered a transfer. The entity owning the pipe or other conveyance that carries the surface water across the basin boundary shall be responsible for obtaining an IBT Certificate from the Commission. Another entity involved in the transfer may assume responsibility for obtaining the IBT Certificate, with approval by the Department.

(d) The full capacity of a facility to transfer water shall be determined by the facility's potable water treatment capacity, maximum transfer capacity of distribution system, or discharge capacity in the receiving basin, limited by the element of this system with the least capacity as existing or under construction on 1 July 1993. Existing conveyances and infrastructure for basin transfers in place before 1 July 1993 are deemed a preexisting transfer capacity per G.S. 143-215.22L(b).

(e) To calculate a preexisting transfer capacity the applicant shall provide data regarding the movement of water within and outside of the water system distribution system. The applicant shall provide to the Department a current and projected water balance that includes:

- (1) the total withdrawal from the surface water source;
- (2) the treatment capacities;

- (3) the consumptive losses, meaning water withdrawn from a stream, reservoir, river, or other surface water source for any use which is not directly returned to a waterbody, for both the source and receiving river basins;
- (4) the treated wastewater discharges in both the source and receiving river basins;
- (5) the total return to the source river basin; and
- (6) the total surface water transfer.

The applicant shall provide this information for the current or baseline year and projected data for a minimum of 30-years into the future in no less than 10-year intervals. Water balances are to be conducted on an annual average day basis and a maximum-month average day basis. The applicant may use the Preexisting Transfer Capacity Worksheet as a guide to complete the required information to help calculate and document a system's transfer capacity. A copy of the Preexisting Transfer Capacity Worksheet can be obtained free of charge from the Water Supply Planning Branch, located in the Archdale Building at 512 N. Salisbury Street, Raleigh, NC 27604.

History Note: Authority G.S. 143-215.22L; 143B-282(a)(2); Eff. March 1, 2023.

15A NCAC 02E .0404 NOTIFICATION

(a) As used in G.S. 143-215.22L(c)(3)(c), notification of the "governing body of any public water system" refers to public water systems that use surface water as their source rather than groundwater. The governing body may be located in a state adjoining North Carolina that is located in whole or in part of the surface drainage basin area of the source river basin.

(b) Notice shall be provided to all persons who hold a National Pollutant Discharge Elimination System (NPDES) wastewater discharge permit for 100,000 gallons per day or more for a discharge located within the area denoted by one of the eight-digit cataloging units listed in G.S. 143-215.22L(c)(2)(b) in which the withdrawal or discharge will occur.

(c) Comments submitted pursuant to G.S. 143-215.22L(c), (e), and (j) that are received after the 30-calendar day comment period shall not be considered in making determinations unless the Department extends the comment period.

(d) Notification is to be printed in a single newspaper of general circulation, as defined in G.S. 1-597, for each county in which notification is required as defined in G.S. 143-215.22L(c)(2)(b).

History Note: Authority G.S. 143-215.22L; 143B-282(a)(2); Eff. March 1, 2023.

15A NCAC 02E .0405 ENVIRONMENTAL DOCUMENTS

(a) An evaluation of beneficial and adverse impacts pursuant to G.S. 143-215.22L(d) shall include, but not be limited to, the results of an approved basinwide hydrologic model specified in G.S. 143-355(o), if available. The Applicant is responsible for any necessary model modifications, scenario development, and analysis of results. All model modifications and scenarios must be approved by the Department. All basinwide models used and the corresponding modeling results shall be made publicly available.

(b) For purposes of this Rule, an alternative is considered economically infeasible if the demonstrated financial costs exceed the applicants' ability to cover the cost of the alternative over the span of the planning horizon.

(c) The required environmental document shall include projections of future water supply, transfers, and demands with a planning horizon of at least 30-years. The baseline year for the planning horizon shall be determined based on project-specific considerations, including the applicant's proposed baseline year, the timing of the submission of the environmental documents required by G.S. 143-215.22L(d), the applicant's demonstrated current and projected water demand, and any other project-specific considerations related to the needs of the requested transfer. Projections shall be conducted on 10-year increments, at a minimum.

History Note: Authority G.S. 143-215.22L; 143B-282(a)(2); Eff. March 1, 2023.

15A NCAC 02E .0406 PETITION

(a) Pursuant to G.S. 143-215.22L(g)(7), the petition shall include an evaluation of impacts to reservoir water levels that take into consideration the purposes for which the reservoir was constructed, and any mandatory management activities required to maintain the reservoir per any binding agreements between two or more parties related to such purposes.

(b) Reasonably foreseeable future water supply needs shall mean the projected water transfers necessary to meet demands for not less than 30-years from the year in which the Notice of Intent is filed in compliance with G.S. 143-215.22L(c).

(c) Unless already approved by the Division, an updated local water supply plan meeting the requirements set forth in G.S. 143-355(l) for the previous full calendar year shall be submitted to the Division for review and approval. Once approved, the plan shall be adopted by the local government or large community water system governing board.

History Note: Authority G.S. 143-215.22L; 143B-282(a)(2); Eff. March 1, 2023.

15A NCAC 02E .0407 SETTLEMENT/MEDIATION

The Commission may appoint a mediation officer to initiate settlement discussions. The mediation officer shall follow the most recent guidance or mediation and settlement procedures approved by the Commission.

History Note: Authority G.S. 143-215.22L; 143B-282(a)(2); Eff. March 1, 2023.

15A NCAC 02E .0408 FINAL DETERMINATION

(a) The water conservation plan shall meet all the requirements of G.S. 143-215.22L(n)(1). Any proposed ordinances, initiatives, or programs shall be approved by the unit of local government within 90 calendar days of issuance of the IBT Certificate to document the water conservation efforts. Consistent with the requirements contained in G.S. 143-215.22L(n)(1) an applicant shall demonstrate, through its water conservation plan, that its existing or proposed water conservation measures are equal to or exceed the most stringent water conservation plan implemented

by any public water system in the source basin. The required demonstration shall be based on the existing water conservation measures implemented by each of the public water supply systems that withdraw from the source river basin. The water conservation plan is subject to approval by the Department.

(b) Examples of metrics for supply-side water conservation measures may include:

- (1) regularly conducted water system water audits, where the schedule and methodology used are outlined;
- (2) a flushing optimization plan and accounting of use by a fire department;
- (3) a leak detection program where the repair program abilities are described;
- (4) storage tank level and pressure management;
- (5) water meter replacement;
- (6) metering testing schedule;
- (7) a plan to identify failing meters; and
- (8) details of any existing water reuse programs.

(c) Examples of metrics for demand-side water conservation measures may include:

- (1) a tiered-rate pricing structure that incentivizes and promotes customer conservation;
- (2) public outreach and education programs;
- (3) encouraging all households to conduct simple water audits to improve individual water conservation and efficiency measures;
- (4) the use of irrigation controls, including schedule restrictions, a ban on watering impervious surfaces, a separate conservation rate pricing structure;
- (5) encourage the use of mulch, and the use of drought tolerant plants and grass species;
- (6) the use of water conservation irrigation devices including rain or soil moisture sensors, rain barrels, or cisterns to collect rainwater for outdoor irrigation;
- (7) registration of, and accounting for, pre-arranged (bulk) potable water usage sales;
- (8) separate meters for outdoor irrigation; and
- (9) encouraging the replacement of older, inefficient water fixtures with more water-efficient fixtures and devices.

(d) Pursuant to G.S. 143-215.22L(n)(7), the certificate shall include all current and anticipated applicants and co-applicants. To be eligible to receive transferred water under a certificate, any public water system not listed as the primary applicant on a certificate but is anticipated to receive transferred water made available through a certificate at any time, present or future, shall be identified as a co-applicant on the certificate. All water systems beyond the applicant, that serve customers or sell transferred water in the receiving basin, shall be listed as co-applicants in the petition document. This shall include any projected water sales that are anticipated to occur during the planning period identified in the petition. A modification to the certificate shall be necessary for sales to entities not listed on the certificate.

(e) Pursuant to G.S. 143-215.22L(n)(7), water sales to water systems or wholesale customers not listed as co-applicants in receiving basins, or are not listed in a modification, shall be

considered a violation of the terms of the certificate and could result in the Commission rescinding the certificate. Allowable emergency transfers as outlined in Rule .0409 of this Section are not subject to this Paragraph.

(f) As used in G.S. 143-215.22L(m), detriment means harmful or damaging conditions not caused by a natural condition where an entity with a Department approved water use cannot carry out the beneficial uses for which the water use was granted.

(g) As used in G.S. 143-215.22L(k) and G.S. 143-215.22L(n), detrimental effects means harmful or damaging effects to the water quality, water quantity, fish and wildlife habitat, wastewater assimilation, navigation, electric power generation, public water supplies, and other industrial, economic, recreational, or agricultural water supply needs within either the source or receiving river basins due to the proposed water transfer.

History Note: Authority G.S. 143-215.22L; 143B-282(a)(2); Eff. March 1, 2023.

15A NCAC 02E .0409 EMERGENCY TRANSFERS

(a) Pursuant to G.S. 143-215.22L(q), an emergency transfer of water may be requested in situations resulting from water supply problems caused by a water quality incident, temporary failure of a water plant or infrastructure, or any other temporary condition in which the public health, safety, or welfare requires the transfer of water. With the understanding that these proposed actions are occurring under emergency situations, the Secretary shall make reasonable attempts to consult with parties described in G.S. 143-215.22L(3)(c) prior to making a determination. Emergency transfers shall not take the place of, or be issued in lieu of, a permanent or modified transfer certificate. Per G.S. 143-215.22L(q), as a condition of the transfer, the applicant shall demonstrate and convey to the Department that the amount of water transferred shall be minimized through water efficiency measures for the duration of the transfer.

(b) When possible, a request for an emergency transfer shall be submitted to the Department prior to the transfer, such as in the case of drought, plant maintenance, or other planned or foreseeable activities. Prior to starting the emergency transfer, the applicant shall submit a request to the Department for Secretary approval, either in writing or electronically, which shall include:

- (1) the nature or circumstances of the event that is prompting the transfer request;
- (2) the affected river basins between which the requested emergency transfer would occur;
- (3) the estimated quantity of water to be transferred; and
- (4) the anticipated duration of the requested emergency transfer.

No water shall be transferred prior to Secretary approval.

(c) Where an unplanned situation necessitates a transfer of water and a request cannot be made to the Secretary prior to the transfer event, the applicant, within 72 hours of the start of the transfer, shall provide to the Department the information in Subparagraphs (b)(1) through (b)(4) of this Rule. Provided conditions of this Paragraph are met, the Secretary shall consider the emergency transfer approved.

(d) With any emergency transfer approval, the applicant shall, within 60 calendar days from the end of the transfer period, submit

to the Department a summary report detailing the transfer event. The report shall include, to the extent possible, updated information required in Subparagraphs (b)(1) through (b)(4) of this Rule based on the actual event.

History Note: Authority G.S. 143-215.22L; 143B-282(a)(2); Eff. March 1, 2023.

15A NCAC 07I .0508 CONSIDERATION OF APPLICATION BY LOCAL PERMIT OFFICER

(a) The method of consideration of minor development permit requests by the local permit officer shall be uniform in application and shall be set out in writing and available for public inspection. The Local Permit Officer (LPO) shall use only forms approved by the Coastal Resources Commission in handling of any minor development permit application.

(b) The local implementation and enforcement plan shall specify the procedures which will be followed in the handling and consideration of all applications for a minor development permit, including response to receipt of an application for a major development permit.

(c) The LPO shall maintain a record of all applications, correspondence, public notices, responses from public notices, and a copy of the final disposition for all permit applications whether issued or denied.

(d) The LPO, in handling of all minor development permit applications, shall use a numbering system developed by the Coastal Resources Commission in consultation with local government.

(e) The local government implementation and enforcement plan submitted to the Commission shall state how the local government will coordinate its review of minor development permits with all other local permits and approvals.

History Note: Authority G.S. 113A-117(c); Eff. November 1, 1984; Readopted Eff. March 1, 2023.

15A NCAC 07I .0511 COMMITMENT TO ADOPT LOCAL MANAGEMENT PLAN AS ORDINANCE

In order for the Commission to approve a local implementation and enforcement program the local governing body shall enter into a commitment to accept the local management plan as part of the city or county code of ordinances within a three-month period.

History Note: Authority G.S. 113A-111; 113A-117(c); Eff. November 1, 1984; Readopted Eff. March 1, 2023.

15A NCAC 07M .1102 POLICY STATEMENTS

(a) Clean, beach quality material that meets the criteria set forth in Rule 15A NCAC 07H .0312 dredged from navigation channels within the active nearshore or ocean beach as defined in 15A NCAC 07H .0305 or inlet hazard area as defined in 15A NCAC 07H .0304(2) shall not be removed permanently from the active nearshore, beach or inlet hazard area unless the Director of the Division of Coastal Management determines that no practicable

alternative exists pursuant to the criteria in G.S. 113A-120(a)(9). Preferably, this dredged material will be disposed of on the ocean beach or shallow active nearshore area where environmentally acceptable and compatible with other uses of the beach.

(b) The Division of Coastal Management shall grant proposals for the use of dredged material in disposal sites not privately owned shall be available by anyone proposing placement in or on the active nearshore, ocean beach, or inlet hazard area in a manner not inconsistent with Paragraph (a) of this Rule based on the availability of dredged material, priority of the requests, and consideration of the criteria in G.S. 113A-120(a).

History Note: Authority G.S. 113A-107; 113A-118(f); 113-229;

Eff. October 1, 1992;

Readopted Eff. March 1, 2023.

15A NCAC 10F .0201 SAFETY EQUIPMENT

(a) All vessels subject to the rules of this Section shall meet the vessel equipment requirements set forth in G.S. 75A-6(n), 46 CFR 25, and 33 CFR 175. 46 CFR 25 and 33 CFR 175 are incorporated by reference, including subsequent amendments and editions, and can be found free of charge online at www.ecfr.gov. Notwithstanding the federal regulations incorporated in this Paragraph, Paragraphs (b) through (g) shall apply to vessels operating in State waters. To the extent these vessel equipment requirements conflict with the incorporated federal regulations, federal regulations shall supersede any and all State laws or regulations.

(b) Personal flotation devices (PFDs) shall be required as follows:

- (1) No person may operate a vessel unless, for each person on the vessel, at least one U.S. Coast Guard approved wearable PFD as defined in 33 CFR 175.13 is on board and readily accessible. Any U.S. Coast Guard approved wearable PFD may be carried to meet the requirement, provided:
 - (A) the approved label for the PFD indicates that the device is approved for the activity for which the vessel is being used; or
 - (B) the PFD is used in accordance with the requirements on the approval label and with the requirements in its owner's manual.
- (2) No person shall operate a vessel 16 feet or more in length unless one U.S. Coast Guard approved throwable PFD as defined in 33 CFR 175.13 is on board and, readily accessible, in addition to the total number of PFDs required in Subparagraph (1) of this Paragraph.
- (3) No person shall operate a vessel while the vessel is underway with any child under 13 years old aboard unless each child is:
 - (A) wearing an appropriate PFD approved by the U.S. Coast Guard;
 - (B) below decks; or

(C) in an enclosed cabin.

This Subparagraph shall not apply to a vessel that is registered as a commercial vessel.

(4) No person shall operate a vessel unless each required PFD is:

- (A) in a condition allowing it to work as intended;
- (B) of appropriate size and fit for the intended wearer;
- (C) U.S. Coast Guard approved; and
- (D) legibly marked with its approval number, as specified in 46 CFR 25 Uninspected Vessels, Requirements, and 33 CFR 175 Personal Flotation Devices.

(5) Exemptions shall apply as follows:

- (A) Canoes and kayaks 16 feet in length and over shall be exempted from the requirements for carriage of the additional U.S. Coast Guard approved throwable PFD as specified in Subparagraph (b)(2) of this Rule.
- (B) Sailboards, surfboards, tubes, swimming rafts, inflatable toys, and similar devices used as water toys or swimming aids shall be exempted from the requirements for carriage of any PFD required under this Paragraph.
- (C) Manually propelled vessels such as racing shells, rowing sculls, racing canoes, and racing kayaks that are recognized by national and international racing associations for use in competitive racing, that are not designed to carry any equipment not solely for competitive racing, and in which all occupants with the with exception of a coxswain, if one is present, row, scull, or paddle, shall be exempted from the requirements for carriage of any type PFD required under this Paragraph.

(c) U.S. Coast Guard marine approved and labeled fire extinguishers shall be required as follows:

- (1) All motorboats shall carry at least the minimum number of U.S. Coast Guard approved hand portable fire extinguishers specified in this Rule if:
 - (A) the motorboat has closed compartments under thwarts and seats in which portable fuel tanks may be stored;
 - (B) the motorboat has double bottoms that are not sealed to the hull or that are not completely filled with flotation material;
 - (C) the motorboat has closed living spaces;

- (D) the motorboat has closed stowage compartments in which combustible or flammable materials are stowed;
- (E) the motorboat has permanently installed fuel tanks; or
- (F) the motorboat is Class 2 or longer.
- (2) Class A and Class 1 Motorboats less than 26 feet in length shall carry one Type B-I extinguisher.
- (3) Class 2 Motorboats shall carry two Type B-I extinguishers.
- (4) Class 3 Motorboats shall carry three Type B-I extinguishers.
- (5) One Type B-II hand held fire extinguisher may be substituted for two B-I hand portable fire extinguishers. A fixed fire extinguishing system installed in the engine compartment shall be deemed equal to one Type B-I hand portable fire extinguisher.

Open Vessels. Vessels less than 26 feet in length, propelled by outboard motors and not carrying passengers for hire, shall not be required to carry portable fire extinguishers if the construction of the vessels will not permit the entrapment of explosive or flammable gases or vapors.

(d) Every engine, except outboard motors, using gasoline as fuel and installed in a vessel shall be equipped with an acceptable means of backfire flame control that meets the requirements of 46 CFR 25 and 33 CFR 175.

(e) Every vessel, except open vessels using liquid of a volatile nature, including gasoline or diesel, as fuel, shall be equipped with an operable ventilation system as required by 33 CFR 175.201 and to remove any explosive or flammable gases from the bilges of the engine and fuel tank compartments that meets the requirements of 46 CFR 25 and 33 CFR 175.

(f) Sound devices shall be required as follows:

- (1) Vessels less than 12 meters or 39.4 feet in length shall be equipped with some means of making an audible sound signal; and
- (2) Vessels equal to or greater than 12 meters or 39.4 feet in length shall be equipped with a whistle and a bell that comply with 33 USC 2033.

(g) Lights. The lights prescribed by this Paragraph shall be exhibited from sunset to sunrise and in fog, mist, falling snow, heavy rainstorms, sandstorms, or any other similar circumstances of restricted visibility. They may be exhibited in all other circumstances when deemed necessary by the operator of the vessel. During such times no other lights shall be exhibited, except those that cannot be mistaken for the required navigation lights, which impair their visibility or distinctive character, or interfere with keeping a proper lookout as defined in 33 CFR 83.20(b). Lights shall be required as follows:

- (1) Vessels, other than those vessels described in Subparagraphs (g)(3)-(7) of this Rule, equal to or greater than 12 meters or 39.4 feet but less than 20 meters or 65.6 feet in length shall exhibit:
 - (A) a masthead light forward visible for three miles;

- (B) sidelights, green to starboard and red to port, visible for two miles; and
- (C) a stern light visible for two miles.
- (2) Vessels, other than those vessels described in Subparagraphs (g)(3)-(7) of this Rule, less than 12 meters or 39.4 feet in length shall exhibit:
 - (A) an all-round white light visible for two miles; and
 - (B) sidelights, green to starboard and red to port, visible for 1 mile.
- (3) Sailing vessels underway that are seven meters or 23 feet in length or greater shall exhibit:
 - (A) a stern light visible for two miles; and
 - (B) sidelights, green to starboard and red to port, visible for two miles.
- (4) In a sailing vessel less than 20 meters or 65.6 feet in length, the lights prescribed in Subparagraph (3) of this Paragraph may be combined in one lantern carried at or near the top of the mast where it can be best seen.
- (5) A sailing vessel of less than seven meters or 23 feet in length shall, if practicable, exhibit the lights prescribed in Subparagraph (3) or (4) of this Paragraph; if not practicable the vessel shall have ready at hand an electric torch or lighted lantern showing a white light that shall be exhibited in sufficient time to prevent a collision.
- (6) A vessel under oars shall either:
 - (A) exhibit the lights prescribed in Subparagraph (g)(5) of this Rule for sailing vessels; or
 - (B) have an electric torch or lighted lantern showing a white light readily available to be exhibited in sufficient time to prevent a collision.
- (7) On public waters not subject to the jurisdiction of the United States, vessels propelled by machinery of 10 horsepower or less, in lieu of the foregoing requirements in this Paragraph, may carry from one-half hour after sunset to one-half hour before sunrise a white light in the stern or have on board a hand flashlight in good working condition which shall be ready at hand and shall be temporarily displayed in sufficient time to prevent collision. This Subparagraph shall not apply to vessels in waters of this State that are subject to the jurisdiction of the United States.

History Note: Authority G.S. 75A-3; 75A-6; 113-307; Eff. February 1, 1976; Amended Eff. November 1, 2013; April 1, 2009; March 1, 2008; April 1, 1999; August 1, 1988; May 1, 1976; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016; Amended Eff. March 1, 2023; November 1, 2018.

TITLE 20 - DEPARTMENT OF STATE TREASURER

20 NCAC 02A .0101 ORGANIZATION: AUTHORITY

The Retirement Systems Division of the Department of State Treasurer provides the staffing for the administration of the following agencies where either the Board of Trustees of the Teachers' and State Employees' Retirement System or the Board of Trustees of the Local Governmental Employees' Retirement System is a rulemaking body. The agencies and the statutory authority of each are:

- (1) Teachers' and State Employees' Retirement System of North Carolina -- G.S. 135, Article 1;
- (2) North Carolina Local Governmental Employees' Retirement System -- G.S. 128, Article 3;
- (3) Legislative Retirement System of North Carolina -- G.S. 120, Article 1A;
- (4) Consolidated Judicial Retirement System of North Carolina -- G.S. 135, Article 4;
- (5) Disability Income Plan of North Carolina -- G.S. 135, Article 6;
- (6) Firefighters' and Rescue Squad Workers' Pension Fund -- G.S. 58, Article 86;
- (7) Register of Deeds' Supplemental Pension Fund -- G.S. 161, Article 3; and
- (8) National Guard Pension Fund -- G.S. 127A, Article 3.

History Note: Authority G.S. 58-86-10; 120-4.9; 127A-40(f); 128-28(g); 135-6(f); 135-52; 135-102; 161-50.1(b);

Eff. February 1, 1976;

Readopted Eff. September 21, 1977;

Amended Eff. October 1, 1993; August 1, 1988; April 1, 1985; October 1, 1983;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 21, 2018;

Amended Eff. March 1, 2023.

20 NCAC 02A .0102 EXERCISE OF AUTHORITY

History Note: Authority G.S. 128-28(g); 135-6(f);

Eff. February 1, 1976;

Readopted Eff. September 21, 1977;

Amended Eff. October 29, 1979;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 21, 2018;

Repealed Eff. March 1, 2023.

20 NCAC 02A .0103 DELEGATION OF AUTHORITY TO DIRECTOR

Whenever the statutes under Article 58 of G.S. 86, Article 1A of G.S. 120, Article 3 of G.S. 127A, Article 3 of G.S. 128, Articles 1, 4, or 6 of G.S. 135, or Article 3 of G.S. 161 specify that the Board of Trustees will make specific findings in specific matters relating to specific persons, the Director of the Retirement Systems Division may make the decisions in accordance with law and the rules, regulations, and previous decisions of this Board. Appeals may be made from the decision of the Director under the

procedures used for contested cases as provided under Section .0400 of this Subchapter.

History Note: Authority G.S. 128-28(g); 128-28(h); 135-6(f); 135-6(g); 150B-22;

Eff. September 21, 1977;

Amended Eff. October 29, 1979;

Readopted Eff. March 1, 2023.

20 NCAC 02A .0104 EXERCISE OF EMPLOYER OPTIONS

When an employer elects to participate in an optional element of a retirement system, the election shall not be considered effective by the Retirement System unless the employer provides the Retirement Systems Division with a certified copy of the minutes of the governing board of the employer and the terms under which the option is elected do not discriminate in favor of the more highly compensated employees. The terms "discriminate" and "highly compensated employee" have the same meanings as under 26 CFR of the Internal Revenue Code. The Internal Revenue Code Title 26 CFR is hereby incorporated by reference, including subsequent amendments and editions, and is available online, at no cost, at <https://www.ecfr.gov/current/title-26/chapter-I/subchapter-A/part-1?toc=1>.

History Note: Authority G.S. 128-28(g); 135-6(f);

Eff. November 9, 1979;

Readopted Eff. March 1, 2023.

20 NCAC 02A .0201 ESTABLISHMENT OF PROCEDURAL RIGHTS

The rules in 20 NCAC 01F .0100 establish rule-making procedures for the Retirement Systems Division of the Department of State Treasurer.

History Note: Authority G.S. 128-28(g); 135-6(f);

Eff. February 1, 1976;

Readopted Eff. September 21, 1977;

Amended Eff. October 1, 1993; October 29, 1979;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 21, 2018;

Amended Eff. March 1, 2023; September 1, 2019.

20 NCAC 02A .0202 DEFINITIONS

History Note: Authority G.S. 128-28(g); 135-6(f);

Eff. February 1, 1976;

Readopted Eff. September 21, 1977;

Amended Eff. October 1, 1993; October 29, 1979;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 21, 2018;

Repealed Eff. March 1, 2023.

20 NCAC 02A .0301 ESTABLISHMENT OF PROCEDURAL RIGHTS

The rules in 20 NCAC 01F .0200 establish declaratory ruling procedures for the Retirement Systems Division of the Department of State Treasurer, with the following exception. All requests for declaratory rulings from the Retirement Systems

Division shall be in writing and mailed to the attention of the Director at the following address:

Director of the Retirement Systems Division
Department of State Treasurer
3200 Atlantic Avenue
Raleigh, North Carolina 27604.

History Note: Authority G.S. 128-28(g); 135-6(f);
Eff. February 1, 1976;
Readopted Eff. September 21, 1977;
Amended Eff. October 1, 1993;
Readopted Eff. March 1, 2023.

20 NCAC 02A .0302 DEFINITIONS

History Note: Authority G.S. 128-28(g); 135-6(f);
Eff. February 1, 1976;
Readopted Eff. September 21, 1977;
Amended Eff. October 1, 1993;
Pursuant to G.S. 150B-21.3A, rule is necessary without
substantive public interest Eff. October 21, 2018;
Repealed Eff. March 1, 2023.

20 NCAC 02A .0303 RECONSIDERATION OF DECLARATORY RULINGS

History Note: Authority G.S. 128-28(g); 135-6(f);
Eff. October 29, 1979;
Repealed Eff. March 1, 2023.

20 NCAC 02A .0401 ESTABLISHMENT OF PROCEDURAL RIGHTS

(a) Article 3 of G.S. 150B establishes contested case procedures for the Retirement Systems Division of the Department of State Treasurer. All correspondence with the Retirement Systems Division shall be addressed to:

Director of the Retirement Systems Division
Department of State Treasurer
3200 Atlantic Avenue
Raleigh, North Carolina 27604.

(b) Informal resolution of a dispute as described in G.S. 150B-22(a) begins when a person calls, writes, or visits the Retirement Systems Division's Member Services section and describes the dispute to a representative.

(c) If the dispute is not resolved during this initial contact, the person may request a review of the Division's decision or action in writing to the Director of the Retirement Systems Division at the address in Paragraph (a) of this Rule.

(d) The Director of the Retirement Systems Division, or the Director's designee, shall issue an agency decision in writing, which shall document the dispute for any contested case under G.S. 150B-22(b) and serve as the "agency decision" for purposes of G.S. 150B-23(f).

History Note: Authority G.S. 128-28(g); 135-6(f); 150B-22;
150B-23;
Eff. February 1, 1976;
Readopted Eff. September 21, 1977;
Amended Eff. October 1, 1993;

Readopted Eff. March 1, 2023.

20 NCAC 02A .0503 DUAL MEMBERSHIP - COMPUTATION OF SERVICE AND BENEFITS

(a) This Rule applies to any individual case in which the member had one or more periods of dual membership in those rare cases which are permitted by law. "Dual membership" means membership in both the Teachers' and State Employees' Retirement System and the Local Governmental Employees' Retirement System, at the same time, by virtue of the same position.

(b) Eligibility shall be established for the death benefit, survivor's alternate benefit, service, early or disability retirement, or other benefits which are based on creditable or membership service for both systems whenever eligibility is established in either one of the systems.

(c) A statute permitting transfer of membership and prior service shall apply only after the period of dual membership, when a person becomes a member employed fully under a Retirement System to which the membership and prior service may be transferred from one or the other of the systems in which the member had dual membership.

(d) Death benefits for active members shall be allocated pro rata between systems based on the total compensation paid during the period when the member was eligible for dual membership.

(e) Other benefits shall be calculated as follows:

- (1) Compute "Average Final Compensation" on the basis of compensation on which the member would have contributed had the member's service not been divided between two retirement systems as a result of dual membership.
- (2) Compute creditable service as follows:
 - (A) the number of months of creditable service the member earned or acquired which were based on compensation for service in only one of the systems; plus
 - (B) the total of the fractional months earned by the member in each of the systems during periods of dual membership, where the fractional month earned during each month of dual membership is equal to the compensation reported to the system divided by the total compensation reported to all systems.
 - (C) The fractional months are to be computed as follows. First, identify the total compensation earned by the member in each of the systems during periods of dual membership, as determined in Part (e)(2)(B) of this Rule. Second, add together the total compensation earned by the member in each of the systems during periods of dual membership, as determined in Part (e)(2)(B) of this Rule, to produce

a Grand Total. Third, divide the total compensation earned by the member in each of the systems during periods of dual membership, as determined in Part (e)(2)(B) of this Rule, by the Grand Total, as determined in the previous sentence, to produce a factor, carried to the fourth decimal place, known as the Modification Factor, for each system. Fourth, multiply the total of the fractional months, as determined in Part (e)(2)(B) of this Rule, by the Modification Factor for each system, as determined in the previous sentence, to determine the actual creditable service allowed for each system during periods of dual membership.

- (3) Compute the annual allowance for a member by multiplying the average final compensation times the creditable service as computed in Subparagraphs (1) and (2) of this Paragraph.
- (4) Allocate the benefits to be paid from each system pro rata on share of creditable service in each system as computed in Subparagraph (e)(2) of this Rule.

(f) This Rule shall apply to any individual case in which a member with dual membership commenced retirement with one Retirement System prior to the original effective date of this Rule, December 1, 1981, and continued in service under the other Retirement System. In such cases, the retirement allowance of the member from the system with which the member first retired shall be recomputed in accordance with this Rule and paid retroactively to the original effective date of this Rule.

History Note: Authority G.S. 128-28(g); 128-34(b); 135-6(f); 135-18.1(a);
Eff. December 1, 1981;
Amended Eff. March 1, 2023; March 1, 1985.

20 NCAC 02A .0504 DIRECT DEPOSIT OF MONTHLY BENEFIT PAYMENTS

(a) This Rule applies to any individual case in which a beneficiary's monthly benefit was paid via electronic funds transfer (EFT) or direct deposit when the EFT was suspended by the Division in error. This Rule does not apply to any individual case involving a delay by this Division to initiate an EFT or a change in an existing EFT arrangement requested by a beneficiary.

(b) The Division shall reimburse non-sufficient fund charges incurred by a beneficiary due to the suspension in error of an existing EFT arrangement when the beneficiary was not notified of the suspension of the arrangement and upon receipt of proof that the charges were incurred.

(c) Any other bad check service charges or fees imposed by any financial institution or merchant may be reimbursed at the discretion of the Division Director upon receipt of proof that the charges were incurred.

(d) Any reimbursement of non-sufficient fund or bad check service charges shall be paid from the Pension Accumulation Fund of the Retirement System in which the beneficiary is in receipt of a benefit.

History Note: Authority G.S. 58-86-10; 120-4.9; 127A-40(f); 128-28(g); 135-6(f); 135-52; 135-102(c); 161-50.1(b);
Eff. March 1, 1992;
Readopted Eff. March 1, 2023.

20 NCAC 02A .0505 ADMINISTRATIVE FEES FOR SERVICE PURCHASES

(a) This Rule applies to the purchase of creditable service whenever a statutory provision prescribes that the calculation of the amount payable shall include an administrative fee to be set by the Board.

(b) An administrative fee in the amount of twenty-five dollars (\$25.00) for each payment shall be assessed, as provided by law, against members at the time of purchase.

History Note: Authority G.S. 58-86-45; 120-4.15; 120-4.16; 128-26; 128-28(g); 135-4; 135-6(f); 135-56;
Eff. March 1, 2023.

20 NCAC 02B .0101 GENERAL INFORMATION

The following is general information about the Teachers' and State Employees' Retirement System:

- (1) The Director is the Director of the Retirement Systems Division;
- (2) The mailing address and physical address is Retirement Systems Division, Department of State Treasurer, 3200 Atlantic Avenue, Raleigh, North Carolina 27604.

History Note: Authority G.S. 135-6(f);
Eff. February 1, 1976;
Readopted Eff. September 21, 1977;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 21, 2018;
Amended Eff. March 1, 2023; September 1, 2019.

20 NCAC 02B .0202 ACTUARIAL TABLES: RATES AND ASSUMPTIONS

History Note: Authority G.S. 135-6(f); 135-6(m);
Eff. February 1, 1976;
Readopted Eff. September 21, 1977;
Amended Eff. August 1, 1981;
Repealed Eff. March 1, 2023.

20 NCAC 02B .0210 MEDICAL BOARD

In accordance with the authority contained in G.S. 135-6(k), membership of the Medical Board consists of five physicians, with a quorum of three required at meetings approving applications for disability retirement.

History Note: Authority G.S. 135-6(f); 135-6(k);
Eff. February 1, 1976;
Readopted Eff. March 1, 2023; September 21, 1977.

20 NCAC 02B .0211 OPTIONAL RETIREMENT PROGRAM

An individual who is employed by a state university at a rank or in a position ineligible for participation in the Optional Retirement Program, as provided by G.S. 135-5.1, and who later is reclassified to an eligible rank or position shall be permitted to elect to withdraw from the Teachers' and State Employees' Retirement System and to begin participation in the Optional Retirement Program as though the individual were a new employee.

History Note: Authority G.S. 135-5.1; 135-6(f);
Eff. February 1, 1976;
Readopted Eff. March 1, 2023; September 21, 1977.

20 NCAC 02B .0213 DISABILITY RETIREMENT ALLOWANCE DEFINED

History Note: Authority G.S. 135-5(1)(3);
Eff. October 29, 1979;
Repealed Eff. March 1, 2023.

20 NCAC 02B .0301 DESIGNATION

Any beneficiaries designated, other than the estate of a member or a trustee named by and acting for the member, must be living persons at the time the designation is made. If it is desired that the estate be beneficiary, this should be indicated on the form.

History Note: Authority G.S. 135-5(g); 135-5(l); 135-6(f);
Eff. February 1, 1976;
Readopted Eff. March 1, 2023; September 21, 1977.

20 NCAC 02B .0302 PRINCIPAL BENEFICIARY

(a) More than one principal beneficiary may be designated for the return of accumulated contributions under the provisions of G.S. 135-5(f) to share equally. In the event of the death of any so designated principal beneficiary for the return of accumulated contributions, those surviving principal beneficiaries shall share equally in the total benefits. However, if there is only one living designated principal beneficiary for the return of accumulated contributions at the member's death and the member has met all other requirements under the provisions of G.S. 135-5(m), the designated principal beneficiary may elect to receive the alternative benefit under the provisions of G.S. 135-5(m).

(b) More than one principal beneficiary may be designated for the death benefit of an active member or a retired member under the provisions of G.S. 135-5(l) to share equally. In the event of the death of any so designated principal beneficiary for the death benefit of an active member or retired member, those surviving principal beneficiaries shall share equally in the total benefits.

(c) More than one principal beneficiary may be designated for the guaranteed refund under the provisions of G.S. 135-5(g1) to share equally. In the event of the death of any so designated principal beneficiary for the guaranteed refund, those surviving principal beneficiaries shall share equally in the total benefits.

History Note: Authority G.S. 135-5(f); 135-5(g); 135-5(g1);
135-5(l); 135-5(m); 135-6(f);
Eff. February 1, 1976;

Readopted Eff. March 1, 2023; September 21, 1977.

20 NCAC 02B .0303 CONTINGENT BENEFICIARY

(a) The following shall apply to designating a contingent beneficiary for the return of accumulated contributions under the provisions of G.S. 135-5(f):

- (1) A principal beneficiary may be designated for the return of accumulated contributions with the stipulation that should the principal beneficiary predecease the member, payment of the amount due, if any, shall be made to the designated contingent beneficiary or beneficiaries for the return of accumulated contributions.
- (2) If more than one principal beneficiary is designated for the return of accumulated contributions, payment of the amount due, if any, shall be paid to any surviving principal beneficiaries designated for the return of accumulated contributions, sharing equally in the total benefits payable, and shall not be paid to any contingent beneficiary.
- (3) It is permissible to designate more than one contingent beneficiary for the return of accumulated contributions. Payment of the amount due, if any, shall be paid to the surviving contingent beneficiaries designated for the return of accumulated contributions, sharing equally in the total benefits, only in the event that there is no surviving principal beneficiary designated for the return of accumulated contributions.

(b) The following shall apply to designating a contingent beneficiary for the death benefit under the provisions of G.S. 135-5(l):

- (1) A principal beneficiary may be designated for the death benefit of an active member or retired member with the stipulation that should the principal beneficiary predecease the member, payment of the amount due, if any, shall be made to the designated contingent beneficiary or beneficiaries for the death benefit.
- (2) If more than one principal beneficiary is designated for the death benefit, payment of the amount due, if any, shall be paid to any surviving principal beneficiaries designated for the death benefit, sharing equally in the total benefits payable, and shall not be paid to any contingent beneficiary.
- (3) It is permissible to designate more than one contingent beneficiary for the death benefit. Payment of the amount due, if any, shall be paid to the surviving contingent beneficiaries designated for the death benefit, sharing equally in the total benefits, only in the event that there is no surviving principal beneficiary designated for the death benefit.

(c) The following shall apply to designating a contingent beneficiary for the guaranteed refund under the provisions of G.S. 135-5(g1):

- (1) A principal beneficiary may be designated for the guaranteed refund with the stipulation that should the principal beneficiary predecease the member, payment of the amount due, if any, shall be made to the designated contingent beneficiary or beneficiaries for the guaranteed refund.
- (2) If more than one principal beneficiary is designated for the guaranteed refund, payment of the amount due, if any, shall be paid to any surviving principal beneficiaries designated for the guaranteed refund, sharing equally in the total benefits payable, and shall not be paid to any contingent beneficiary.
- (3) It is permissible to designate more than one contingent beneficiary for the guaranteed refund. Payment of the amount due, if any, shall be paid to the surviving contingent beneficiaries designated for the guaranteed refund, sharing equally in the total benefits, only in the event that there is no surviving principal beneficiary designated for the guaranteed refund.

History Note: Authority G.S. 135-5(f); 135-5(g); 135-5(g1); 135-5(l); 135-6(f);
Eff. February 1, 1976;
Readopted Eff. March 1, 2023; September 21, 1977.

20 NCAC 02B .0304 NO LIVING BENEFICIARY

If no designated beneficiary, whether principal or contingent, is living at the time of the member's death, payment of the amount due, if any, will be made to the administrator or executor of the estate or the collector of funds for the estate of the member.

History Note: Authority G.S. 135-5(g); 135-6(f);
Eff. February 1, 1976;
Readopted Eff. March 1, 2023; September 21, 1977.

20 NCAC 02B .0305 BENEFICIARY WHO IS A MINOR

(a) Payments to beneficiaries who are minors will be made to an appointed guardian or to the clerk of superior court in the county in which the beneficiary resides to the extent that such payment is authorized by law.

(b) In the event that the appointed guardian or the clerk of superior court in the county in which the beneficiary resides is unwilling or unable to accept payment on behalf of the minor beneficiary payment may be made to a custodian in accordance with Chapter 33A of the North Carolina General Statutes, entitled North Carolina Uniform Transfers to Minors Act.

History Note: Authority G.S. 135-5(g); 135-6(f);
Eff. February 1, 1976;
Readopted Eff. March 1, 2023; September 21, 1977.

20 NCAC 02B .0307 CHANGE IN BENEFICIARY

Prior to retirement, the member may, at any time, change any beneficiaries designated for the return of accumulated contributions under the provisions of G.S. 135-5(f) or the death

benefit for active members under the provisions of G.S. 135-5(l). A retired member may, at any time, change any beneficiaries designated for:

- (1) The guaranteed refund under the provisions of G.S. 135-5(g1) until such time as the funds have been depleted;
- (2) The death benefit for active members under the provisions of G.S. 135-5(l) provided the change is submitted within 180 calendar days after the member's last day of active service; or
- (3) The death benefit for retired members under the provisions of G.S. 135-5(l).

The member shall submit any such change to the Board of Trustees using the form approved by the Board of Trustees for designation of the beneficiary for that purpose.

History Note: Authority G.S. 135-5(f); 135-5(g); 135-5(g1); 135-5(l); 135-6(f);
Eff. February 1, 1976;
Readopted Eff. March 1, 2023; September 21, 1977.

20 NCAC 02B .0308 SPECIAL RULE: BENEFICIARY BEFORE JULY 1, 1967

In the event of the death of a person who became a member before July 1, 1967, the return of a member's contributions shall be paid to such person as the member intended to receive the return of contributions and whom the member designated as beneficiary for the death benefit as if the member had designated such person for the return of contributions if all of the following conditions are met:

- (1) the member had designated one person for the death benefit at a time when there were separate forms for designation of beneficiary for return of contributions and designation of beneficiary for the death benefit;
- (2) the person designated as beneficiary for the death benefit is living at the time of the member's death;
- (3) any previously designated beneficiary for the return of contributions who is living at the time of the member's death or, if such previously designated beneficiary dies between the time of the member's death and the time of determination of payment of the return of accumulated contributions, the legatee or legatees, heirs at law, successors, or assigns of such beneficiary, waives all claims to or interest in the return of the member's contributions;
- (4) the member did not designate any other person for the return of contributions after making a designation of beneficiary for the death benefit; and
- (5) clear and convincing evidence is presented to the Division showing that the member thought the member had or intended to have designated for the return of contributions the same person whom the member designated as beneficiary for the death benefit.

In such cases, the beneficiary shall be entitled to receive the survivor's alternate benefit pursuant to G.S. 135-5(m) to the same extent that the beneficiary would have been entitled to receive the survivor's alternate benefit under G.S. 135-5(m) if the member had actually designated such beneficiary for the return of contributions in a duly executed and filed form for the designation of beneficiary for return of contributions.

History Note: Authority G.S. 135-5(f); 135-5(m); 135-6(f);
Eff. October 29, 1979;
Readopted Eff. March 1, 2023.

20 NCAC 02B .0401 REFUNDS

(a) The Retirement System will make no refunds of employer contributions paid into the pension accumulation fund by the employer in the amount equal to a percentage of the actual compensation of each member in cases of erroneous employee deductions except those which are corrected by the employing unit on a subsequent payroll within the calendar year in which the errors occur.

(b) Notwithstanding Paragraph (a) of this Rule, an error occurring in December may be corrected, and the associated employer contribution be refunded in the form of a credit toward future required employer contributions, by the employer's submission of a revised payroll report for the correct amount before January 31 of the following year.

(c) If an employer makes an additional contribution to the pension accumulation fund as a result of the contribution-based benefit cap and the Retirement System receives information which alters the calculation of the retirement benefit used to determine the contribution under the provisions of G.S. 135-8(f)(2)f., any contribution not required based on the new information will be refunded to the employer in the form of a credit toward future required employer contributions.

History Note: Authority G.S. 135-2; 135-6(f); 135-8(f);
Eff. February 1, 1976;
Readopted Eff. March 1, 2023; September 21, 1977.

20 NCAC 02B .0402 FORWARDING OF EMPLOYER CONTRIBUTIONS

All units shall forward to the Retirement System the employer's contributions monthly at the same time the employee's contributions are forwarded.

History Note: Authority G.S. 135-6(f); 135-8(f);
Eff. February 1, 1976;
Readopted Eff. March 1, 2023; September 21, 1977.

20 NCAC 02B .0404 DUE DATE OF CONTRIBUTIONS

Both the employee and employer contributions are due in the Raleigh office of the Retirement System no later than the fifth State government working day of the month succeeding the month for which the contributions are required. Contributions received after the fifth State government working day of the month are delinquent.

History Note: Authority G.S. 135-6(f); 135-8(f);

Eff. March 1, 1992;
Readopted Eff. March 1, 2023.

20 NCAC 02B .0405 ANTI-PENSION SPIKING CONTRIBUTION-BASED BENEFIT CAP FACTOR (TSERS)

History Note: Authority G.S. 135-4(jj); 135-5(a3); 135-6(f);
Eff. March 21, 2019;
Repealed Eff. March 1, 2023.

20 NCAC 02B .0501 DISABILITY RETIREMENT EXAMINATION

The Medical Board is authorized to conduct an examination in doubtful cases of disability to determine whether the member continues to be eligible for a disability retirement pursuant to G.S. 135-5(c), paying the expense of the same from the Pension Accumulation Fund.

History Note: Authority G.S. 135-2; 135-5(c); 135-6(f);
Eff. February 1, 1976;
Readopted Eff. March 1, 2023; September 21, 1977.

20 NCAC 02B .0502 DISABILITY RETIREMENT REPORTS

When the Medical Board, subsequent to a disability retirement, reports that the retired member is engaged in or is able to engage in a gainful occupation, any adjustment required by G.S. 135-5(e)(1) will be made prospectively only and will not require any refund to the State of payments made during the period before a report is made indicating changed status.

History Note: Authority G.S. 135-5(e)(1); 135-6(f);
Eff. February 1, 1976;
Readopted Eff. March 1, 2023; September 21, 1977.

20 NCAC 02B .0503 FEES: INDEPENDENT MEDICAL EXAMS-DISABILITY RETIREMENTS

History Note: Authority G.S. 135-6(f); 135-6(k);
Eff. February 1, 1976;
Readopted Eff. September 21, 1977;
Amended Eff. August 1, 1981;
Repealed Eff. March 1, 2023.

20 NCAC 02B .0504 INTEREST CREDITS

When members on disability retirement are reinstated to active service, no interest shall be allowed on their accounts during the year of reinstatement.

History Note: Authority G.S. 135-6(f);
Eff. February 1, 1976;
Readopted Eff. March 1, 2023; September 21, 1977.

20 NCAC 02B .0510 PENSIONS

Payment of a full month's benefit shall be made for the month in which death occurs, regardless of the date, with no further benefits to be paid thereafter.

History Note: Authority G.S. 135-6(f);
Eff. February 1, 1976;
Readopted Eff. March 1, 2023; September 21, 1977.

20 NCAC 02B .0701 EDUCATIONAL LEAVES OF ABSENCE

- (a) For the purposes of G.S. 135-8(b)(5), "stipend" shall mean a fixed sum of money paid periodically for services and to defray the cost of travel, housing, meals, or other expenses resulting from participation in a full-time degree program.
- (b) If the employer makes the monthly employer contribution equal to the normal and accrued liability contribution, the employer shall submit the total employer payment to the Retirement System.
- (c) If the member makes the entire payment, the member shall submit the total employer and employee contribution to the Retirement System.
- (d) A member, who is currently making contributions to purchase service for an educational leave of absence, and whose position before the leave of absence was paid on a less than 12-month basis, shall make the payment in the month after the regularly scheduled due date for payment of salary and shall earn service credits for the contributions in the same manner the member would if the member was currently being employed in that last position.

History Note: Authority G.S. 135-6(f); 135-8(b)(5);
Eff. February 1, 1976;
Readopted Eff. September 21, 1977;
Amended Eff. March 1, 1982;
Readopted Eff. March 1, 2023.

20 NCAC 02B .0706 WORKERS' COMPENSATION LEAVES OF ABSENCE

- (a) Purchases of creditable service for leaves of absence prior to July 1, 1983 shall be made in the same manner as prescribed in 20 NCAC 02B .1200, as then effective.
- (b) Purchases of creditable service for leaves of absence on and after July 1, 1983 shall be paid in the manner prescribed in law equal to the sum of the total employer and employee percentage rates of contribution in effect at the time of purchase multiplied by the annual rate of compensation of the member immediately prior to the leave of absence applied to the period of the leave commencing on the first day and ending on the last day before return to service.
- (c) Members who had leaves of absence which otherwise met all requirements of law for purchase as creditable service except that the leaves of absence interrupted membership in the Local Governmental Employees' Retirement System or the Law Enforcement Officers' Retirement System and whose membership service before and after the leaves of absence has become membership service in the Teachers' and State Employees' Retirement System, may purchase creditable service as in Paragraph (b) of this Rule.
- (d) Members may purchase creditable service for leaves of absence only when they have membership service credits immediately prior to and immediately after the leaves of absence and such membership service is creditable service at the time of purchase.

History Note: Authority G.S. 135-4(r); 135-6(f);
Eff. December 1, 1983;
Amended Eff. August 1, 1988;
Readopted Eff. March 1, 2023.

20 NCAC 02B .0801 FEE

History Note: Authority G.S. 135-4(f)(6); 135-6(f);
Eff. February 1, 1976;
Readopted Eff. September 21, 1977;
Repealed Eff. March 1, 2023.

20 NCAC 02B .0802 QUALIFYING FOR CREDIT

In order to qualify, each individual must pay for the full period of military service for which the member is eligible.

History Note: Authority G.S. 135-4(f)(6); 135-6(f); S.L. 1981, C. 636;
Eff. February 1, 1976;
Readopted Eff. March 1, 2023; September 21, 1977;

20 NCAC 02B .0803 COMPUTATION OF COST

The cost of purchasing credit for military service is calculated as follows:

- (1) 1/12 of the annualized rate of compensation the member earned when the member first entered membership; multiplied by
- (2) the employee contribution rate at that time; multiplied by
- (3) the number of months of military service for which credit is to be purchased; plus
- (4) a factor equivalent to interest at the rate of six and one-half percent, compounded annually, from the initial year of membership to the year of payment.

History Note: Authority G.S. 135-4(f); 135-6(f); S.L. 1981, C. 636;
Eff. February 1, 1976;
Readopted September 21, 1977;
Amended Eff. March 1, 2023.

20 NCAC 02B .0804 CIVIL SERVICE PARTICIPATION

A member of the Teachers' and State Employees' Retirement System whose employment in this State requires the member to participate in the Federal Civil Service Program in lieu of the Social Security program shall not be barred from receiving military service credit for which the member is otherwise eligible in the Retirement System, despite the fact that the member may also receive credit under the Federal Civil Service Program for the same period of military service, provided that the member makes the required payment.

History Note: Authority G.S. 135-4(f)(6); 135-6(f); S.L. 1981, C. 636;
Eff. February 1, 1976;
Readopted Eff. March 1, 2023; September 21, 1977.

20 NCAC 02B .0805 SERVICE CONNECTED DISABILITY

The exclusion for purchase of service in the Armed Forces of the United States as it pertains to credit in any other retirement system shall not include "service connected disability" benefits received from the Veteran's Administration of the Federal Government except when such benefits are a supplement of a military longevity retirement ("retired pay") benefit. The term "service connected disability" has the same meaning as used in Title 38, Chapter 11 of the United States Code which is hereby incorporated by reference, including subsequent additions and amendments, and is available online, at no cost, at <https://uscode.house.gov/browse/prelim@title38/part2&edition=prelim>. The term "retired pay" has the same meaning as used in Title 10, Chapter 71 of the United States Code which is hereby incorporated by reference, including subsequent additions and amendments, and is available online, at no cost, at <https://uscode.house.gov/browse/prelim@title10/subtitleA/part2/chapter71&edition=prelim>.

History Note: Authority G.S. 135-4(f)(6); 135-6(f); S.L. 1981, C. 636;

Eff. February 1, 1976;

Readopted Eff. March 1, 2023; September 21, 1977.

20 NCAC 02B .0806 RECALCULATION OF BENEFITS

For members already retired who purchase service under G.S. 135-4(f)(6), any recalculation of benefits shall be based on the law in effect at the time of the individual's retirement. The calculation of both the benefit and the cost of the credit shall include the effects of the additional service credit resulting from the purchase and all benefit increases subsequent to the date of retirement.

History Note: Authority G.S. 135-4(f)(6); 135-6(f); S.L. 1981, C. 636;

Eff. February 1, 1976;

Readopted Eff. March 1, 2023; September 21, 1977.

20 NCAC 02B .0807 CHANGE IN BENEFITS

For members already retired, any change in benefits resulting from the purchase of credit pursuant to this Section shall become effective as of the first of the month following receipt of the required payment.

History Note: Authority G.S. 135-4(f)(6); 135-6(f); S.L. 1981, C. 636;

Eff. February 1, 1976;

Readopted Eff. March 1, 2023; September 21, 1977.

20 NCAC 02B .0810 RESTORING MEMBERSHIP

When a member on military leave has withdrawn all of the member's contributions, the member shall be permitted to pay back the amount withdrawn, to the extent permitted by law, restore membership, and receive credit for the associated period of military leave.

History Note: Authority G.S. 135-4(f); 135-4(k1); 135-6(f); S.L. 1981, C. 636;

Eff. February 1, 1976;

Readopted Eff. March 1, 2023; September 21, 1977.

20 NCAC 02B .0901 FEE

History Note: Authority G.S. 135-4(l); 135-6(f);

Eff. February 1, 1976;

Readopted Eff. September 21, 1977;

Repealed Eff. March 1, 2023.

20 NCAC 02B .0902 QUALIFYING FOR CREDIT

In order to qualify for out-of-state service credit, each individual must pay for all or such portion of the member's out-of-state service period in full years as the member desires of out-of-state service for which the member is eligible.

History Note: Authority G.S. 135-4(l); 135-6(f); S.L. 1981, C. 636;

Eff. February 1, 1976;

Readopted Eff. March 1, 2023; September 21, 1977.

20 NCAC 02B .0903 DEFINITION

"Other governmental subdivision of the United States," as used in G.S. 135-4(l), means a state or territory and its subdivisions but not the United States government, except as specifically provided by statute.

History Note: Authority G.S. 135-4(l); 135-6(f); S.L. 1981, C. 636;

Eff. February 1, 1976;

Readopted Eff. March 1, 2023; September 21, 1977.

20 NCAC 02B .0904 COMPUTATION OF COST

The cost of purchasing credit for out-of-state service is calculated as follows:

- (1) the monthly compensation the member earned when the member first entered membership; multiplied by
- (2) the employee contribution rate at that time; multiplied by
- (3) the number of months of out-of-state service for which credit is to be purchased; multiplied by
- (4) two; plus
- (5) a factor equivalent to interest at the rate of six and one-half percent, compounded annually, from the initial year of membership to the year of payment.

History Note: Authority G.S. 135-4(l); 135-6(f); S.L. 1981, C. 636;

Eff. February 1, 1976;

Readopted Eff. March 1, 2023; September 21, 1977.

20 NCAC 02B .0905 RECALCULATION OF BENEFITS

For members already retired who purchase service under G.S. 135-4(l), as repealed by Session Law 1981-636, s. 1, where the text of the repealed statutory provision may be found in the Editor's Note to G.S. 135-4 in the 2021 Edition of the General

Statutes of North Carolina, any recalculation of benefits shall be based on the law in effect at the time of the individual's retirement. The calculation of both the benefit and the cost of the credit shall include the effects of the additional service credit resulting from the purchase and all benefit increases subsequent to the date of retirement.

History Note: Authority G.S. 135-4(l); 135-6(f); S.L. 1981, C. 636;
Eff. February 1, 1976;
Readopted Eff. March 1, 2023; September 21, 1977.

20 NCAC 02B .0906 CHANGE IN BENEFITS

For members already retired, any change in benefits resulting from the provisions for out-of-state service shall become effective as of the first of the month following receipt of the required payment.

History Note: Authority G.S. 135-4(l); 135-6(f); S.L. 1981, C. 636;
Eff. February 1, 1976;
Readopted Eff. March 1, 2023; September 21, 1977.

20 NCAC 02B .1003 PRIOR SERVICE WITH GENERAL ASSEMBLY

History Note: Authority G.S. 135-4(j1); 135-6(f);
Eff. October 29, 1979;
Repealed Eff. March 1, 2023.

20 NCAC 02B .1004 TEMPORARY SERVICE PURCHASE (INCHOATE RIGHTS ONLY)

(a) A member eligible under G.S. 135-4(p) to purchase service for temporary State employment shall apply for the purchase. Employer certification of temporary State employment and the compensation received for such service shall accompany the application. The application shall include: the member's Member Identification Number; last employer under the Retirement System; and the member's signature and signature date. For each temporary position for which the member desires to purchase credit, the application shall identify the government employer, position title, start date, end date, and the member's last name while working in the position. The employer's certification shall include the position title, start and end date of the eligible period, number of months in the annual contract to perform services, beginning and ending months of the annual contract period for retirement service purposes, and the name, position, employer, email address, telephone number, signature, and signature date of the employer contact certifying the information.

(b) Temporary State employment means employment under which the member would have been unconditionally required to make contributions at the time of employment if not classified at the time of employment as a "temporary" employee.

(c) The employer cost, shall be equal to the total employee and employer rates of contribution at the member's level of compensation at the time of purchase and for the period of service being purchased, less the required member contribution.

History Note: Authority G.S. 135-4(p); 135-6(f); S.L. 2020-29;
Eff. March 1, 1982;
Amended Eff. March 1, 1985; September 1, 1982;
Readopted Eff. March 1, 2023.

20 NCAC 02B .1005 TEMPORARY SERVICE PURCHASE: FULL ACTUARIAL LIABILITY

History Note: Authority G.S. 135-4(s); 135-6(f);
Eff. December 1, 1983;
Amended Eff. August 1, 1988; September 1, 1984;
Repealed Eff. March 1, 2023.

20 NCAC 02B .1006 PART-TIME SERVICE PURCHASE: FULL ACTUARIAL LIABILITY

"Part-time" as used in G.S. 135-4(p2) means duties performed on less than a full-time basis as classified by the employer.

History Note: Authority G.S. 135-4(p2); 135-6(f);
Eff. March 1, 1985;
Readopted Eff. March 1, 2023.

20 NCAC 02B .1007 LOCAL GOVERNMENT SERVICE PURCHASE: FULL ACTUARIAL LIABILITY

History Note: Authority G.S. 135-4(t); 135-6(f);
Eff. March 1, 1985;
Repealed Eff. March 1, 2023.

**20 NCAC 02B .1101 FEE
 20 NCAC 02B .1102 QUALIFICATION**

History Note: Authority G.S. 135-4(k); 135-6(f);
Eff. February 1, 1976;
Readopted Eff. September 21, 1977;
Repealed Eff. March 1, 2023.

20 NCAC 02B .1104 RECALCULATION OF BENEFITS

History Note: Authority G.S. 135-4(k); 135-6(f);
Eff. February 1, 1976;
Readopted Eff. September 21, 1977;
Repealed Eff. March 1, 2023.

**20 NCAC 02B .1204 DEFINITIONS
 20 NCAC 02B .1205 COMPUTATION OF COST**

History Note: Authority G.S. 135-6(f);
Eff. October 29, 1979;
Amended Eff. March 1, 1985; June 1, 1982;
Repealed Eff. March 1, 2023.

20 NCAC 02B .1207 SPECIAL RULE FOR RETIRED APPLICANTS

History Note: Authority G.S. 135-4(m); 135-6(f);
Eff. March 1, 1982;

Amended Eff. March 1, 1985;

Repealed Eff. March 1, 2023.

20 NCAC 02C .0101 GENERAL INFORMATION

General information about the Local Governmental Employees' Retirement System includes the following:

- (1) The Director is the Director of the Retirement Systems Division;
- (2) The mailing address and physical address is Retirement Systems Division, 3200 Atlantic Avenue, Raleigh, North Carolina 27604.

History Note: Authority G.S. 128-28(g);

Eff. February 1, 1976;

Readopted Eff. September 21, 1977;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 21, 2018;

Amended Eff. March 1, 2023; September 1, 2019.

20 NCAC 02C .0201 ACTUARIAL TABLES: RATES AND ASSUMPTIONS

History Note: Authority G.S. 128-27(m); 128-28(g);

Eff. February 1, 1976;

Readopted Eff. September 21, 1977;

Amended Eff. August 1, 1981;

Repealed Eff. March 1, 2023.

20 NCAC 02C .0204 FACILITY OF PAYMENT

History Note: Authority G.S. 128-28(g);

Eff. February 1, 1976;

Readopted Eff. September 21, 1977;

Repealed Eff. March 1, 2023.

20 NCAC 02C .0205 MEDICAL BOARD

In accordance with the authority contained in G.S. 128-28(l), membership of the Medical Board consists of five physicians, with a quorum of three required at meetings approving applications for disability retirement.

History Note: Authority G.S. 128-28(l);

Eff. February 1, 1976;

Readopted Eff. March 1, 2023; September 21, 1977.

20 NCAC 02C .0301 DESIGNATION

Any beneficiary designated, other than the estate of the member or a trustee named by and acting for the member, must be a living person at the time the designation is made. If it is desired that the estate be beneficiary, this should be indicated on the form.

History Note: Authority G.S. 128-27; 128-28(g);

Eff. February 1, 1976;

Readopted Eff. March 1, 2023; September 21, 1977.

20 NCAC 02C .0302 PRINCIPAL BENEFICIARY

(a) More than one principal beneficiary may be designated for the return of accumulated contributions under the provisions of G.S. 128-27(f) to share equally. In the event of the death of any so

designated principal beneficiary for the return of accumulated contributions, those surviving principal beneficiaries shall share equally in the total benefits. However, if there is only one living designated principal beneficiary for the return of accumulated contributions at the member's death and the member has met all other requirements under the provisions of G.S. 128-27(m), the designated principal beneficiary may elect to receive the alternative benefit under the provisions of G.S. 128-27(m).

(b) More than one principal beneficiary may be designated for the death benefit of an active member or a retired member under the provisions of G.S. 128-27(l), 128-27(l1), or 128-27(l6) to share equally. In the event of the death of any so designated principal beneficiary for the death benefit of an active member or retired member, those surviving principal beneficiaries shall share equally in the total benefits.

(c) More than one principal beneficiary may be designated for the guaranteed refund under the provisions of G.S. 128-27(g1) to share equally. In the event of the death of any so designated principal beneficiary for the guaranteed refund, those surviving principal beneficiaries shall share equally in the total benefits.

History Note: Authority G.S. 128-27(f); 128-27(g1); 128-27(l); 128-27(l1); 128-27(l6); 128-28(g);

Eff. February 1, 1976;

Readopted Eff. March 1, 2023; September 21, 1977.

20 NCAC 02C .0303 NO LIVING BENEFICIARY

If no designated beneficiary, whether principal or contingent, is living at the time of the member's death, payment of the amount due, if any, will be made to the administrator or executor of the estate or the collector of funds for the estate of the member.

History Note: Authority G.S. 128-27(g); 128-28(g);

Eff. February 1, 1976;

Readopted Eff. March 1, 2023; September 21, 1977.

20 NCAC 02C .0304 PAYMENTS TO BENEFICIARIES

(a) Payments to beneficiaries who are minors will be made to an appointed guardian or to the clerk of the superior court in the county which the beneficiary resides to the extent that such payment is authorized by law.

(b) In the event that the appointed guardian or the clerk of superior court in the county in which the beneficiary resides is unwilling or unable to accept payment on behalf of the minor beneficiary, payment may be made to a custodian in accordance with Chapter 33A of the North Carolina General Statutes, entitled North Carolina Uniform Transfers to Minors Act.

History Note: Authority G.S. 128-27(g); 128-28(g);

Eff. February 1, 1976;

Readopted Eff. March 1, 2023; September 21, 1977.

20 NCAC 02C .0306 BENEFICIARY CHANGE

Prior to retirement, the member may, at any time, change any beneficiaries designated for the return of accumulated contributions under the provisions of G.S. 128-27(f) or the death benefit for active members under the provisions of G.S. 128-27(l)

or 128-27(11) A retired member may, at any time, change any beneficiaries designated for:

- (1) The guaranteed refund under the provisions of G.S. 128-27(g1) until such time as the funds have been depleted;
- (2) The death benefit for active members under the provisions of G.S. 128-27(l) or 128-27(11) provided the change is submitted within 180 calendar days after the member's last active day of service; or
- (3) The death benefit for retired members under the provisions of G.S. 128-27(16).

The member shall submit any such change to the Board of Trustees using the form approved by the Board of Trustees for designation of the beneficiary for that purpose.

History Note: Authority G.S. 128-27(g); 128-27(g1); 128-27(l); 128-27(11); 128-27(16); 128-28(g); Eff. February 1, 1976; Readopted Eff. March 1, 2023; September 21, 1977.

20 NCAC 02C .0307 CONTINGENT BENEFICIARY

(a) The following shall apply to designating a contingent beneficiary for the return of accumulated contributions under the provisions of G.S. 128-27(f):

- (1) A principal beneficiary may be designated for the return of accumulated contributions with the stipulation that should the principal beneficiary predecease the member, payment of the amount due, if any, shall be made to the designated contingent beneficiary or beneficiaries for the return of accumulated contributions.
- (2) If more than one principal beneficiary is designated for the return of accumulated contributions, payment of the amount due, if any, shall be paid to any surviving principal beneficiaries designated for the return of accumulated contributions, sharing equally in the total benefits payable, and shall not be paid to any contingent beneficiary.
- (3) It is permissible to designate more than one contingent beneficiary for the return of accumulated contributions. Payment of the amount due, if any, shall be paid to the surviving contingent beneficiaries designated for the return of accumulated contributions, sharing equally in the total benefits, only in the event that there is no surviving principal beneficiary designated for the return of accumulated contributions.

(b) The following shall apply to designating a contingent beneficiary for the death benefit under the provisions of G.S. 128-27(l), 128-27(11), or 128-27(16):

- (1) A principal beneficiary may be designated for the death benefit of an active member or retired member with the stipulation that should the principal beneficiary predecease the member, payment of the amount due, if any, shall be

made to the designated contingent beneficiary or beneficiaries for the death benefit.

- (2) If more than one principal beneficiary is designated for the death benefit, payment of the amount due, if any, shall be paid to any surviving principal beneficiaries designated for the death benefit, sharing equally in the total benefits payable, and shall not be paid to any contingent beneficiary.
- (3) It is permissible to designate more than one contingent beneficiary for the death benefit. Payment of the amount due, if any, shall be paid to the surviving contingent beneficiaries designated for the death benefit, sharing equally in the total benefits, only in the event that there is no surviving principal beneficiary designated for the death benefit.

(c) The following shall apply to designating a contingent beneficiary for the guaranteed refund under the provisions of G.S. 128-27(g1):

- (1) A principal beneficiary may be designated for the guaranteed refund with the stipulation that should the principal beneficiary predecease the member, payment of the amount due, if any, shall be made to the designated contingent beneficiary or beneficiaries for the guaranteed refund.
- (2) If more than one principal beneficiary is designated for the guaranteed refund, payment of the amount due, if any, shall be paid to any surviving principal beneficiaries designated for the guaranteed refund, sharing equally in the total benefits payable, and shall not be paid to any contingent beneficiary.
- (3) It is permissible to designate more than one contingent beneficiary for the guaranteed refund. Payment of the amount due, if any, shall be paid to the surviving contingent beneficiaries designated for the guaranteed refund, sharing equally in the total benefits, only in the event that there is no surviving principal beneficiary designated for the guaranteed refund.

History Note: Authority G.S. 128-27(f); 128-27(g1); 128-27(l); 128-27(11); 128-27(16); 128-28(g); Eff. March 1, 2023.

20 NCAC 02C .0402 EMPLOYER'S CONTRIBUTIONS

All units shall forward to the Retirement System the employer's contributions monthly at the same time the employee's contributions are forwarded.

History Note: Authority G.S. 128-28(g); 128-30(g)(1); Eff. February 1, 1976; Readopted Eff. March 1, 2023; September 21, 1977.

20 NCAC 02C .0403 REFUNDS

(a) The Retirement System will make no refunds of employer contributions, paid into the Pension Accumulation Fund by the employer in the amount equal to a percentage of the actual compensation of each member, in cases of erroneous employee deductions except those which are corrected by the employing unit on a subsequent payroll within the calendar year in which the errors occur.

(b) Notwithstanding Paragraph (a) of this Rule, an error occurring in December may be corrected, and the associated employer contribution be refunded in the form of a credit toward future required employer contributions, by the employer's submission of a revised payroll report for the correct amount before January 31 of the following year.

(c) If an employer makes an additional contribution to the pension accumulation fund as a result of the contribution-based benefit cap and the Retirement System receives information which alters the calculation of the retirement benefit used to determine the contribution under the provisions of G.S. 128-30(g)(2)b., any contribution not required based on the new information will be refunded to the employer in the form of a credit toward future required employer contributions.

History Note: Authority G.S. 128-22; 128-28(g); 128-30(g);
Eff. February 1, 1976;
Readopted Eff. March 1, 2023; September 21, 1977.

20 NCAC 02C .0404 DUE DATE OF CONTRIBUTIONS

Both the employee and employer contributions are due in the Raleigh office of the Retirement System no later than the fifth State government working day of the month succeeding the month for which the contributions are required. Contributions received after the fifth State government working day of the month are delinquent.

History Note: Authority G.S. 128-28(g); 128-30(g);
Eff. March 1, 1992;
Readopted Eff. March 1, 2023.

20 NCAC 02C .0405 ANTI-PENSION SPIKING CONTRIBUTION-BASED BENEFIT CAP FACTOR (LGERS)

History Note: Authority G.S. 128-26(y); 128-27(a3); 128-28(g);
Eff. May 1, 2018;
Repealed Eff. March 1, 2023.

20 NCAC 02C .0501 DISABILITY EXAMINATION

The Medical Board is authorized to conduct an examination in doubtful cases of disability to determine whether the member continues to be eligible for a disability retirement pursuant to G.S. 128-27(c), paying the expense of the same from the Pension Accumulation Fund.

History Note: Authority G.S. 128-22; 128-27(c); 128-28(g);
Eff. February 1, 1976;
Readopted Eff. March 1, 2023; September 21, 1977.

20 NCAC 02C .0502 DISABILITY RETIREMENT REPORTS

When the Medical Board, subsequent to a disability retirement, reports that the retired member is engaged in or is able to engage in a gainful occupation, any adjustment required by G.S. 128-27(e)(1) will be made prospectively only and will not require any refund to the State of payments made during the period before a report is made indicating changed status.

History Note: Authority G.S. 128-27(e)(1); 128-28(g);
Eff. February 1, 1976;
Readopted Eff. March 1, 2023; September 21, 1977.

20 NCAC 02C .0503 FEES: INDEPENDENT MEDICAL EXAMS-DISABILITY RETIREMENTS

History Note: Authority G.S. 128-27(c); 128-28(g);
Eff. February 1, 1976;
Readopted Eff. September 21, 1977;
Amended Eff. March 1, 2023; August 1, 1981.

20 NCAC 02C .0504 REINSTATEMENT TO ACTIVE SERVICE

When members on disability retirement are reinstated to active service, no interest shall be allowed on their accounts during the year of reinstatement.

History Note: Authority G.S. 128-28(g); 128-29(b);
Eff. February 1, 1976;
Readopted Eff. March 1, 2023; September 21, 1977.

20 NCAC 02C .0704 WORKERS' COMPENSATION LEAVES OF ABSENCE

(a) Purchases of creditable service for leaves of absence prior to July 1, 1983 shall be made in the same manner as prescribed in 20 NCAC 02C .1500, as then effective.

(b) Members who had leaves of absence which otherwise met all requirements of law for purchase as creditable service except that the leaves of absence interrupted membership in the Teachers' and State Employees' Retirement System or the Law Enforcement Officers' Retirement System and whose membership service before and after the leaves of absence has become membership service in the Local Governmental Employees' Retirement System, may purchase creditable service as in Paragraph (a) of this Rule.

(c) Members may purchase creditable service for leaves of absence only when they have membership service credits immediately prior to and immediately after the leaves of absence and such membership service is creditable service at the time of purchase.

History Note: Authority G.S. 128-26(1); 128-28(g);
Eff. December 1, 1983;
Amended Eff. August 1, 1988;
Readopted Eff. March 1, 2023.

20 NCAC 02C .0901 LEAVE

When a member on military leave has withdrawn all of the member's contributions, the member shall be permitted to pay

back the amount withdrawn, to the extent permitted by law, restore membership, and receive credit for the associated period of military leave.

History Note: Authority G.S. 128-26(i1); 128-27(f); 128-28(g); S.L. 1987, C. 617;
Eff. February 1, 1976;
Readopted Eff. March 1, 2023; September 21, 1977.

20 NCAC 02C .0902 FEE

History Note: Authority G.S. 128-26(a); 128-28(g);
Eff. February 1, 1976;
Readopted Eff. September 21, 1977;
Repealed Eff. March 1, 2023.

20 NCAC 02C .0904 COMPUTATION OF COST

The cost of purchasing credit for military service is calculated as follows:

- (1) the monthly compensation the member earned when the member first entered membership; multiplied by
- (2) the contribution rate at the time the member first entered membership; multiplied by
- (3) the number of months of military service for which credit is to be purchased; plus
- (4) a factor equivalent to interest at the rate of six and one-half percent, compounded annually, from the initial year of membership to the year of payment.

History Note: Authority G.S. 128-26(a); 128-28(g); S.L. 1987, C. 617;
Eff. February 1, 1976;
Readopted Eff. September 21, 1977;
Amended Eff. March 1, 2023.

20 NCAC 02C .0906 CIVIL SERVICE PROGRAM

A member of the Local Governmental Employees' Retirement System whose employment in this State requires the member to participate in the Federal Civil Service Program in lieu of the Social Security program shall not be barred from receiving military service credit for which the member is otherwise eligible in the Retirement System despite the fact that the member may also receive credit under the Federal Civil Service Program for the same period of military service, provided that the member makes the required payment.

History Note: Authority G.S. 128-26(a); 128-28(g); S.L. 1987, C. 617;
Eff. February 1, 1976;
Readopted Eff. March 1, 2023; September 21, 1977.

20 NCAC 02C .0907 EXCLUSION

The exclusion for purchase of service in the Armed Forces of the United States as it pertains to credit for any other retirement system shall not include "service-connected disability" benefits received from the Veterans Administration of the Federal Government except when such benefits are a supplement to a

military longevity retirement ("retired pay") benefit. The term "service-connected disability" has the same meaning as used in Title 38, Chapter 11 of the United States Code which is hereby incorporated by reference, including subsequent additions and amendments, and is available online, at no cost, at <https://uscode.house.gov/browse/prelim@title38/part2&edition=prelim>. The term "retired pay" has the same meaning as used in Title 10, Chapter 71 of the United States Code which is hereby incorporated by reference, including subsequent additions and amendments, and is available online, at no cost, at <https://uscode.house.gov/browse/prelim@title10/subtitleA/part2/chapter71&edition=prelim>.

History Note: Authority G.S. 128-26(a); 128-28(g); S.L. 1987, C. 617;
Eff. February 1, 1976;
Readopted Eff. March 1, 2023; September 21, 1977.

20 NCAC 02C .0908 RECALCULATION OF BENEFITS

For members already retired who obtain military service credit, any recalculation of benefits shall be based on the law in effect at the time of the individual's retirement. The calculation of both the benefit and the cost of the credit shall include the effects of the additional service credit resulting from the purchase and all benefit increases subsequent to the date of retirement.

History Note: Authority G.S. 128-26(a); 128-28(g); S.L. 1987, C. 617;
Eff. February 1, 1976;
Readopted Eff. March 1, 2023; September 21, 1977.

20 NCAC 02C .0909 CHANGE IN BENEFITS

For members already retired, any change in benefits resulting from the provisions for obtaining military service credit shall become effective as of the first of the month following receipt of the required payment.

History Note: Authority G.S. 128-26(a); 128-28(g);
Eff. February 1, 1976;
Readopted Eff. March 1, 2023; September 21, 1977.

20 NCAC 02C .1001 FEE

History Note: Authority G.S. 128-26(j); 128-28(g);
Eff. February 1, 1976;
Readopted Eff. September 21, 1977;
Repealed Eff. March 1, 2023.

20 NCAC 02C .1002 QUALIFYING FOR CREDIT

In order to qualify, each individual must pay for all or such portion in full years as the member desires of out-of-state service for which the member is eligible.

History Note: Authority G.S. 128-26(j); 128-28(g); S.L. 1987, C. 617;
Eff. February 1, 1976;
Readopted Eff. March 1, 2023; September 21, 1977.

20 NCAC 02C .1003 OTHER GOVERNMENTAL SUBDIVISION

"Other governmental subdivision of the United States" means a state or territory and its subdivisions but not the United States Government.

History Note: Authority G.S. 128-28(g); S.L. 1987, C. 617;
Eff. February 1, 1976;
Readopted Eff. September 21, 1977;
Amended Eff. August 1, 1988;
Readopted Eff. March 1, 2023.

20 NCAC 02C .1004 COMPUTATION OF COST

The cost of purchasing credit for out-of-state service is calculated as follows:

- (1) the monthly compensation the member earned when the member first entered membership service; multiplied by
- (2) the employee contribution rate at that time; multiplied by
- (3) the number of months of out-of-state service for which credit is to be purchased; multiplied by
- (4) two; plus
- (5) a factor equivalent to interest at the rate of six and one-half percent, compounded annually, from the year of initial membership to the year of payment.

History Note: Authority G.S. 128-26(j); 128-28(g); S.L. 1987, C. 617;
Eff. February 1, 1976;
Readopted Eff. March 1, 2023; September 21, 1977.

20 NCAC 02C .1006 RECALCULATION OF BENEFITS

For members already retired who purchase service under G.S. 128-26(j), as repealed by Session Law 1987-617, s. 3, where the text of the repealed statutory provision may be found in the Editor's Note to G.S. 128-26 in the 2021 Edition of the General Statutes of North Carolina, any recalculation of benefits shall be based on the law in effect at the time of the individual's retirement. The calculation of both the benefit and the cost of the credit shall include the effects of the additional service credit resulting from the purchase and all benefit increases subsequent to the date of retirement.

History Note: Authority G.S. 128-26(j); 128-28(g); S.L. 1987, C. 617;
Eff. February 1, 1976;
Readopted Eff. March 1, 2023; September 21, 1977.

20 NCAC 02C .1007 CHANGE IN BENEFITS

For members already retired, any change in benefits resulting from the provisions for obtaining credit for out-of-state service shall become effective as of the first of the month following receipt of the required payment.

History Note: Authority G.S. 128-26(j); 128-28(g); S.L. 1987, C. 617;

Eff. February 1, 1976;
Readopted Eff. March 1, 2023; September 21, 1977.

20 NCAC 02C .1201 SERVICE RETIREMENT

History Note: Authority G.S. 128-24(4)a.; 128-28(g);
Eff. February 1, 1976;
Readopted Eff. September 21, 1977;
Repealed Eff. March 1, 2023.

**20 NCAC 02C .1301 FEE
 20 NCAC 02C .1302 QUALIFYING FOR CREDIT**

History Note: Authority G.S. 128-26(i); 128-28(g);
Eff. February 1, 1976;
Readopted Eff. September 21, 1977;
Repealed Eff. March 1, 2023.

20 NCAC 02C .1501 APPLICATION OF SECTION

History Note: Authority G.S. 128-26(k); 128-28(g);
Eff. December 1, 1981;
Amended Eff. March 1, 1985;
Repealed Eff. March 1, 2023.

**20 NCAC 02C .1503 DEFINITIONS
 20 NCAC 02C .1504 COMPUTATION OF COST
 20 NCAC 02C .1505 EXTENT OF SERVICE TO BE PURCHASED**

History Note: Authority G.S. 128-26(k); 128-28(g);
Eff. December 1, 1981;
Amended Eff. March 1, 1985; June 1, 1982;
Repealed Eff. March 1, 2023.

20 NCAC 02C .1506 SPECIAL RULE FOR RETIRED APPLICANTS

History Note: Authority G.S. 128-26(k); 128-28(g);
Eff. June 1, 1982;
Amended Eff. March 1, 1985;
Repealed Eff. March 1, 2023.

20 NCAC 02F .0101 GENERAL INFORMATION

The following is general information about the Consolidated Judicial Retirement System:

- (1) For purposes of this Subchapter, "Director" means the Director of the Retirement Systems Division;
- (2) The mailing address and physical address is Retirement Systems Division, Department of State Treasurer, 3200 Atlantic Avenue, Raleigh, North Carolina 27604.

History Note: Authority G.S. 135-6(f); 135-54;
Eff. February 1, 1976;
Readopted Eff. September 21, 1977;
Amended Eff. March 1, 1985;
Amended Eff. September 1, 2019;

Readopted Eff. March 1, 2023.

20 NCAC 02F .0104 ACTUARIAL TABLES: RATES AND ASSUMPTIONS

History Note: Authority G.S. 135-69; 135-6(f); Eff. September 21, 1977; Amended Eff. August 1, 1981; Repealed Eff. March 1, 2023.

20 NCAC 02F .0107 FINAL COMPENSATION FOR THREE-FOURTHS LIMITATION

For the sole purpose of calculating the "three-fourths" limitation of the member's final compensation under G.S. 135-58(a6) for a member whose final state service was not as a member of this system, the phrase "final compensation" shall mean the rate of compensation established for the last position held by the member applicable to this system.

History Note: Authority G.S. 135-6(f); 135-58(a6); Eff. June 1, 1984; Readopted Eff. March 1, 2023.

20 NCAC 02F .0108 FULL ACTUARIAL COST

History Note: Authority G.S. 135-52; 135-6(f); Eff. March 1, 1985; Repealed Eff. March 1, 2023.

20 NCAC 02L .0101 GENERAL INFORMATION

The following is general information about the Separate Insurance Benefit Plan for State and Local Governmental Law Enforcement Officers':

- (1) For purposes of this Subchapter, "Director" means the Director of the Retirement Systems Division;
- (2) The mailing address and physical address is Retirement Systems Division, Department of State Treasurer, 3200 Atlantic Avenue, Raleigh, North Carolina 27604.

History Note: Authority G.S. 128-28(g); 135-6(f); 143-166.60(b); 143-166.60(d); Eff. August 1, 1983; Amended Eff. September 1, 2019; Readopted Eff. March 1, 2023.

20 NCAC 02L .0103 DEFINITIONS

The following words as used in this Subchapter, unless a different meaning is clearly required by the context, shall have the following meanings:

- (1) "Officer" shall mean a law enforcement officer as defined in G.S. 128-21(11d) and G.S. 135-1(11c).
- (2) "Officer Trainee" shall mean a cadet or officer trainee who is a full-time employee enrolled in training schools or academies of the State and any political subdivision thereof and who will become an officer at the completion of the training.

- (3) "Participant" shall mean an Officer or Officer Trainee.
- (4) "Separate Insurance Benefit Plan" shall mean the employee welfare benefit plan created in G.S. 143-166.60.
- (5) "Service" shall mean service as an Officer for which compensation is paid.

History Note: Authority G.S. 128-28(g); 135-6(f); 143-166.60(b); 143-166.60(d); Eff. August 1, 1983; Amended Eff. August 1, 1988; April 1, 1985; Readopted Eff. March 1, 2023.

20 NCAC 02L .0202 RETIRED MEMBERS

History Note: Authority G.S. 143-166.60; Eff. August 1, 1983; Repealed Eff. March 1, 2023.

20 NCAC 02L .0302 ACCIDENT AND HOSPITAL BENEFITS

History Note: Authority G.S. 143-166.60; Eff. August 1, 1983; Repealed Eff. March 1, 2023.

20 NCAC 02M .0101 DEFINITIONS

The following definitions apply to the Contributory Death Benefit for Retired Members:

- (1) "Retired member" shall mean a former teacher, employee, or official in receipt of a monthly retirement allowance or who has a terminated retirement allowance resulting from reemployment from the Teachers' and State Employees' Retirement System, Local Governmental Employees' Retirement System, Consolidated Judicial Retirement System, or Legislative Retirement System; however, "retired member" shall not mean any beneficiary in receipt of a monthly retirement allowance by reason of the death of a retired member or former teacher, employee, or official.
- (2) "Member" shall mean a retired member of the Teachers' and State Employees' Retirement System, Local Governmental Employees' Retirement System, Consolidated Judicial Retirement System, Legislative Retirement System or Legislative Retirement Fund who has elected coverage and who makes continuous contributions under the Contributory Death Benefit for Retired Members.
- (3) "Surviving spouse" shall mean a living person who is legally married to a member covered under the Contributory Death Benefit for Retired Members at the date of death of the member.

- (4) "Legal representative" shall mean the administrator or executor of the estate of a member or the collector of funds for the estate of the member.
- (5) "Retirement system" shall mean the Teachers' and State Employees' Retirement System, Local Governmental Employees' Retirement System, Consolidated Judicial Retirement System, or Legislative Retirement System.
- (6) "Boards of Trustees" shall mean the Boards of Trustees of the Teachers' and State Employees' Retirement System and the Local Governmental Employees' Retirement System, each acting in accordance with the provisions of G.S. 128-28(f1) and G.S. 135-6(e1).

History Note: Authority G.S. 120-4.10; 120-4.27; 128-27(12); 128-27(13); 128-27(14); 128-27(15); 128-27(16); 128-28(g); 135-5(1); 135-6(f); 135-64(g);
Eff. February 1, 1989;
Amended Eff. March 1, 2023.

20 NCAC 02M .0102 AGENCY AND AUTHORITY OF DIRECTOR

- (a) The mailing address for the Contributory Death Benefit for Retired Members is the Retirement Systems Division, Department of State Treasurer, 3200 Atlantic Avenue, Raleigh, North Carolina 27604.
- (b) The Director of the Retirement Systems Division shall make decisions as it relates to the Contributory Death Benefit for Retired Members in accordance with the statutes and rules and regulations adopted by the Boards of Trustees and previous decisions of the Boards of Trustees. Appeals may be made from the decisions of the Director under the procedures used for contested cases as provided under Section .0400 of Title 20, Chapter 02, Subchapter A.

History Note: Authority G.S. 120-4.10; 120-4.27; 128-27(12); 128-27(13); 128-27(14); 128-27(15); 128-27(16); 128-28(g); 135-5(1); 135-6(f); 135-64(g);
Eff. February 1, 1989;
Amended Eff. March 1, 2023; September 1, 2019.

20 NCAC 02M .0104 TIME AND DATE

History Note: Authority G.S. 120-4.10; 120-4.27; 128-27(12); 128-28(g); 135-5(1); 135-6(f); 135-64(g);
Eff. April 1, 1989;
Repealed Eff. March 1, 2023.

20 NCAC 02M .0201 ELIGIBILITY TO ELECT COVERAGE

- (a) A retired member in receipt of a monthly retirement allowance as a former teacher, employee, or official of more than one of the Retirement Systems is eligible to elect coverage under each Retirement System from which the member receives a retirement benefit; however, if a retired member is receiving more than one retirement benefit from the same Retirement System, the member

may elect coverage only on the basis of one retirement benefit from that Retirement System.

- (b) A former teacher, employee or official in receipt of disability benefits from the Disability Income Plan of North Carolina is not in receipt of a retirement allowance and is not eligible to elect coverage under the Contributory Death Benefit for Retired Members until such time as the disability benefit is converted to a service retirement allowance.

History Note: Authority G.S. 120-4.10; 120-4.27; 128-27(12); 128-27(13); 128-27(14); 128-27(15); 128-27(16); 128-28(g); 135-5(1); 135-6(f); 135-64(g);
Eff. February 1, 1989;
Amended Eff. March 1, 2023.

20 NCAC 02M .0202 WHEN FIRST ELIGIBLE

A retired member's eligibility to make an election for coverage is based on the following:

- (1) If retired on or before June 1, 1988, the words "when first eligible" to make an election for coverage will mean 60 days from July 1, 1988 or no later than September 1, 1988.
- (2) If retiring on or after July 1, 1988, the words "when first eligible" to make an election for coverage will mean 60 days from the effective date of retirement under the Retirement System.

History Note: Authority G.S. 120-4.10; 120-4.27; 128-27(12); 128-27(13); 128-27(14); 128-27(15); 128-27(16); 128-28(g); 135-5(1); 135-6(f); 135-64(g);
Eff. February 1, 1989;
Amended Eff. March 1, 2023.

20 NCAC 02M .0206 REINSTATEMENT

Upon cancellation of coverage under Rule .0205 of this Section, coverage cannot be reinstated, nor can a retired member reapply for coverage.

History Note: Authority G.S. 120-4.10; 120-4.27; 128-27(12); 128-27(13); 128-27(14); 128-27(15); 128-27(16); 128-28(g); 135-5(1); 135-6(f); 135-64(g);
Eff. February 1, 1989;
Amended Eff. March 1, 2023.

20 NCAC 02M .0301 CONTRIBUTION RATES

- (a) The monthly contribution rates shall be established by resolution of the Boards of Trustees as recommended by the consulting actuary. The consulting actuary in making a recommended schedule of monthly contribution rates shall take into consideration mortality experience, selection experience, actuarial interest rate assumption which may be different from the interest rate assumption used in the valuation of the liabilities of the Retirement System, administrative and investment costs, and such other factors as may be appropriate in establishing such schedule of monthly contribution rates.

- (b) The Boards of Trustees may from time to time revise by resolution the schedule of monthly contribution rates as may be recommended by the consulting actuary for teachers, employees, and officials retiring and electing an effective date of coverage

after the effective date of the revision. Such revision may be, but is not required to be, applicable to members electing coverage prior to the effective date of the revision provided that such revised rates shall not be greater than the rates in effect at the effective date of coverage for those members electing an effective date of coverage prior to the effective date of the revision.

History Note: Authority G.S. 120-4.10; 120-4.27; 128-27(12); 128-27(13); 128-27(14); 128-27(15); 128-27(16); 128-28(g); 135-5(1); 135-6(f); 135-64(g); Eff. February 1, 1989; Amended Eff. March 1, 2023.

20 NCAC 02M .0302 MEMBER CONTRIBUTION

(a) The monthly contribution rate paid by a member shall be based on the member's nearest age as of the effective date of coverage and the applicable rates as of that date as set by the Boards of Trustees and will remain the same as long as the coverage is in effect.

(b) Any misstatement as to the age of the member which causes the contribution of the member to have been paid at a greater or lesser rate during the period of the coverage of the member not paid or refunded prior to the death of the member will result in any underpayment of contributions being offset against the death benefit and any overpayment of contributions being paid to the following:

- (1) the person or persons designated by the member;
- (2) if the member has not designated a beneficiary, to the surviving spouse; or
- (3) if the member is not survived by a designated beneficiary or spouse, to the legal representative.

History Note: Authority G.S. 120-4.10; 120-4.27; 128-27(12); 128-27(13); 128-27(14); 128-27(15); 128-27(16); 128-28(g); 135-5(1); 135-6(f); 135-64(g); Eff. February 1, 1989; Amended Eff. March 1, 2023.

20 NCAC 02M .0303 PAYMENT OF CONTRIBUTION

(a) The monthly contributions of members covered under the Contributory Death Benefit for Retired Members are to be paid monthly to the Contributory Death Benefit Trust for Retired Members beginning in the month in which coverage becomes effective and shall continue each month thereafter.

(b) Payment of the monthly contributions shall be deducted from a member's net monthly retirement allowance from the Retirement System if member's net monthly retirement allowance, after other required deductions, such as for taxes and garnishments, is sufficient to cover the cost of the contribution; however, if the net monthly retirement allowance from the Retirement System is not sufficient to cover the cost of the contribution, the Retirement Systems Division shall provide the member a Notice of Contribution Due within ten days after the determination of insufficiency with payment of monthly contributions due not later than the 25th of the month following the determination of insufficiency, and thereafter a Notice of Contribution Due shall be provided between the first and the fifth

of each month with payment due on or before the 25th of that month.

(c) The contribution due for the month in which the member's death occurs is to be paid from the final monthly retirement benefit due in the month of death, or by payment from the member's surviving spouse or legal representative; provided that, if member's death occurs during the 24-month period from the effective date of coverage, the deduction or payment of the contribution for the month in which death occurs shall be waived if it has not been received by the Retirement Systems Division before the Retirement Systems Division issues the return of contributions.

(d) Once coverage is elected, the member shall pay the required monthly contribution in order to maintain coverage regardless of any condition which might occur that would terminate or diminish the retirement benefit the retired member is receiving, such as reemployment or the reduction or termination of retirement benefits by reason of an optional form of retirement allowance selected by the retired member at retirement.

History Note: Authority G.S. 120-4.10; 120-4.27; 128-27(12); 128-27(13); 128-27(14); 128-27(15); 128-27(16); 128-28(g); 135-5(1); 135-6(f); 135-64(g); Eff. February 1, 1989; Amended Eff. March 1, 2023.

20 NCAC 02M .0304 AMOUNT OF BENEFIT PAYABLE

History Note: Authority G.S. 120-4.10; 120-4.27; 128-27(12); 128-28(g); 135-5(1); 135-6(f); 135-64(g); Eff. February 1, 1989; Repealed Eff. March 1, 2023.

20 NCAC 02M .0305 PAYMENT OF INTEREST ON BENEFIT

The following shall apply to interest payable on the monthly contributions of a member where the member's death occurs prior to the first day of the month following the 24th month of coverage:

- (1) The annual rate of interest shall be set from time to time by resolution of the Boards of Trustees and, in setting such annual rate of interest, the Boards of Trustees may take into consideration the actuarial interest rate assumption, yields realized and anticipated on short-term investments, cost of investing and administration, and such other factors affecting interest rates as may be appropriate.
- (2) Such interest as set by the Boards of Trustees shall be computed on each monthly payment from the end of the month in which the monthly payment is paid and on the balance of the monthly contributions and interest at the beginning of the calendar year to the end of the month in which the member dies.

History Note: Authority G.S. 120-4.10; 120-4.27; 128-27(12); 128-27(13); 128-27(14); 128-27(15); 128-27(16); 128-28(g); 135-5(1); 135-6(f); 135-64(g);

Eff. February 1, 1989;
Amended Eff. March 1, 2023.

20 NCAC 02M .0307 BENEFITS PAYABLE AFTER CANCELLATION

Should death of a former member occur on or after the effective date of cancellation of coverage, benefits under the Contributory Death Benefit for Retired Members shall not be due and shall not be payable.

History Note: Authority G.S. 120-4.10; 120-4.27; 128-27(l2); 128-27(l3); 128-27(l4); 128-27(l5); 128-27(l6); 128-28(g); 135-5(l); 135-6(f); 135-64(g);
Eff. February 1, 1989;
Amended Eff. March 1, 2023.

20 NCAC 02N .0106 OFFICE OF THE DIRECTOR

The mailing and physical address of the Office of the Director of the Retirement Systems Division is Retirement Systems Division, Department of State Treasurer, 3200 Atlantic Avenue, Raleigh, North Carolina 27604. Office hours are from 8 a.m. to 5 p.m., Mondays - Fridays, except State holidays.

History Note: Authority G.S. 58-86-10;
Eff. June 1, 1988;
Recodified from 3 NCAC 3 Eff. May 1, 1993;
Amended Eff. October 1, 1993;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 21, 2018;
Amended Eff. March 1, 2023; September 1, 2019.

20 NCAC 02N .0108 DIVISIONAL RULES

The following rules are hereby incorporated by reference including subsequent amendments to the rules:

- (1) Rules 20 NCAC 02A .0101, .0102, and .0103;
- (2) Sections 20 NCAC 02A .0200, .0300, and .0400; and
- (3) Rule 20 NCAC 02A .0504.

History Note: Authority G.S. 58-86-10; 150B-21.6;
Eff. October 1, 1993;
Readopted Eff. March 1, 2023.

20 NCAC 02N .0208 APPLYING FOR MEMBERSHIP

(a) Only eligible firefighters or eligible rescue squad workers may join the pension fund. In order to join the pension fund they must complete the application for membership and return it to the office of the Director.

(b) Applications for membership may be obtained from the office of the Director at the address shown in Rule .0106 of this Subchapter. The application asks for general information, including the applicant's name, address, social security number, date of birth, phone number, email address, gender, fire department or rescue squad, his or her first employment date with that department or squad, and requires a signature by an authorized representative of the fire department or rescue squad.

(c) After the Director has received and approved the application and received the monthly payment required by G.S. 58-86-35 or

58-86-40, the Director shall enroll the applicant in the pension fund.

History Note: Authority G.S. 58-86-10; 58-86-35; 58-86-40;
Eff. June 1, 1988;
Recodified from 3 NCAC 3 Eff. May 1, 1993;
Amended Eff. December 1, 1993;
Readopted Eff. March 1, 2023.

20 NCAC 02N .0215 MILITARY SERVICE

(a) Any member who enters the armed forces may take a military leave of absence as provided by Paragraph (b) of this Rule, continue to receive service credit as provided by Paragraph (c) of this Rule, or withdraw from the pension fund and seek a refund.

(b) To take a military leave of absence a member shall provide written notice to the office of the Director that the member is taking such leave. The member shall specify in the notice the branch of the armed forces the member is entering and the expected dates of entry and discharge. The member shall deliver the notice to the office of the Director no later than six months after the member ceases service as an eligible firefighter or an eligible rescue squad worker, whichever is applicable, or the member will be deemed to have withdrawn from the pension fund. No member may remain on military leave of absence for more than one normal draft or enlistment period, whichever is applicable. Any member who has taken a military leave of absence shall commence service as either an eligible firefighter or an eligible rescue squad worker within six months after the expiration of a normal draft or enlistment period, whichever is applicable, or within six months after the member's discharge if that occurs earlier, or else the member will be deemed to have withdrawn from the pension fund.

(c) Any member who enters the armed forces shall continue to receive service credit if the member notifies the office of the Director in writing of the member's intent to do so and if the member continues to make monthly payments required by G.S. 58-86-35 or 58-86-40. Credit for time served in the armed forces is limited to one normal draft or enlistment period, whichever is applicable.

History Note: Authority G.S. 58-86-10;
Eff. June 1, 1988;
Recodified from 03 NCAC 03 Eff. May 1, 1993;
Amended Eff. December 1, 1993;
Readopted Eff. March 1, 2023.

20 NCAC 02N .0218 RETIREMENT BENEFITS

History Note: Authority G.S. 58-86-10; 58-86-55;
Eff. June 1, 1988;
Recodified from 3 NCAC 3 Eff. May 1, 1993;
Amended Eff. December 1, 1993;
Repealed Eff. March 1, 2023.

20 NCAC 02N .0219 REFUNDS OF DECEASED MEMBERS' PAYMENTS

In order to receive the lump sum payment for deceased members provided by G.S. 58-86-60(2) and (3), the person or persons entitled to such payment shall file with the office of the Director

a death certificate and a letter requesting the payment. The amount of the payment will be determined in accordance with G.S. 58-86-60 and, accordingly, no interest will be paid on the monthly payments.

*History Note: Authority G.S. 58-86-10; 58-86-60;
Eff. June 1, 1988;
Recodified from 3 NCAC 3 Eff. May 1, 1993;
Amended Eff. December 1, 1993;
Readopted Eff. March 1, 2023.*

TITLE 21 - OCCUPATIONAL LICENSING BOARDS AND COMMISSIONS

CHAPTER 18 - BOARD OF EXAMINERS OF ELECTRICAL CONTRACTORS

21 NCAC 18B .0201 REQUIREMENTS FOR ALL EXAMINATION APPLICANTS

(a) To take an examination in any electrical contracting license classification, the applicant shall:

- (1) be 18 years of age;
- (2) submit the required duly filed application as defined in Rule .0210 of this Section;
- (3) submit with the application written statements from two persons, attesting to the applicant's good character; and
- (4) meet the requirements set out in Paragraph (b) of this Rule.

(b) Examination applicants shall meet the following requirements for the specified license classifications:

- (1) Limited classification. An applicant shall have 3,000 hours of experience, as defined in Rule .0202 of this Section, of which 2,000 hours shall be primary experience. The balance of experience may be primary, secondary, or both.
- (2) Intermediate classification. An applicant shall have 5,750 hours of experience, as defined in Rule .0202 of this Section, of which 5,000 hours shall be primary experience. The balance of experience may be primary, secondary, or both.
- (3) Unlimited classification. An applicant shall:
 - (A) have 9,000 hours of experience, as defined in Rule .0202 of this Section, of which 8,000 hours shall be primary experience. The balance of experience may be primary, secondary, or both; and
 - (B) submit with the application written statements from two persons who are knowledgeable of the applicant's electrical experience, attesting to the applicant's ability to supervise and direct all electrical wiring or electrical installation work of an electrical contracting business in the unlimited classification.

- (4) Single family detached residential dwelling (SP-SFD) classification. An applicant shall have 3,000 hours of experience, as defined in Rule .0202 of this Section, of which 2,000 hours shall be primary experience. The balance of experience may be primary, secondary, or both.
- (5) Special restricted fire alarm/low voltage (SP-FA/LV) classification. An applicant shall have 3,000 hours of experience, as defined in Rule .0202 of this Section, of which one year 2,000 hours shall be primary experience. The balance of experience may be primary, secondary, or both. An applicant in this classification may also receive creditable experience for service in any of the capacities listed in Rule .0202 that the applicant gained in the low voltage field.
- (6) Special restricted elevator (SP-EL) classification. An applicant shall:
 - (A) have 3,000 hours of experience, as defined in Rule .0202 of this Section, of which 2,000 hours shall be primary experience. The balance of experience may be primary, secondary, or both. An applicant in this classification shall also receive creditable experience for service in any of the capacities listed in Rule .0202 that the applicant gained in the elevator field; and
 - (B) include on the application information to establish that the applicant is regularly on active duty in, and will be the listed qualified individual for a firm that is primarily engaged in, a lawful elevator business in this State, consistent with G.S. 87-43 and 21 NCAC 18B .0301.
- (7) Special restricted plumbing and heating (SP-PH) classification. An applicant shall:
 - (A) have 3,000 hours of experience, as defined in Rule .0202 of this Section, of which 2,000 hours shall be primary experience. The balance of experience may be primary, secondary, or both. An applicant in this classification shall also receive creditable experience for service in any of the capacities listed in Rule .0202 that the applicant gained in the plumbing, heating, or air conditioning field; and
 - (B) include on the application information verifying that the applicant is regularly on active duty in, and will be the listed qualified individual for a firm that is primarily engaged in, a lawful plumbing, heating, or air conditioning business in this State consistent with G.S. 87-43 and 21 NCAC 18B .0301.

- (8) Special restricted ground water pump (SP-WP) classification. An applicant shall:
- (A) have 3,000 hours of experience, as defined in Rule .0202 of this Section, of which 2,000 hours shall be primary experience. The balance of experience may be primary, secondary, or both. An applicant in this classification shall also receive creditable experience for service in any of the capacities listed in Rule .0202 that the applicant gained in the ground water pump field; and
- (B) include on the application information to establish that the applicant is regularly on active duty in, and will be the listed qualified individual for a firm that is primarily engaged in, a lawful ground water pump business in this State, consistent with G.S. 87-43 and 21 NCAC 18B .0301.
- (9) Special restricted electric sign (SP-ES) classification. An applicant shall:
- (A) have 3,000 hours of experience, as defined in Rule .0202 of this Section, of which 2,000 hours shall be primary experience. The balance of experience be primary, secondary, or both. An applicant in this classification shall also receive creditable experience in any of the capacities listed in Rule .0202 that the applicant gained in the electric sign field; and
- (B) include on the application information to establish that the applicant is regularly on active duty in, and will be the listed qualified individual for a firm that is primarily engaged in, a lawful electric sign business in this State.
- (10) Special restricted swimming pool (SP-SP) classification. An applicant shall:
- (A) have 3,000 hours of experience, as defined in Rule .0202 of this Section, of which 2,000 hours shall be primary experience. The balance of experience may be primary, secondary, or both. An applicant in this classification shall also receive creditable experience for service in any of the capacities listed in Rule .0202 that the applicant gained in the swimming pool field; and
- (B) include on the application information verifying that the applicant is regularly on active duty in, and will be the listed qualified individual for a firm that is primarily engaged in, a lawful swimming pool business in this State, consistent with G.S. 87-43 and 21 NCAC 18B .0301.

History Note: Authority S.L. 2022-11; G.S. 87-42; 87-43.3; 87-43.4; 87-44;
Eff. October 1, 1988;
Amended Eff. January 1, 2010; March 1, 1999; February 1, 1990;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. February 2, 2016;
Amended Eff. March 1, 2023; February 1, 2019; October 1, 2017.

21 NCAC 18B .0213 ALTERNATIVE EXAMINATION

- (a) In the alternative to the qualifying examinations administered by the Board for any license classification, an applicant may submit an Alternative Test Application form from the Board's website. The alternative application submission form must document a passing score from the computer-based examination entitled "Electrical Contractor" certified by the National Association State Contractor Licensing Agencies (NASCLA).
- (b) In addition to passing the qualifying examinations set forth in Paragraph (a) of this Rule, applicant must satisfy all experience requirements, age and character requirements set forth in Rules 21 NCAC 18B .0201 and 21 NCAC 18B .0203.
- (c) An applicant under this rule shall further be required to obtain a passing score of at least 18 of the 25 questions answered correctly on the North Carolina Laws, Rules and Business Practices test. The questions for the North Carolina Laws, Rules and Business Practices test are set forth on the NASCLA alternative application. Applicants under this rule shall complete the North Carolina Laws, Rules and Business Practices test remotely and are permitted to use information from the Board's website during the test.

History Note: Authority G.S. 87-42;
Eff. March 1, 2023.

**21 NCAC 18B .0308 BIDDING PROJECTS
 PURSUANT TO G.S. 87-1.1**

For a Contractor licensed by the State Board of Examiners of Electrical Contractors to qualify to bid either plumbing, heating, fire sprinkler or general contracting projects pursuant to G.S. 87-1.1, the building project must be bid and performed subject to the following conditions:

- (1) the total amount of work to be performed by all licensed general contractors shall not exceed 25 percent of the total bid price;
- (2) the total amount of work to be performed by all licensed contractors issued by a license by the State Board of Examiners of Plumbing, Heating and Fire Sprinkler Contractors under Article 2 of Chapter 87 of the North Carolina General Statutes shall not exceed 25 percent of the total bid price.

History Note: Authority G.S. 87-1.1; 87-42; S.L. 2021-122; 2022-6;
Eff. March 1, 2023.

**CHAPTER 42 – BOARD OF EXAMINERS IN
 OPTOMETRY**

21 NCAC 42B .0101 APPROVED SCHOOLS OF OPTOMETRY

The Board may grant recognition and approval, deny or rescind recognition and approval, or make any recognition and approval granted by the Board conditional or probational, to any school accredited by the Accreditation Council on Optometric Education. The Board, in its discretion, may base such determination on its assessment of the quality of the educational programs and offerings of each school or college of optometry.

History Note: Authority G.S. 90-117.5; 90-118(a),(b);
Eff. February 1, 1976;
Readopted Eff. May 30, 1978;
Amended Eff. April 1, 2011; April 1, 1993; June 1, 1989;
September 30, 1981;
Pursuant to G.S. 150B-21.3A, rule is necessary without
substantive public interest Eff. May 23, 2015;
Amended Eff. March 1, 2023.

21 NCAC 42B .0303 FAILURE TO MEET CONTINUING EDUCATION REQUIREMENT

For a first failure to comply with 21 NCAC 42B .0302 the Board may require that the optometrist complete an additional five hours of attendance at approved continuing education programs. In the calendar year following such failure to comply, the optometrist must complete a sufficient number of hours at approved continuing education programs to cure the prior year's shortfall, meet the current year's continuing education obligation, and meet any penalty imposed as a result of the prior year's shortfall. Any subsequent failure to comply with 21 NCAC 42B .0302 may subject the optometrist to disciplinary action under G.S. 90-121.2.

History Note: Authority G.S. 90-117.5; 90-121.2; 90-123.1
Eff. February 1, 1976;
Readopted Eff. May 30, 1978;
Amended Eff. June 1, 1989; September 30, 1981;
Pursuant to G.S. 150B-21.3A, rule is necessary without
substantive public interest Eff. May 23, 2015;
Amended Eff. March 1, 2023.

21 NCAC 42D .0101 DEFINITIONS

History Note: Authority G.S. 90-115.1(6); 90-117.5;
Eff. February 1, 1976;
Readopted Eff. May 30, 1978;
Amended Eff. June 1, 1989; September 30, 1981;
Pursuant to G.S. 150B-21.3A, rule is necessary without
substantive public interest Eff. May 23, 2015;
Repealed Eff. March 1, 2023.

21 NCAC 42D .0102 FUNCTION

(a) For the purposes of this Rule, "paraoptometric personnel" means an optometric assistant, optometric technician, or similarly titled position who qualifies by training and experience to perform duties of an administrative, technical, or clinical nature and is directed and supervised by a licensed optometrist.
 (b) Paraoptometric personnel shall perform his or her functions within the scope of his or her training, as directed by and assigned

by an optometrist, so long as those functions are at the specific direction and under the supervision of the licensee.

History Note: Authority G.S. 90-115.1(6); 90-117.5;
Eff. February 1, 1976;
Readopted Eff. May 30, 1978;
Amended Eff. June 1, 1989; September 30, 1981;
Pursuant to G.S. 150B-21.3A, rule is necessary without
substantive public interest Eff. May 23, 2015;
Amended Eff. March 1, 2023.

21 NCAC 42M .0101 DEFINITIONS

As used in this Subchapter:

- (1) An "institution" is a school or college of optometry approved by the Board in accordance with Rule 21 NCAC 42B .0101.
- (2) A "preceptee" is an individual who is still enrolled as a student in a school or college of optometry approved by the Board and whose clinical training is continuing under the auspices and control of the institution in which he or she is enrolled and under the supervision of the preceptor to which he or she has been assigned by his or her institution.
- (3) A "preceptor" is an optometrist, duly licensed in the State of North Carolina, credentialed by the institution for which he is serving as preceptor and who has been approved by the Board to act as such and under whose supervision a preceptee serves.
- (4) A "preceptorship" is a course of study in which students enrolled in a school approved pursuant to Rule 21 NCAC 42B .0101 receive part of their clinical training in a private practice setting outside the direct confines of the educational institution and whose training is continuing under the auspices and overall responsibility of the institution in which he or she is enrolled and under the supervision of a preceptor credentialed by the institution for which he or she is acting as a preceptor and whose credentials have been approved by the board.

History Note: Authority G.S. 90-115.1(3); 90-117.5;
Eff. April 1, 1993;
Pursuant to G.S. 150B-21.3A, rule is necessary without
substantive public interest Eff. May 23, 2015;
Amended Eff. March 1, 2023.

21 NCAC 42M .0106 TERMINATION

(a) Approval and registration of a preceptor shall continue in effect until terminated by the Board, by the institution from whom he or she received his or her credentials as a preceptor, or until 30 days after written notification of termination is submitted by the preceptor to the Board. The approval and registration of a preceptor may be terminated, after notice and hearing, for any violation of these Rules.

(b) The approval of a preceptee shall be terminated by the Board no later than 30 days following the date of graduation or when, after notice and hearing, the Board finds:

- (1) that the preceptee has held himself or herself out or permitted another to represent him or her as a licensed optometrist;
- (2) that the preceptee has in fact performed professional services while not under the supervision of an optometrist licensed by the Board or has been delegated and performed a task or tasks beyond his or her competence;
- (3) that the preceptee is a user of intoxicants or drugs to such an extent that he or she is unable to perform as a preceptee to an optometrist;
- (4) that the preceptee has been convicted in any court, state or federal, of any felony or other criminal offense involving moral turpitude;
- (5) that the preceptee has been adjudicated a mental incompetent or whose mental condition renders him or her unable to safely perform as a preceptee to an optometrist; or
- (6) that the preceptee has committed any act or omission which would subject him or her to discipline under G.S. 90-121.2 or under these Rules.

(c) Approval of a preceptorship shall continue in effect until terminated by the Board or until 30 days after written notification of termination is submitted by the institution to the Board. A preceptorship may be terminated, after notice and hearing, for any violation of the rules of this Chapter.

History Note: Authority G. S. 90-115.1(3); 90-117.5; 90-121.2;
Eff. April 1, 1993;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 23, 2015;
Amended Eff. March 1, 2023.

CHAPTER 46 – BOARD OF PHARMACY

21 NCAC 46 .1819 COVID-19 DRUG PRESERVATION RULE

History Note: Authority G.S. 90-85.6; 90-85.26; 90-85.32;
Emergency Adoption Eff. April 1, 2020;
Temporary Adoption Eff. June 26, 2020;
Eff. February 1, 2021;
Repealed Eff. March 1, 2023.

CHAPTER 50 - BOARD OF EXAMINERS OF PLUMBING, HEATING AND FIRE SPRINKLER CONTRACTORS

21 NCAC 50 .0403 USE OF LICENSE

- (a) A licensed contractor or technician shall not permit the use of his license by any other person.
- (b) A contractor licensed by the Board shall not bid or contract installations requiring license of a type or classification issued by this Board which the licensee does not have except as a part of a documented joint venture with a licensee holding the necessary qualification or in accordance with the provisions set out in 21 NCAC 50 .0415. Bidding without qualification and with an intention to subcontract the unauthorized work does not satisfy this requirement. However in a contract administered pursuant to G.S. 143-129 and in which more than one classification administered by this Board has been combined in the separate contract specifications, a licensee of this Board holding either of such qualifications may bid both of such classifications of work administered by this Board in addition to the classification for which he holds license if the successful bidder obtains an executed written contract with a qualified licensee prior to the award of the contract by the awarding authority.
- (c) A technician licensed by this Board shall not contract work based on the Technician license.

History Note: Authority G.S. 87-18; 87-23; 87-26; 87-1.1;
Eff. February 1, 1976;
Readopted September 29, 1977;
Amended Eff. December 31, 2011; November 1, 1993; May 1, 1989;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22, 2015;
Amended Eff. March 1, 2023.

21 NCAC 50 .0415 PROPOSAL, BID, ESTIMATE, PERFORMANCE UNDER G.S. 87-1.1

For a Contractor licensed by the State Board of Examiners of Plumbing, Heating and Fire Sprinkler Contractors to qualify to bid either electrical or general contracting projects pursuant to G.S. 87-1.1, the building project must be bid and performed subject to the following conditions:

- (1) the total amount of work to be performed by all licensed general contractors shall not exceed 25 percent of the total bid price;
- (2) the total amount of work to be performed by all licensed contractors issued a license by the State Board of Examiners of Electrical Contractors under Article 4 of Chapter 87 of the North Carolina General Statutes shall not exceed 25 percent of the total bid price.

History Note: Authority G.S. 87-1.1; 87-18; S.L. 2022-6; 2021-122;
Eff. March 1, 2023.

21 NCAC 50 .0519 RESIDENTIAL FIRE SPRINKLER DESIGN CONTRACTOR LICENSE

(a) A licensed Residential Fire Sprinkler Design Contractor is authorized to design residential fire sprinkler Systems consistent with NFPA 13D Residential Multipurpose Fire Sprinkler Systems as set forth in the North Carolina Plumbing Code.

(b) An individual who holds an active license as a Plumbing Contractor and as a Residential Fire Sprinkler Installation Contractor may obtain license as a Residential Fire Sprinkler Design Contractor upon meeting the requirements of Rule .0316 of this Chapter.

(c) A licensed Fire Sprinkler Installation Contractor may design residential fire sprinkler systems consistent with NFPA 13D Residential Multipurpose Fire Sprinkler Systems without meeting the requirements of Paragraph (a) and (b) of this Rule.

(d) Residential Fire Sprinkler Design Contractors shall place their Residential Fire Sprinkler Design Contractor license number and their dated signature on all design drawings and documents.

(e) Residential Fire Sprinkler Design Contractors shall submit all NFPA 13D multipurpose fire sprinkler design drawings and documents to the Residential Fire Sprinkler Installation Contractors prior to the commencement of the multipurpose fire sprinkler installation and upon request from the local inspection department.

History Note: Authority G.S. 87-18; 87-21(b); Eff. July 1, 2020; Amended Eff. March 1, 2023.

21 NCAC 50 .1101 EXAMINATION FEES

(a) An application to reissue or transfer a license to a different corporation, partnership or individual name requires a fee of twenty-five dollars (\$25.00).

(b) An application to issue or transfer a license to the license of an existing licensee requires a fee of twenty-five dollars (\$25.00).

(c) An application for a license by examination requires a fee of one hundred dollars (\$100.00), consisting of an application fee of twenty-five dollars (\$25.00) and an examination fee of seventy-five dollars (\$75.00), which is nonrefundable. Upon passage of the examination, the license fee set forth in 21 NCAC 50. 1102 must be paid to obtain the license within 45 days of notification of the result of the examination, except that anyone passing the examination on or after October 1 of any year may elect to obtain a license for the following year rather than the year in which the exam was passed.

History Note: Authority G.S. 87-18; 87-22.1; 87-22; 87-26; Eff. May 1, 1989; Temporary Amendment Eff. November 17, 1989 for a period of 77 days to expire on February 1, 1990; Amended Eff. August 1, 2000; November 1, 1993; March 1, 1990; Temporary Amendment Eff. August 31, 2001; Amended Eff. March 1, 2005; December 1, 2003; April 1, 2003; December 4, 2002; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22, 2015; Amended Eff. March 1, 2023.

CHAPTER 56 – BOARD OF EXAMINERS FOR ENGINEERS AND SURVEYORS

21 NCAC 56 .0303 DISBURSEMENT OF FUNDS

The Board may dispense funds for educational programs. Entities described in G.S. 89C-10(g) may request funds in writing and provide the following information:

- (1) The amount needed;
- (2) The intended use of the funds;
- (3) Subject material to be presented and qualifications of instructors to be employed;
- (4) Itemized breakdown of the amount needed and the total expected costs; and
- (5) Source and amount of assistance being given by any other person or organization.

History Note: Authority G.S. 89C-10(g); Eff. February 1, 1976; Readopted Eff. September 29, 1977; Amended Eff. April 1, 1989; January 1, 1982; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 27, 2019; Amended Eff. March 1, 2023; July 1, 2020.

21 NCAC 56 .0601 REQUIREMENTS FOR LICENSING

(a) Education. The terms used by the Board for the specific education requirements to be eligible to be licensed as a Professional Land Surveyor are defined as follows:

- (1) "Bachelor of Science degree in surveying or other equivalent curriculum." These degrees shall contain a minimum of 45 semester hours, or their quarter-hour equivalents. Of the 45 semester hours, a minimum of 12 semester hours of surveying fundamentals, 12 semester hours of applied surveying practice, and 12 semester hours of advanced or theoretical surveying courses are required. The remainder of the required surveying courses may be elective-type courses in any of the categories; and
- (2) "Associate degree in surveying technology." This degree shall contain a minimum of 20 semester hours, or quarter-hour equivalents. Courses, completed with a passing grade, shall be in surveying fundamentals, applied surveying practice and advanced or theoretical surveying courses, including courses in surveying practices, subdivision design and planning, surface drainage, and photogrammetry.
- (3) "Land Surveyor Apprenticeship." The applicant shall have completed one of the following:
 - (A) Certified Survey Technician Program (CST) of the National Society of Surveyors (NSPS) levels I through IV.
 - (B) "Technologist" Certification Program of the American Society for Photogrammetry and Remote Sensing (ASPRS).
 - (C) The Surveying Education Standard of the National Council of Examiners for

Engineering and Surveying (NCEES) by obtaining college semester credit hours, as modified to require the following 39 college semester hours:

- (i) Twelve college semester hours in mathematics beyond basic mathematics, but the credits include college algebra or higher mathematics. These courses must emphasize mathematical concepts and principles rather than computation. Course examples include college algebra, trigonometry, analytic geometry, differential and integral calculus, linear algebra, numerical analysis, probability and statistics, and advanced calculus; and
- (ii) Twenty-seven college semester hours of surveying science and surveying practice. Courses shall be taught by surveying faculty qualified by education, training or experience to teach the subject matter. Examples of courses are basic surveying, route surveying, geodesy, geographic information systems, land development design and planning, global positioning systems, photogrammetry, mapping, legal principles of land surveying, boundary law, professional surveying and mapping, and remote sensing. Graduate-level surveying courses can be included to fulfill curricular requirements in this area.

(D) Apprenticeship program, administered through ApprenticeshipNC, or equivalent administrator, approved by the Board, as including elements equivalent to Parts (A), (B), or (C) of this Subparagraph.

(b) Experience:

- (1) Definition. As used in the North Carolina Engineering and Land Surveying Act, the term "progressive practical experience" means that during the period of time in which an applicant made a practical utilization of the knowledge of the principles of geometry and trigonometry in

determining the shape, boundaries, position, and extent of the earth's surface, a continuous improvement, growth, and development in the utilization of that knowledge have been shown. In addition, the applicant shall show the continuous assumption of greater individual responsibility for the work product over that period of time.

- (2) Required Experience. In evaluating the work experience required, the Board shall consider the total experience record and the progressive nature of the record. Not less than half of the required land surveying experience shall be of a professional grade and character, and shall be performed under the responsible charge of a Professional Land Surveyor. If the work was not under the responsible charge of a Professional Land Surveyor, the applicant shall submit a written explanation to the Board explaining why the experience should be considered. The Board shall approve the experience on a case-by-case basis if it is satisfied of the grade and character of the progressive experience. Experience gained under the technical supervision of an unlicensed individual shall be considered based upon the engineering education and experience credential of the unlicensed supervisor. Experience gained in the armed services, typically while serving in an engineering or surveying related group, shall be accepted only if substantially equivalent to that which would have been gained in civilian work.

(3) Other Experience. The applicant shall document the nature and details of the work done in the following areas to evidence to the Board its equivalency to land surveying:

- (A) construction layout;
- (B) engineering surveying; or
- (C) part-time surveying work.

(c) Exhibits, Drawings, Maps:

- (1) Required Exhibit Before Principles and Practice of Surveying Examination:

(A) General. The applicant shall submit, along with the application, an actual map of a boundary survey of an actual project prepared under the direct supervision and responsible charge of a Professional Land Surveyor who states that the applicant did the preparatory work of the survey; that shows, by its conformance, that the applicant is knowledgeable of the contents of the Standards of Practice for Land Surveying in North Carolina as set forth in Section .1600 of this Chapter; and that shows that the applicant is able to apply this knowledge by preparing a map in

- accordance with the various legal and professional requirements of land surveying.
- (B) Physical Requirement. The map submitted shall be a clean, clear, legible print of an original map in the file of a Professional Land Surveyor.
 - (C) Specific Requirements. The details that shall be evaluated are those applicable to the particular project as described in the Standards of Practice for Land Surveying in North Carolina as set forth in Section .1600 of this Chapter, and as described in G.S. 47-30. In addition, the exhibit shall contain a statement that the field work, calculation, and mapping were performed by the applicant under the supervision of a Professional Land Surveyor, attested to by that Professional Land Surveyor.
- (2) Requirements for Comity Applicant. The map submitted by an applicant under comity may be a representative map of an actual survey of a project or work performed in the state of licensure that is modified to meet the requirements in Subparagraph (c)(2) of this Rule and shall be evaluated in accordance with the requirements applicable to the particular project as described in the Standards of Practice for Land Surveying in North Carolina as set forth in Section .1600 of this Chapter, and as described in G.S. 47-30.

History Note: Authority G.S. 89C-10; 89C-13; Eff. February 1, 1976; Readopted Eff. September 29, 1977; Amended Eff. August 1, 2014; July 1, 2009; August 1, 2000; August 1, 1998; November 2, 1992; April 1, 1989; December 1, 1984; January 1, 1982; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 27, 2019; Amended Eff. July 1, 2020; Temporary Amendment Eff. July 1, 2022; Amended Eff. March 1, 2023.

21 NCAC 56 .0608 SURVEYOR INTERN

- (a) General. To obtain the optional certification as a Surveyor Intern, an applicant shall:
- (1) pass the fundamentals of land surveying examination and make application to the Board on a form prescribed and furnished by the Board,
 - (2) be of good character and reputation,
 - (3) submit three character references to the Board, one of whom is a professional land surveyor,
 - (4) comply with the requirements of this rule, and
 - (5) satisfy one of the following requirements related to education and experience:

- (A) Have a bachelor of science degree in surveying or other equivalent curricula, approved by the Board and a record satisfactory to the Board of one year of progressive practical experience under a practicing professional land surveyor.
- (B) Have an associate degree in surveying technology approved by the Board and a record satisfactory to the Board of two years of progressive practical experience under a practicing professional land surveyor.
- (C) Have graduated from high school or completed a high school equivalency certificate and a record satisfactory to the Board of five years of progressive practical experience, under a practicing professional land surveyor.
- (D) Graduation from a high school or the completion of a high school equivalency certificate, completion of a Land Surveyor Apprenticeship, and a record satisfactory to the Board of three years of progressive practical experience under a practicing professional land surveyor.

(b) Request. The application form may be requested from the Board office or obtained from the website.

(c) Application Form. Surveyor Intern Certificate Application form. After passing the Fundamentals of Land Surveying examination an applicant may make application to the Board to become certified as a "Surveyor Intern." This form requires the applicant to set forth personal history, educational background, surveying experience, character references and exhibit. A passport-type photographic quality portrait that is adequate for current identification purposes is required.

(d) Reference Forms:

- (1) Persons applying to be certified as a Surveyor Intern shall submit to the Board names of individuals who are familiar with the applicant's work, character and reputation. The names shall be submitted by the applicant on the application form.
- (2) Persons applying for certification as a Surveyor Intern must submit three references, one of whom shall be a professional land surveyor.
- (3) In addition to the applicant submitting names to the Board of such individuals, those individuals in submitting to the Board their evaluations of the applicant shall use the reference forms supplied them by the applicant.
- (4) The reference form requires the individual evaluating the applicant to state the evaluating individual's profession, knowledge of the applicant, and information concerning the applicant's land surveying experience, character, and reputation.

- (5) The Board shall provide the reference forms to the applicant along with the application for licensure. The reference forms shall then be distributed by the applicant to the persons listed on the application as references. The applicant is responsible to have the individuals listed as references return the forms to the Board prior to the filing deadline for the examination applied for by the applicant.

(e) Personal Interview. During the application process, the applicant may be interviewed by Board members if the members have questions regarding the applicant's education, experience or character, based upon the information submitted in the application.

History Note: Authority G.S. 89C-2; 89C-10; 89C-13; 89C-14; 89C-15;
Temporary Adoption Eff. July 1, 2022;
Eff. March 1, 2023.

21 NCAC 56 .1702 DEFINITIONS

Terms used in this Section are defined as follows:

- (1) Professional Development Hour (PDH) - A contact hour (nominal) of instruction or presentation. The common denominator for other units of credit.
- (2) Continuing Education Unit (CEU) - Unit of credit customarily used for continuing education courses. One continuing education unit equals 10 contact hours of instruction or presentation.
- (3) College or Unit Semester or Quarter Hour - Credit for Accreditation Board for Engineering and Technology approved course or other related college course.
- (4) Course or Activity - Any course or activity with a purpose and objective which will maintain, improve, or expand the skills and knowledge relevant to the licensee's field of practice.
- (5) Dual Licensee - A person who is licensed as both an engineer and a land surveyor.
- (6) Sponsor - Organization or individual that has supplied information on a form prescribed and furnished by the Board with respect to the organization or individual's ability to provide instruction in "for credit" courses. Courses offered by those designated as "Sponsor" must contain a purpose and objective, and result in the maintenance, improvement, or expansion of skills and knowledge relevant to a licensee's field of practice.
- (7) Ethics or Rules of Professional Conduct - A course or activity with content areas concerning:
 - (a) the awareness of ethical concerns and conflicts;
 - (b) an enhanced familiarity with codes of conduct;

- (c) an understanding of standards of practice or care;
- (d) project management and risk-assessment management; or
- (e) other similar topics aimed at maintaining, improving, or expanding the skill sets and knowledge relevant to conducting the practice of the profession so as to protect the health, safety, and welfare of the public.

- (8) Standards of Practice for Land Surveying - A course or activity with content areas related to Standards of Practice for Land Surveying in Section .1600 of this Chapter.

History Note: Authority G.S. 89C-10(a); 89C-17; 89C-20
Eff. December 1, 1994;
Amended Eff. May 1, 2009; August 1, 2000;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 27, 2019;
Amended Eff. March 1, 2023.

21 NCAC 56 .1703 REQUIREMENTS

Every licensee shall obtain 15 PDH units during the renewal period. Effective as of the 2024 license renewal, for all licensees at least 1 PDH shall be in Ethics or Rules of Professional Conduct. In addition, for Professional Land Surveyors 1 PDH shall be in the Standards of Practice for Land Surveying. If a licensee exceeds the annual requirement in any renewal period, a maximum of 15 PDH units may be carried forward into the subsequent renewal period. Selection of courses and activities that meet the requirements of Rule .1702(4) of this Section is the responsibility of the licensee. Post evaluation of the courses that are documented as required by Rule .1706 of this Section for compliance with Rules .1702, .1703, .1704, and .1705 of this Section may result in non-acceptance by the Board. PDH units may be earned as follows:

- (1) Completion of college courses;
- (2) Completion of continuing education courses, seminars, or workshops;
- (3) Completion of correspondence, televised, Internet, videotaped, audiotaped, and other courses or tutorials, provided an exam is required for completion. No exam is required for attendance at a webinar presentation if attendance is documented;
- (4) Presenting or attending seminars, in-house courses, workshops, or professional or technical presentations made at meetings, conventions or conferences;
- (5) Teaching or instructing in Items (1) through (4) of this Rule;
- (6) Authoring published papers, articles, or books;
- (7) Active participation in professional or technical societies or accrediting organizations as defined in Rule .1705(f) of this Section;
- (8) Patents;
- (9) Authoring exam questions accepted for use in the engineering or land surveying exams; or

- (10) Active participation on boards, commissions, committees or councils of private, local, state or federal government entities as defined in Rule .1705(g) of this Section; or
- (11) Active participation in educational outreach activities pertaining to professional licensure or the surveying/engineering professions that involve K–12 or higher education students as defined in Rule .1705(h) of this Section.

- (11) Active participation in educational outreach activities pertaining to professional licensure or the surveying/engineering professions that involve K–12 or higher education students as defined in Rule .1705(h) of this Section. (Each hour)

1 PDH
(not to exceed 3 PDHs)

History Note: Authority G.S. 89C-10(a); 89C-17; Eff. December 1, 1994; Amended Eff. August 1, 2014; August 1, 2011; May 1, 2009; August 1, 2000; August 1, 1998; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 27, 2019; Amended Eff. March 1, 2023.

History Note: Authority G.S. 89C-10(a); 89C-17; Eff. December 1, 1994; Amended Eff. August 1, 2014; May 1, 2009; August 1, 2000; August 1, 1998; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 27, 2019; Amended Eff. March 1, 2023.

21 NCAC 56 .1704 UNITS

The conversion of units of credit set forth in Rule .1703 of this Section to PDH units is as follows:

- (1) 1 College or unit semester hour.
45 PDH
- (2) 1 College or unit quarter hour.
30 PDH
- (3) 1 Continuing Education Unit.
10 PDH
- (4) 1 Contact hour of professional development in course work, seminars, or professional or technical presentations made at meetings, conventions or conferences, and for correspondence, televised, Internet, videotaped, audiotaped, and other courses or tutorials. Contact hours equal the actual time of instruction and shall be credited to the nearest one-third of an hour.
1 PDH
- (5) For teaching in Items (1) – (4) of this Rule, PDH credits are doubled. Teaching credit is valid for teaching a course or seminar for the first time only. Teaching credit does not apply to full-time faculty, as defined by the institution where a licensee is teaching.
- (6) Each published paper, article or book.
10 PDH
- (7) Active participation in professional or technical societies or in accrediting organizations as defined in Rule .1705(f) of this Section. (Each society or organization)
2 PDH
- (8) Each patent.
10 PDH
- (9) Each question used.
2 PDH
- (10) Active participation on boards, commissions, committees or councils of private, local, state or federal government entities as defined in Rule .1705(g) of this Section. (Each entity)
2 PDH

21 NCAC 56 .1705 DETERMINATION OF CREDIT

- (a) Approval of courses, sponsors, credit, PDH value for courses, and other methods of earning credit shall meet Rule .1702(4) of this Section.
- (b) Credit for college or community college courses shall be based upon course credit established by the college.
- (c) Credit for continuing education courses, seminars and workshops shall be based on one PDH unit for each hour of attendance. Attendance at programs presented at professional and technical society meetings shall earn PDH units for the actual time of each program.
- (d) Credit for correspondence, televised, Internet, videotaped, audiotaped, and other courses or tutorials, provided an exam is required for completion, shall be based upon one PDH unit for each hour assigned to the course, provided such hours reflect the course material and content required of the professional to complete the course.
- (e) Credit determination for published papers, articles and books and obtaining patents is the responsibility of the licensee to support and document the hours reported in compliance with the rules of this Section.
- (f) Credit for active participation in professional or technical societies or accrediting organizations (limited to 2 PDH per society or organization), requires that a licensee serve as an officer or participate as a member and contribute to the work of a committee of the society, or for accrediting organizations serve as an officer or participate in a committee or accreditation visits. PDH credits are not earned until the end of each year of service is completed.
- (g) Credit for active participation on boards, commissions, committees or councils of private, local, state or federal government entities (limited to 2 PDH per entity) requires utilizing engineering or land surveying knowledge (as applicable) in the participation. PDH credits are not earned until the end of each year of service is completed.
- (h) Credit for active participation in educational outreach activities by providing education about professional licensure or the surveying and engineering professions that involve K–12 or higher education students (limited to 3 PDH).

History Note: Authority G.S. 89C-10(a); 89C-17; Eff. December 1, 1994;

Amended Eff. August 1, 2014; August 1, 2011; May 1, 2009; August 1, 2000; August 1, 1998;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 27, 2019;
Amended Eff. March 1, 2023.

21 NCAC 56 .1707 EXEMPTIONS

A licensee is exempt from the professional development educational requirements for the following reasons:

- (1) New licensees by way of examination or comity are exempt for their first renewal period.
- (2) If currently licensed by and in good standing (license is not suspended or revoked) with the Board a licensee who is serving in the armed forces of the United States and who is eligible for an extension of time to file a tax return pursuant to G.S. 105-249.2 is granted a waiver of the mandatory continuing education requirements for the time period disregarded pursuant to the Internal Revenue Code 26 U.S.C. 7508.

The licensee shall request the waiver as follows:

- (a) The licensee shall notify the Board of eligibility before the current license expires. Upon such notification, the Board shall maintain the license in active status through the extension period.
- (b) If the licensee fails to notify the Board of eligibility for the extension period before the current license expires, upon receipt and acceptance of a renewal application within the extension period and presentation of proof that the licensee was eligible on the date that is the deadline for renewal, the expired license or registration shall be deemed retroactively to have not expired.
- (c) The licensee who submits a renewal application within the extension period shall not be deemed to hold a lapsed license subject to reinstatement fees.
- (d) The licensee may renew the license within the extension period despite failing to complete the specified continuing education requirements.
- (e) A licensee shall provide proof of eligibility for the extension period when the licensee or registrant submits the renewal application.

A request shall be administratively approved by the Executive Director, without waiting for the next regular meeting of the Board at which time the action shall be reported to the Board for final approval.

- (3) The Board shall exempt a licensee if the Board determines that the licensee is experiencing physical disability, illness, or other extenuating circumstances that prevent the licensee from obtaining professional development hours. Supporting documentation must be furnished to the Board. A request shall be administratively approved by the Executive Director, without waiting for the next regular meeting of the Board at which time the action shall be reported to the Board for final approval.
- (4) Licensees who list their occupation as "Inactive" on the Board approved renewal form and who are no longer providing professional engineering or land surveying services are exempt from the professional development hours required. In the event such a person elects to return to active practice of professional engineering or land surveying, professional development hours must be earned in accordance with the requirements of Rule .1708 in this Section before returning to active practice for each year exempted not to exceed the annual requirement for two years.

History Note: Authority G.S. 89C-10(a); 89C-17; 93B-15; Eff. December 1, 1994;
Amended Eff. August 1, 2011; May 1, 2009; August 1, 2000; February 1, 1996;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 27, 2019;
Amended Eff. March 1, 2023.

21 NCAC 56 .1713 SPONSORS

(a) The Board may approve sponsors of Continuing Professional Competency (CPC) activities. The Board may maintain a list of sponsors which have agreed to conduct programs in accordance with the standards of CPC activities set forth in 21 NCAC 56.1700. Such sponsors shall indicate their agreement with the requirements by executing a Sponsor Agreement on a form provided by the Board. These sponsors shall be designated as "Approved Sponsors" based upon approval by the Board of the sponsor application and payment of a one hundred fifty dollar (\$150.00) application fee. The application form contains the following:

- (1) Name of applicant, contact name, mailing and physical address, phone number, and email address;
- (2) Type of organization;
- (3) Delivery of course type(s), program offerings (to public or in-house);
- (4) Offered to Professional Engineers or Professional Land Surveyors, or both;
- (5) Example of certificate of completion that attests to attendance;
- (6) Summary of qualifications of organization;
- (7) Types (subjects) of courses offered;
- (8) Sample course outline(s); and
- (9) Qualifications of course instructor(s)

(b) By entering into an agreement with the Board to be designated as an "Approved Sponsor," the sponsor shall agree to the following terms as the sole terms of the agreement:

- (1) Allow persons designated by this Board to attend any or all courses, without fee or charge, for the purpose of determining that said course meets the standards of the Board;
- (2) Allow persons designated by this Board to review course material for the purpose of determining that the course meets the standards of the Board;
- (3) State in every brochure, publication or announcement concerning the course, the general content of the course and the specific knowledge or skill to be taught or addressed, as well as the credit to be earned in Professional Development Hours (PDH);
- (4) Ensure that the instructors or presenters of the course or program are qualified by education, training or experience to teach the subject matter;
- (5) Provide persons completing the course with written documentation attesting to that person's attendance to the course, as well as the name of the course, the date and location held, the instructor's name and the number of PDHs earned;
- (6) Provide attendees an evaluation form as provided by the Board that is to be collected and retained for audit by the Board;

- (7) Have a visible, continuous and identifiable contact person who is charged with the administration of the sponsor's CPC program and who has the responsibility for assuring and demonstrating to the Board compliance with this Rule, as well as for any other organization working with the sponsor for the development, distribution or presentation of CPC courses or activities; and

- (8) Retain for a period of three years a copy of the documentation required by this Paragraph.

(c) Sponsors shall renew annually on a form provided by the Board.

(d) Failure of an approved sponsor to comply with the terms of the CPC sponsor agreement is grounds for the Board to revoke, suspend or terminate the agreement, to remove the sponsor's name from the list of approved sponsors and to notify the public of such action. A sponsor that is given notice of revocation, suspension or termination may request an administrative hearing to be conducted as provided in 21 NCAC 56 .1400 Contested Cases.

(e) Approval of a sponsor is equivalent to the language of licensing a sponsor in G.S. 89C-10(h).

History Note: Authority G.S. 89C-10; 89C-17;

Eff. February 1, 1996;

Amended Eff. August 1, 2011; July 1, 2009; August 1, 2002;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 27, 2019;

Amended Eff. March 1, 2023.

RULES REVIEW COMMISSION

This Section contains information for the meeting of the Rules Review Commission April 20, 2023 at 1711 New Hope Church Road, RRC Commission Room, Raleigh, NC. Anyone wishing to submit written comment on any rule before the Commission should submit those comments to the RRC staff, the agency, and the individual Commissioners. Specific instructions and addresses may be obtained from the Rules Review Commission at 984-236-1850. Anyone wishing to address the Commission should notify the RRC staff and the agency no later than 5:00 p.m. of the 2nd business day before the meeting. Please refer to RRC rules codified in 26 NCAC 05.

RULES REVIEW COMMISSION MEMBERS

Appointed by Senate

Jeanette Doran (Chair)
Robert A. Bryan, Jr. (2nd Vice Chair)
Jay R. Hemphill
Jeff Hyde
Robert A. Rucho

Appointed by House

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

COMMISSION COUNSEL

Brian Liebman	984-236-1948
Lawrence Duke	984-236-1938
William W. Peaslee	984-236-1939
Seth M. Ascher	984-236-1934

RULES REVIEW COMMISSION MEETING DATES

April 20, 2023	June 15, 2023
May 18, 2023	July 20, 2023

AGENDA

RULES REVIEW COMMISSION

Thursday, April 20, 2023, 9:00 A.M.

1711 New Hope Church Rd., Raleigh, NC 27609

- I. Ethics reminder by the chair as set out in G.S. 138A-15(e)
- II. Approval of the minutes from the last meeting
- III. Follow-up matters
 - A. Medical Care Commission - 10A NCAC 13B .3801, .3903, .4103, .4104, .4106, .4305, .4603, .4801, .4805, .5102, .5105, .5406, .5408, .5411 (Liebman)
 - B. Environmental Management Commission - 15A NCAC 02H .1301, .1401, .1402, .1403, .1404, .1405 (Liebman)
 - C. Coastal Resources Commission - 15A NCAC 07H .0501, .0502, .0503, .0505, .0506, .0507, .0508, .0509, .0510; 07I .0406, .0506, .0702; 07J .0203, .0204, .0206, .0207, .0208, .0312 (Liebman)
 - D. Coastal Resources Commission - 15A NCAC 07H .2305 (Duke)
 - E. Coastal Resources Commission - 15A NCAC 07M .0201, .0202, .0401, .0402, .0403, .0701, .0703, .0704, .1001, .1002, .1101 (Peaslee)
 - F. Commission for Public Health - 15A NCAC 18A .2801, .2802, .2803, .2804, .2806, .2807, .2808, .2809, .2810, .2812, .2814, .2815, .2816, .2817, .2818, .2819, .2820, .2821, .2822, .2823, .2824, .2825, .2826, .2827, .2829, .2830, .2831, .2832, .2833, .2834, .2835, .2836 (Ascher)
 - G. Locksmith Licensing Board - 21 NCAC 29 .0705 (Liebman)
 - H. Department of Health and Human Services - 10A NCAC 14J .1307 (Peaslee)
- IV. Review of Filings (Permanent Rules) for rules filed between February 21, 2023 through March 20, 2023
 - Radiation Protection Commission (Ascher)
 - Criminal Justice Education and Training Standards Commission (Ascher)
 - Environmental Management Commission (Duke)
 - Wildlife Resources Commission (Duke)
 - Board of Nursing (Peaslee)

- Board of Examiners for Nursing Home Administrators (Liebman)
 - Board of Examiners of Plumbing, Heating and Fire Sprinkler Contractors (Liebman)
- V. Review of Log of Filings (Temporary Rules) for any rule filed within 15 business days prior to the RRC Meeting
- VI. Existing Rules Review
- VII. Commission Business
- Consideration and adoption of proposed changes to 26 NCAC 05 .0100 - .0200
 - Next meeting: May 18, 2023
-

Commission Review
Log of Permanent Rule Filings
February 21, 2023 through March 20, 2023

RADIATION PROTECTION COMMISSION

The rules in Chapter 15 are from the Radiation Protection Commission and include general provisions (.0100); registration of radiation machines, facilities and services (.0200); licensing of radioactive material (.0300); safety requirements for industrial radiography operations (.0500); x-rays in the healing arts (.0600); use of radioactive sources in the healing arts (.0700); requirements for analytical x-ray equipment (.0800); requirements for particle accelerators (.0900); notices, instructions, reports and inspections (.1000); fees (.1100); land disposal of radioactive waste (.1200); requirements for wire-line service operators and subsurface-tracer studies (.1300); tanning facilities (.1400); licenses for disposal site access (.1500); and standards for protections against radiation (.1600).

<u>Classification of Radioactive Material</u>	10A NCAC 15 .0113
Readopt/Repeal*	
<u>Specific Licenses: Sealed Sources in Industrial Radiograp...</u>	10A NCAC 15 .0323
Readopt with Changes*	
<u>Exemptions: Waste Management by Generators</u>	10A NCAC 15 .0349
Readopt/Repeal*	
<u>Purpose and Scope</u>	10A NCAC 15 .1201
Readopt/Repeal*	
<u>Definitions</u>	10A NCAC 15 .1202
Readopt/Repeal*	
<u>License Required: Land Disposal of Low-Level Radioactive ...</u>	10A NCAC 15 .1203
Readopt with Changes*	
<u>Content of Application</u>	10A NCAC 15 .1204
Readopt/Repeal*	
<u>General Informations</u>	10A NCAC 15 .1205
Readopt/Repeal*	
<u>Specific Technical Information</u>	10A NCAC 15 .1206
Readopt/Repeal*	
<u>Environmental Information</u>	10A NCAC 15 .1207
Readopt/Repeal*	
<u>Technical and Environmental Analyses</u>	10A NCAC 15 .1208
Readopt/Repeal*	
<u>Institutional Information</u>	10A NCAC 15 .1209
Readopt/Repeal*	
<u>Financial Information</u>	10A NCAC 15 .1210
Readopt/Repeal*	
<u>Filing and Distribution of Application</u>	10A NCAC 15 .1211
Readopt/Repeal*	
<u>Elimination of Repetition</u>	10A NCAC 15 .1212
Readopt/Repeal*	

<u>Updating of Application</u>	10A NCAC 15 .1213
Readopt/Repeal*	
<u>Standards for Issuance of a License</u>	10A NCAC 15 .1214
Readopt/Repeal*	
<u>Conditions of License</u>	10A NCAC 15 .1215
Readopt/Repeal*	
<u>Amendment of License</u>	10A NCAC 15 .1216
Readopt/Repeal*	
<u>Application for Renewal or Closure</u>	10A NCAC 15 .1217
Readopt/Repeal*	
<u>Contents of Application for Closure</u>	10A NCAC 15 .1218
Readopt/Repeal*	
<u>Postclosure Observation and Maintenance</u>	10A NCAC 15 .1219
Readopt/Repeal*	
<u>Transfer of License</u>	10A NCAC 15 .1220
Readopt/Repeal*	
<u>Termination of License</u>	10A NCAC 15 .1221
Readopt/Repeal*	
<u>Performance Objectives: General Requirement</u>	10A NCAC 15 .1222
Readopt/Repeal*	
<u>Protection of Population from Release of Radioactivity</u>	10A NCAC 15 .1223
Readopt/Repeal*	
<u>Protection of individuals from Inadvertent Intrusion</u>	10A NCAC 15 .1224
Readopt/Repeal*	
<u>Protection of Individuals During Operations</u>	10A NCAC 15 .1225
Readopt/Repeal*	
<u>Stability of the Disposal Site After Closure</u>	10A NCAC 15 .1226
Readopt/Repeal*	
<u>Technical Requirements for Land Disposal Facilities</u>	10A NCAC 15 .1227
Readopt/Repeal*	
<u>Disposal Site Suitability Requirements</u>	10A NCAC 15 .1228
Readopt/Repeal*	
<u>Site Design for Land Disposal</u>	10A NCAC 15 .1229
Readopt/Repeal*	
<u>Facility Operation and Disposal Site Closure</u>	10A NCAC 15 .1230
Readopt/Repeal*	
<u>Environmental Monitoring</u>	10A NCAC 15 .1231
Readopt/Repeal*	
<u>Waste Classification and Characteristics</u>	10A NCAC 15 .1233
Readopt/Repeal*	
<u>Institutional Requirements</u>	10A NCAC 15 .1234
Readopt/Repeal*	
<u>Applicant Qualifications and Assurances</u>	10A NCAC 15 .1235
Readopt/Repeal*	
<u>Funding of Closure: Stabilization: Institutional Controls</u>	10A NCAC 15 .1236
Readopt/Repeal*	
<u>Records: Reports: Tests: and Inspections</u>	10A NCAC 15 .1237
Readopt/Repeal*	
<u>Maintenance of Records: Reports and Transfers</u>	10A NCAC 15 .1238
Readopt/Repeal*	
<u>Tests at Land Disposal Facilities</u>	10A NCAC 15 .1239
Readopt/Repeal*	

<u>Agency Inspections of Land Disposal Facilities</u>	10A NCAC 15 .1240
Readopt/Repeal*	
<u>Inspection</u>	10A NCAC 15 .1241
Readopt/Repeal*	
<u>Notifications and Reports</u>	10A NCAC 15 .1242
Readopt/Repeal*	
<u>Purpose and Scope</u>	10A NCAC 15 .1501
Readopt/Repeal*	
<u>Definitions</u>	10A NCAC 15 .1502
Readopt/Repeal*	
<u>License Required</u>	10A NCAC 15 .1503
Readopt/Repeal*	
<u>Application for Site Access License: General Requirements</u>	10A NCAC 15 .1504
Readopt/Repeal*	
<u>Application for Site Access License - Waste Generators</u>	10A NCAC 15 .1505
Readopt/Repeal*	
<u>Content of Application for Waste Collectors</u>	10A NCAC 15 .1506
Readopt/Repeal*	
<u>Content of Application for Waste Processors</u>	10A NCAC 15 .1507
Readopt/Repeal*	
<u>Certification of Compliance with Applicable Requirements</u>	10A NCAC 15 .1508
Readopt/Repeal*	
<u>Prior Notification for Waste Shipments</u>	10A NCAC 15 .1509
Readopt/Repeal*	
<u>Radioactive Shipment Manifest</u>	10A NCAC 15 .1510
Readopt/Repeal*	
<u>Financial Qualification and Requirements</u>	10A NCAC 15 .1511
Readopt/Repeal*	
<u>Waste Management and Reduction Requirements</u>	10A NCAC 15 .1512
Readopt/Repeal*	
<u>Issuance and Expiration of Site Access Licenses</u>	10A NCAC 15 .1513
Readopt/Repeal*	
<u>Site Access License Renewal</u>	10A NCAC 15 .1514
Readopt/Repeal*	
<u>Site Access License Amendment</u>	10A NCAC 15 .1515
Readopt/Repeal*	
<u>Modification, Revocation, and Termination of License</u>	10A NCAC 15 .1516
Readopt/Repeal*	
<u>Temporary or Emergency Access</u>	10A NCAC 15 .1517
Readopt/Repeal*	
<u>Classification/Radioactive Waste for Near-Surface Disposal</u>	10A NCAC 15 .1650
Readopt/Repeal*	
<u>Radioactive Waste Characteristics</u>	10A NCAC 15 .1651
Readopt/Repeal*	
<u>Labeling</u>	10A NCAC 15 .1652
Readopt/Repeal*	
<u>Additional Requirements for Licensees Possessing Category...</u>	10A NCAC 15 .1701
Amend*	

CRIMINAL JUSTICE EDUCATION AND TRAINING STANDARDS COMMISSION

The rules in Chapter 9 are from the Criminal Justice Education and Training Standards Commission. This Commission has primary responsibility for setting statewide education, training, employment, and retention standards for criminal justice personnel (not including sheriffs).

The rules in Subchapter 9B cover minimum standards for: employment (.0100); schools and training programs (.0200); criminal justice instructors (.0300); completion of training (.0400); school directors (.0500); and certification of post-secondary criminal justice education programs (.0600).

Terms and Conditions of Specialized Instructor Certification 12 NCAC 09B .0305
Amend*

The rules in Subchapter 9C concern the administration of criminal justice education and training standards including responsibilities of the criminal justice standards division (.0100); forms (.0200); certification of criminal justice officers (.0300); accreditation of criminal justice schools and training courses (.0400); minimum standards for accreditation of associate of applied science degree programs incorporating basic law enforcement training (.0500); and equipment and procedures (.0600).

Recertification Following Separation 12 NCAC 09C .0311
Adopt*

The rules in Subchapter 9E relate to the law enforcement officers' in-service training program.

Failure to Qualify: Annual In-Service Firearms Training 12 NCAC 09E .0107
Amend*

The rules in Subchapter 9G are the standards for correction including scope, applicability and definitions (.0100); minimum standards for certification of correctional officers, probation/parole officers, and probation/parole officers-intermediate (.0200); certification of correctional officers, probation/parole officers, probation/parole officers intermediate and instructors (.0300); minimum standards for training of correctional officers, probation/parole officers, and probation/parole officers-intermediate (.0400); enforcement of rules (.0500); professional certification program (.0600); and forms (.0700).

Definitions 12 NCAC 09G .0102
Amend*

Documentation of Educational Requirements 12 NCAC 09G .0204
Amend*

Medical Examination 12 NCAC 09G .0205
Amend*

Moral Character 12 NCAC 09G .0206
Repeal*

Fingerprint Criminal History Record Check 12 NCAC 09G .0207
Adopt*

Minimum Standards for Correctional Officers 12 NCAC 09G .0208
Adopt*

Minimum Standards for Probation/Parole Officers 12 NCAC 09G .0209
Adopt*

Background Investigation 12 NCAC 09G .0210
Adopt*

Agency Reporting of Drug Screening Results 12 NCAC 09G .0211
Adopt*

Criminal History Record 12 NCAC 09G .0302
Amend*

General Certification 12 NCAC 09G .0304
Amend*

<u>Recertification Following Separation</u> Amend*	12	NCAC 09G .0305
<u>Suspension: Revocation: or Denial of Certification</u> Amend*	12	NCAC 09G .0504
<u>Period of Suspension: Revocation: or Denial</u> Amend*	12	NCAC 09G .0505

ENVIRONMENTAL MANAGEMENT COMMISSION

The rules in Subchapter 2B pertain to surface water standards and monitoring including procedures for assignment of water quality standards (.0100); the standards used to classify the waters of the state (.0200); stream classifications (.0300); effluent limitations (.0400); monitoring and reporting requirements (.0500); and water quality management plans (.0600).

<u>Neuse River Basin</u> Amend*	15A	NCAC 02B .0315
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WILDLIFE RESOURCES COMMISSION

The rules in Chapter 10 are promulgated by the Wildlife Resources Commission and concern wildlife resources and water safety.

The rules in Subchapter 10B are hunting and trapping rules and cover general hunting and wildlife provisions (.0100), hunting specific animals (.0200), trapping (.0300), tagging furs (.0400), chronic wasting disease management (.0500).

<u>Attendance of Traps</u> Repeal*	15A	NCAC 10B .0110
<u>Possession of Wildlife Killed Accidentally or Found Dead</u> Amend*	15A	NCAC 10B .0127
<u>Deer (White Tailed)</u> Amend*	15A	NCAC 10B .0203
<u>Wild Quail Management Areas</u> Amend*	15A	NCAC 10B .0227
<u>Definitions</u> Amend*	15A	NCAC 10B .0301
<u>Open Seasons</u> Amend*	15A	NCAC 10B .0303
<u>Attendance and Tagging of Traps</u> Adopt*	15A	NCAC 10B .0306

The rules in Subchapter 10H concern activities regulated by the Commission including controlled hunting preserves for domestically raised game birds (.0100), holding wildlife in captivity (.0300), commercial trout ponds (.0400), fish propagation (.0700), falconry (.0800), game bird propagators (.0900), taxidermy (.1000), furbearer propagation (.1100), controlled fox hunting preserves (.1200), reptiles and amphibians (.1300), wildlife captivity and rehabilitation (.1400), wildlife and alligator control agents (.1500).

<u>Alligator Control Agent Certification Eligibility and Req...</u> Amend*	15A	NCAC 10H .1506
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The rules in Subchapter 10J cover wildlife conservation areas.

<u>Designation of Wildlife Conservation Areas</u> Readopt with Changes*	15A	NCAC 10J .0101
<u>General Regulations Regarding Use of Conservation Areas</u> Readopt with Changes*	15A	NCAC 10J .0102

NURSING, BOARD OF

The rules in Chapter 36 include rules relating to general provisions (.0100); licensure (.0200); approval of nursing programs (.0300); unlicensed personnel and nurses aides (.0400); professional corporations (.0500); articles of organization (.0600); nurse licensure compact (.0700); and approval and practice parameters for nurse practitioners (.0800).

Continuing Education (CE)
Amend*

21 NCAC 36 .0807

NURSING HOME ADMINISTRATORS, BOARD OF EXAMINERS FOR

The rules in Subchapter 37B are departmental rules including general provisions (.0100); and definitions (.0200).

Fees
Adopt*

21 NCAC 37B .0104

The rules in Subchapter 37D concern new licenses including general provisions (.0100); application for license (.0200); education, experience, and required course (.0300); administrators in training (.0400); preceptors (.0500); national exam (.0600); and state exam (.0700).

Grade Required
Amend*

21 NCAC 37D .0604

Subject Areas
Amend*

21 NCAC 37D .0605

PLUMBING, HEATING AND FIRE SPRINKLER CONTRACTORS, BOARD OF EXAMINERS OF

The rules in Chapter 50 are from the Plumbing, Heating and Fire Sprinkler Contractors including rules about organization (.0100); forms (.0200); examinations (.0300); general procedures (.0400); policy statements and interpretative rules (.0500); contested cases (.1000); fees (.1100); petitions for rules (.1200); declaratory rulings (.1300); and continuing education (.1400).

Onsite Supervision and Standard of Competence
Adopt*

21 NCAC 50 .0520