

# NORTH CAROLINA REGISTER

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December 1, 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*

## 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

984-236-1850

Raleigh, North Carolina 27609

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

984-236-1850

Raleigh, North Carolina 27609

984-236-1947 FAX

contact: Brian Liebman, Commission Counsel

brian.liebman@oah.nc.gov

984-236-1948

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

919-715-2893

215 North Dawson Street

Raleigh, North Carolina 27603

contact: Amy Bason

amy.bason@ncacc.org

NC League of Municipalities

919-715-2925

424 Fayetteville Street, Suite 1900

Raleigh, North Carolina 27601

contact: Monica Jackson

mjackson@nclm.org

### **Legislative Process Concerning Rulemaking**

545 Legislative Office Building

300 North Salisbury Street

919-733-2578

Raleigh, North Carolina 27611

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 <sup>th</sup> day from publication in the Register
37:13	01/03/23	12/07/22	01/18/23	03/06/23	03/20/23	04/20/2023	05/01/23	09/30/23
37:14	01/17/23	12/20/22	02/01/23	03/20/23	04/20/23	05/18/2023	06/01/23	10/14/23
37:15	02/01/23	01/10/23	02/16/23	04/03/23	04/20/23	05/18/2023	06/01/23	10/29/23
37:16	02/15/23	01/25/23	03/02/23	04/17/23	04/20/23	05/18/2023	06/01/23	11/12/23
37:17	03/01/23	02/08/23	03/16/23	05/01/23	05/20/23	06/15/2023	07/01/23	11/26/23
37:18	03/15/23	02/22/23	03/30/23	05/15/23	05/20/23	06/15/2023	07/01/23	12/10/23
37:19	04/03/23	03/13/23	04/18/23	06/02/23	06/20/23	07/20/2023	08/01/23	12/29/23
37:20	04/17/23	03/24/23	05/02/23	06/16/23	06/20/23	07/20/2023	08/01/23	01/12/24
37:21	05/01/23	04/10/23	05/16/23	06/30/23	07/20/23	08/17/2023	09/01/23	01/26/24
37:22	05/15/23	04/24/23	05/30/23	07/14/23	07/20/23	08/17/2023	09/01/23	02/09/24
37:23	06/01/23	05/10/23	06/16/23	07/31/23	08/20/23	09/21/2023	10/01/23	02/26/24
37:24	06/15/23	05/24/23	06/30/23	08/14/23	08/20/23	09/21/2023	10/01/23	03/11/24
38:01	07/03/23	06/12/23	07/18/23	09/01/23	09/20/23	10/19/2023	11/01/23	03/29/24
38:02	07/17/23	06/23/23	08/01/23	09/15/23	09/20/23	10/19/2023	11/01/23	04/12/24
38:03	08/01/23	07/11/23	08/16/23	10/02/23	10/20/23	11/16/2023	12/01/23	04/27/24
38:04	08/15/23	07/25/23	08/30/23	10/16/23	10/20/23	11/16/2023	12/01/23	05/11/24
38:05	09/01/23	08/11/23	09/16/23	10/31/23	11/20/23	12/14/2023	01/01/24	05/28/24
38:06	09/15/23	08/24/23	09/30/23	11/14/23	11/20/23	12/14/2023	01/01/24	06/11/24
38:07	10/02/23	09/11/23	10/17/23	12/01/23	12/20/23	01/18/2024	02/01/24	06/28/24
38:08	10/16/23	09/25/23	10/31/23	12/15/23	12/20/23	01/18/2024	02/01/24	07/12/24
38:09	11/01/23	10/11/23	11/16/23	01/02/24	01/20/24	02/15/2024	03/01/24	07/28/24
38:10	11/15/23	10/24/23	11/30/23	01/16/24	01/20/24	02/15/2024	03/01/24	08/11/24
38:11	12/01/23	11/07/23	12/16/23	01/30/24	02/20/24	03/21/2024	04/01/24	08/27/24
38:12	12/15/23	11/22/23	12/30/23	02/13/24	02/20/24	03/21/2024	04/01/24	09/10/24

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 but not later than 60 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.

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



# State of North Carolina

**ROY COOPER**  
GOVERNOR

October 24, 2023

**EXECUTIVE ORDER NO. 292**

## **ADVANCING ENVIRONMENTAL JUSTICE FOR NORTH CAROLINA**

**WHEREAS**, in 1982, protests involving the dumping of polychlorinated biphenyls (PCB) contaminated soil in Warren County North Carolina sparked the beginning of the national environmental justice movement; and

**WHEREAS**, all North Carolinians, irrespective of economic status, cultural heritage, race, religion, ability, age, or zip code, have the right to enjoy a sustainable environment with clean air, clean water, and clean soil and that is free from environmental degradation; and

**WHEREAS**, communities of color, low-income, and indigenous communities have been and continue to be disproportionately affected by climate change and environmental pollution; and

**WHEREAS**, President Biden signed Exec. Order No. 14,008, 3 C.F.R., 2021 Comp., p. 477, on January 27, 2021, reaffirming the United States' commitment to environmental justice and establishing federal environmental justice initiatives; and

**WHEREAS**, Justice40, established under federal Executive Order 14008, aims for forty (40) percent of the overall benefits of certain Federal investments flow to disadvantaged communities that are marginalized, underserved, and overburdened by pollution; and

**WHEREAS**, Exec. Order No. 246, 36 N.C. Reg. 1287-1291 (Feb. 1, 2022), which was issued on January 7, 2022, directs the Governor's Office and Cabinet agencies to incorporate environmental justice and equity considerations and benefits in the implementation of various executive orders; and

**WHEREAS**, Executive Order No. 246 directs each Cabinet agency to identify an environmental justice and equity lead; and

**WHEREAS**, Executive Order No. 246 directs each Cabinet agency to develop an agency public participation plan; and

**WHEREAS**, Executive Order No. 246 directs the Governor's Office and Cabinet agency leadership to seek public input on additional executive action to advance environmental justice and equity priorities; and

**WHEREAS**, Executive Order No. 246 directs Cabinet agencies to invest funding, consistent with applicable law, with an emphasis on achieving directives of Executive Order Nos. 80, 218, and 246; and

**WHEREAS**, on May 2, 2018, the Secretary of the North Carolina Department of Environmental Quality (“DEQ”) established the Secretary’s Environmental Justice and Equity Advisory Board; and

**WHEREAS**, pursuant to Article III of the Constitution of North Carolina and N.C. Gen Stat. §§ 143A-4 and 143B-4, the Governor is the chief executive officer of the State and is responsible for formulating and administering the policies of the executive branch of state government; and

**WHEREAS**, pursuant to N.C. Gen. Stat. § 147-12, the Governor has the authority and duty to supervise the official conduct of all executive and ministerial officers.

**NOW, THEREFORE**, by the authority vested in me as Governor by the Constitution and the laws of the State of North Carolina, **IT IS ORDERED**:

**Section 1. Oversight.**

The Secretary of DEQ’s Environmental Justice and Equity Advisory Board is hereby reestablished as the Governor’s Environmental Justice Advisory Council (“Council”). The mission of the Council is to advise the Governor and state agencies on incorporating environmental justice into policies and programming, to provide clarity and consistency to the State’s approach to environmental justice, and to collaborate on, develop, and enhance state strategies to advance environmental justice (“EJ”).

**Section 2. Membership.**

The Council shall be comprised of no more than twenty-two (22) members, including the chair(s). Eleven (11) members shall be appointed by the Governor and shall serve at the Governor’s pleasure, and the remaining eleven (11) members shall consist of designees of each of the Cabinet secretaries. The Governor shall select the chair or co-chairs to lead the Council. The members appointed by the Governor shall include, but not be limited to, representatives of academic institutions, environmental organizations, community organizations, local governments, and American Indian Tribes. The Council should represent the diverse interests, people, and perspectives in North Carolina.

**Section 3. Meetings and Quorum.**

The Council shall meet at least quarterly. A simple majority of the Council members shall constitute a quorum to transact business. Meetings of the Council shall be conducted consistent with the State’s Open Meetings Laws, N.C. Gen. Stat. § 143-318.9 *et seq.* Council members shall serve without compensation but may receive a per diem allowance and reimbursement for travel and subsistence expenses in accordance with state law and Office of State Budget and Management policies and regulations.

**Section 4. Administration.**

The Governor’s Office shall provide necessary administrative and staff support services to the Council.

**Section 5. Powers of the Council.**

The Council may:

- Serve as a forum for whole-of-government EJ concerns and priorities;
- Identify funding opportunities that advance EJ principles and communicate those opportunities to the public;
- Provide guidance to Cabinet agencies and to the Governor’s Office on EJ issues;
- Maximize resources, research, and technical assistance across state agencies to further support EJ advancement;
- Consult with the NC Office of Strategic Partnerships for recommendations and guidance to determine effective strategies for engaging with North Carolina;

- Collaborate with the NC Office of Strategic Partnerships to identify sources of expertise about existing and potential EJ research projects and topics;
- Collaborate with the NC Office of Strategic Partnerships and other state agencies to develop government-research partnerships focused on EJ;
- Develop further guidance for state agencies on best practices for identifying EJ communities;
- Develop further guidance for state agencies on best practices for the use of mapping tools and data;
- Provide recommendations to the Governor to establish a foundation of EJ principles;
- Provide recommendations to the Governor on legislation, regulations, and policies that advance EJ or mitigate environmental injustice;
- Share actions, best practices, and data relevant to EJ across state agencies, including information on threshold and maximum exposures, how to collect exposure data, and how to model exposure;
- Seek opportunities to increase awareness in state agencies of important EJ topics, such as cumulative impacts, climate justice, disproportionate impacts, improved tribal consultation, and historical and cultural impacts of EJ;
- Recommend a comprehensive EJ training plan for state agencies that the Office of State Human Resources can make available to state employees; and
- Solicit input from communities with EJ concerns.

**Section 6. Definitions.**

The following definitions apply to this Executive Order only:

- a. “Communities of Color” means communities in which the share of nonwhites and Hispanic or Latino (of any race) residents is forty percent (40%) or higher or at least ten percent (10%) higher than the residing county or state share.
- b. “Community” or “Communities” mean either a group of individuals living in geographic proximity to one another, or a geographically dispersed set of individuals (such as migrant workers or American Indians), where either type of group experiences common conditions.
- c. “Cumulative Impact” means the totality of exposure to combinations of chemical and nonchemical stressors and their effects on human health, well-being, and quality of life outcomes.
- d. “Disparate impact” means disproportionately higher adverse health or environmental effects on communities of color, low-income communities, or indigenous communities at levels that are statistically significant.
- e. “Environmental Justice” means the just treatment and meaningful involvement of all people, regardless of income, race, color, national origin, or Tribal affiliation, in agency policies and programming that affect human health, well-being, quality of life, and the environment so that people:
  - (i.) are protected from disproportionate and adverse human health effects and environmental hazards, including: those related to climate change, the cumulative impacts of environmental and other burdens, and the legacy of racism or other structural or systemic barriers; and
  - (ii.) have equitable access to a healthy, sustainable, and resilient environment in which to live, play, work, learn, grow, worship, and engage in cultural and subsistence practices.
- f. “Environmental Justice Communities” or “EJ Communities” means communities of color, low-income communities, or indigenous communities that are experiencing, or are at risk of, disparate impacts as a result of the agency action under consideration.
- g. “Indigenous Communities” means communities where “American Indian Tribes” as defined by 01 N.C. Admin Code 15 .0202, reside or where the share of American Indian

and Alaskan Native populations are five percent (5%) higher than the residing county or state share.

- h. “Low-Income Communities” means communities in which the share of population experiencing poverty is more than twenty percent (20%) or the share of households in poverty is at least five percent (5%) higher than the residing county or state share.

**Section 7. Goals and Measurable Outcomes.**

Within 120 days of the issuance of this Executive Order each Cabinet agency shall develop at least three draft EJ goals and measurable outcomes. The draft goals and outcomes shall then be submitted to the Council for publication for a 60-day public comment period. The Council should make reasonable efforts to provide notice to the public when the comment period begins and shall undertake reasonable efforts to ensure stakeholders are aware of the ability to comment during this period. The draft goals and measurable outcomes shall be published on the Environmental Justice Hub or “EJ Hub,” as set forth in Section 8 of this Executive Order. Following public comment, the Council shall provide feedback to the Cabinet agencies for them to consider as they finalize such goals and outcomes, incorporating public feedback as practicable and feasible. The Council will post the finalized goals and measurable outcomes on the EJ Hub. Within 90 days of the publication of the Mapping Tool set forth in Section 5 of this Executive Order, each Cabinet agency shall review and, if appropriate, revise their goals and outcomes. This section is not intended to promulgate the established goals and measurables as regulations under the North Carolina Administrative Code.

**Section 8. North Carolina Environmental Justice Mapping Tool and Environmental Justice Hub.**

The North Carolina Department of Information Technology (“DIT”) shall develop a whole of government Environmental Justice Hub webpage to host environmental justice information and activities including the Mapping Tool and relevant grant information across the Administration.

Cabinet agencies in collaboration with DIT shall develop and maintain a statewide environmental justice mapping tool (“Mapping Tool”). The Mapping Tool shall be easily accessible and usable by the public, local and tribal governments, public and private organizations, and the State. The Mapping Tool shall, at a minimum, integrate data used in DEQ’s Community Mapping System, DEQ’s Environmental Justice Tool, the North Carolina Department of Health and Human Service’s environmental health data dashboard, and the North Carolina Department of Transportation’s EJ and Transportation Disadvantage Index mapping tool. The Mapping Tool shall include, at a minimum, demographic data on the census block level, permitted facility locations, and relevant health data on the smallest geographic scale publicly available, while ensuring data privacy and protection. Cabinet agencies will provide EJ data associated with: ambient air quality data, climate stressors such as flooding and sea level rise risk, and locations of sensitive receptors such as schools, nursing homes, and affordable housing communities. The Council, with public input, shall direct the development of the Mapping Tool. The Mapping Tool shall be published within twelve (12) months of the signing of this Executive Order

**Section 9. Public Participation and Access.**

The Board of Transportation, Environmental Management Commission, the Information Technology Strategy Board, the Land and Water Fund, the Parks and Recreation Trust Fund, and the Commission for Public Health, shall each develop a public participation plan informed by stakeholder input. The plan shall include best practices for community engagement, meaningful dialogue, and efficient mechanisms to receive and incorporate public input into policies and programming. Public participation plans shall aim to improve communication, foster relationships, and enhance transparency in policies and agency programming with all members of the public, including underserved communities and populations with limited English proficiency. Each board and commission that is subject to the requirements of this section shall publish its public participation plan on its website by June 1, 2024. Each board and commission that is subject to the requirements of this section shall review its public participation plan annually and, if necessary, update its public participation plan. A board and commission that is subject to the requirements of this section may develop a joint public participation plan with a Cabinet agency required to develop a public participation plan by Executive Order No. 246.



Each Cabinet agency and each board and commission that is subject to the requirements of this Section of this Executive Order or subject to Section 8 of Executive Order No. 246 shall offer interpretation and translation services for its public participation plan whenever possible.

Each Cabinet agency shall take reasonable steps to maintain websites that are digitally inclusive, so that all individuals and communities, particularly those with disabilities and/or English language barriers, have access to and use of information, whenever practicable.

**Section 10. Permitting, Policy Actions, and Agency Programs.**

The Governor's Office and Cabinet agencies shall incorporate EJ considerations into their policies and programs to the extent permitted by law. Each Cabinet agency shall ensure meaningful opportunities for the public to participate in policy actions and agency programs making on matters of importance to impacted communities, as outlined in the public participation plans required by Executive Order No. 246.

Each Cabinet agency should consider public health impacts in their permitting, policy actions, and agency programs to the furthest extent permissible by law.

Cabinet agencies may also use the Mapping Tool from Section 5 of this Executive Order in permitting, policy actions, and agency programs to the furthest extent permissible by law, including using the Mapping Tool:

- To inform considerations of issues such as the societal, environmental, health, and other impacts associated with energy, utility, and transportation infrastructure projects;
- To inform environmental regulatory actions;
- To inform environmental permitting; and
- As a factor in evaluating grant awards and other incentives.

**Section 11. Cumulative Impacts.**

The Council, in consultation with the NC Office of Strategic Partnerships, shall engage with academia, prioritizing Historically Black Colleges and Universities and other Minority-Serving Institutions, and other research institutions to conduct research on cumulative impacts in North Carolina and develop recommendations for creating a framework and methodology to assess cumulative impacts.

**Section 12. Reporting**

By October 15, 2024, and annually thereafter, the Council shall deliver a report to the Governor, Cabinet secretaries, and Council of State members that (1) identifies and makes recommendations for advancing EJ, (2) describes activities of the Council, (3) identifies EJ policies and programs in state agencies, and (4) describes agency implementation of their public participation plans.

By October 15, 2024, and annually thereafter, the North Carolina Department of Commerce and DEQ shall jointly deliver a report to the Governor and to the Council regarding businesses who have been awarded Job Development Investment Grant ("JDIG) incentives since January 1, 2017, and have also been issued notice of violations from DEQ.

By October 15, 2024, and annually thereafter, each Cabinet agency shall deliver a report to the Governor and the Council about their environmental justice goals and measurable outcomes, and their progress towards accomplishing those goals and outcomes, adopted pursuant to Section 4 of this Executive Order.

The Economic Investment Committee, established by N.C. Gen. Stat. § 143B-437.54, shall include in its reports required by N.C. Gen. Stat. § 143B-437.55(c) information related to any environmental violations committed by businesses receiving grants administered by the Committee.

**Section 13. Applicability.**

Council of State members, higher education institutions, local governments, private businesses, and other North Carolina entities are encouraged to address environmental justice and provide input to the Council on environmental justice measures developed through the implementation of this Executive Order. Consistent with applicable law, Cabinet agencies shall actively support such actions.

**Section 14. No Private Right of Action.**

This Executive Order is not intended to create, and does not create, any individual right, privilege, or benefit, whether substantive or procedural, enforceable at law or in equity by any party against the State of North Carolina, its agencies, departments, political subdivisions, or other entities, or any officers, employees, or agents thereof, or any other person.

**Section 15. Effective Date.**

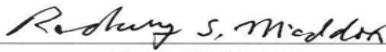
Section 1 of this Executive Order is effective immediately and, pursuant to N.C. Gen. Stat. § 147-16.2, shall remain in effect until October 31, 2027. The remainder of this Executive Order is effective immediately and shall remain in effect unless rescinded or superseded by another applicable Executive Order.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this 24<sup>th</sup> day of October in the year of our Lord two thousand and twenty-three.



Roy Cooper  
Governor

ATTEST:



Rodney S. Maddox  
Chief Deputy Secretary of State



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: Vexas Corp

Applicant's Address: 4493 Barnwell Rd Williston, SC 29853

Application Date: 10/31/2023

Names and titles of any individual listed on the application as an owner, partner, member or officer of the applicant: Haron Goublie – Chairman, Sanjay Kopay-Co-CEO, Markd Messuck - Co-CEO

Notice of Application for a new Innovative Approval of a Wastewater System for On-site Subsurface Use

Pursuant to NCGS 130A-343(g), the North Carolina Department of Health and Human Services (DHHS) shall publish a Notice in the NC Register that a manufacturer has submitted a request for approval of a modification of a wastewater system, component, or device for on-site subsurface use. The following application has been submitted to DHHS:

Application by: Mike Stidham  
E-Z Treat, Inc  
PO Box 176  
Haymarket, VA 20168

For: Modifications to the Innovative Approvals for the E-Z Treat System

DHHS Contact: Jon Fowlkes  
1-919-707-5875  
Fax: 919-845-3973  
[jon.fowlkes@dhhs.nc.gov](mailto:jon.fowlkes@dhhs.nc.gov)

These applications may be reviewed by contacting the applicant or Jon Fowlkes, Branch Head, at 5605 Six Forks Rd, Raleigh, NC, On-Site Water Protection Branch, Environmental Health Section, Division of Public Health. Draft proposed innovative approvals and proposed final action on the application by DHHS can be viewed on the On-Site Water Protection Branch web site: <http://ehs.ncpublichealth.com/oswp/>.

Written public comments may be submitted to DHHS within 30 days of the date of the Notice publication in the North Carolina Register. All written comments should be submitted to Mr. Jon Fowlkes, Branch Head, On-site Water Protection Branch, 1642 Mail Service Center, Raleigh, NC 27699-1642, [jon.fowlkes@dhhs.nc.gov](mailto:jon.fowlkes@dhhs.nc.gov), or fax 919-845-3973. Written comments received by DHHS in accordance with this Notice will be taken into consideration before a final agency decision is made on the innovative subsurface wastewater system application.

**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 Medical Care Commission intends to adopt the rules cited as 10A NCAC 13F .0102, .0408, .0607-.0609; 13G .0102, amend the rules cited as 10A NCAC 13F .0404; 13G .0404, and readopt with substantive changes the rules cited as 10A NCAC 13F .0402, .0601-.0606; and 13G .0601.

**Link to agency website pursuant to G.S. 150B-19.1(c):** <https://info.ncdhhs.gov/dhsr/ruleactions.html>

**Proposed Effective Date:** September 1, 2024

**Public Hearing:**

**Date:** January 24, 2024

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

**Location:** Dorothea Dix Park, Brown Building, Room 104, 801 Biggs Drive, Raleigh, NC 27603

**Reason for Proposed Action:** Pursuant to GS 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 Subchapters 10A NCAC 13F, Licensing of Adult Care Homes of Seven or More Beds, and 10A NCAC 13G, Licensing of Family Care Homes, these proposed readoption rules were part of the 97 total rules determined as “Necessary With Substantive Public Interest,” requiring readoption. With input from stakeholders, substantive changes are proposed to eight rules for readoption for the regulation of licensed Adult Care Homes and Family Care Homes in N.C. Also proposed are the following rules for licensed Adult Care Homes: four rule adoptions for definitions, staff qualifications, and staffing requirements, and one rule amendment for activity director qualifications. In addition, the following rules are proposed for licensed Family Care Homes: one rule adoption for definitions and one rule amendment for activity director qualification. The secondary intent of the proposed rules is to make the rules of these two types of assisted living residences comparable, if not the same, for regulatory efficiency since they both house the same type of residents as permitted by law.

The proposed rules for Adult Care Homes and Family Care Homes update and clarify management and staffing requirements for adult care and family care home facilities. New rules are being adopted to help define terms commonly used and to clarify terms. The proposed changes resulted in a shift in the rule titles and numbers to allow for easier reading and to improve comprehension. The proposed language removes the position title of “administrator-in-charge” and changes the term to “manager” for clarity. The agency is proposing changes to clarify the responsibilities and involvement of the administrator

and manager. Technical changes have been made to remove requirements based on capacity or census to using only the census to determine management and staffing requirements. The proposed language reorganizes the rules to delineate management responsibilities from management and staffing requirements. New rules have been proposed to include the requirements and qualifications of a personal care aide supervisor, however, do not impose additional requirements for facilities as these standards are already required in current rules. The rules were amended to clarify qualifications of activity directors. In addition, technical changes were made to the proposed text, repealed statutory references were removed, rule references were updated, unneeded text was removed, and clarifying text changes were made to these proposed rules.

**Comments may be submitted to:** Taylor Corpening, 809 Ruggles Drive, 2701 Mail Service Center, Raleigh, NC 27699-2701; email [DHSR.RulesCoordinator@dhhs.nc.gov](mailto:DHSR.RulesCoordinator@dhhs.nc.gov)

**Comment period ends:** January 30, 2024

**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 a written objection to the Rules Review Commission. 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 letters via U.S. Mail, private courier service, or hand delivery to 1711 New Hope Church Road, Raleigh, North Carolina, or via email to [oah.rules@oah.nc.gov](mailto:oah.rules@oah.nc.gov). If you have any further questions concerning the submission of objections to the Commission, please review 26 NCAC 05 .0110 or 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 13 - NC MEDICAL CARE COMMISSION**

**SUBCHAPTER 13F – LICENSING OF ADULT CARE HOMES OF SEVEN OR MORE BEDS**

SECTION .0100 - DEFINITIONS

10A NCAC 13F .0102 LIST OF DEFINITIONS

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

- (1) "Abuse" means the term as defined in G.S. 131D-2.1.
- (2) "Activities of daily living" or "ADL's" means eating, dressing, bathing, toileting, bowel and bladder control, transfers, ambulation, and communication.
- (3) "Acute care needs" means symptoms or a condition that develops quickly and is not a part of the resident's baseline health or mental health status or is a change or worsening in the symptoms of a resident's chronic condition, which may have a slower onset and worsen over time.
- (4) "Administrator" means the term as defined in G.S. 90-288.13 and G.S. 131D-2.1.
- (5) "Adult care home" means the term as defined in G.S. 131D-2.1.
- (6) "Alternative examination" means a test developed and administered by the Department to meet the educational requirements of an activity director, administrator-in-charge, manager, or personal care aide supervisor for those applicants who do not possess a high school diploma or General Education Diploma (G.E.D.) prior to September 1, 2024.
- (7) "Aide duty" means time spent by qualified staff providing assistance with activities of daily living, medication administration, or supervision of residents as determined by the resident's assessment, care plan, physician's orders, and current symptoms.
- (8) "Department" means the North Carolina Department of Health and Human Services.
- (9) "Discharge" means a resident's termination of their residency at the adult care home, resulting in the resident's move to another location.
- (10) "Exploitation" means the term as defined in G.S. 131D-2.1.
- (11) "Facility" means a licensed adult care home.
- (12) "First shift" means the hours of work between 7:01 a.m. and 3:00 p.m.
- (13) "Food service duties" means tasks that may be performed by staff related to serving meals to residents, including assisting with food preparation, arranging, and setting the dining tables, serving food and beverages, and cleaning the dining room after meal service is complete.
- (14) "Housekeeping duties" means tasks that may be performed by staff such as cleaning and sanitizing facility common areas and resident rooms, sweeping, vacuuming, dusting, mopping, collecting, and disposing of trash.
- (15) "Legal representative" means a person authorized by state or federal law (including but

not limited to power of attorney, legal guardian, or representative payee) to act on behalf of the resident to support the resident in decision-making; access medical, social, or other personal information of the resident; and manage financial matters or receive notifications.

(16) "Long-term care" means a continuum of care and services available in an individual's community that provides the care and supports required during a persistent or chronic state of health, throughout which time a person is unable to independently perform some or all activities of daily living or requires supervision due to physical or cognitive impairment.

(17) "Manager" means an individual responsible for the day-to-day operation of an adult care home in the absence of the administrator and under the direction and supervision of the administrator as described in Rule .0402 of this Subchapter.

(18) "Medication aide" means an individual who administers medications to residents and meets all requirements as set forth in Rule .0403 of this Subchapter.

(19) "Neglect" means the term as defined in G.S. 131D-2.1.

(20) "On-call" means able to be contacted by two-way telecommunication.

(21) "On-duty" in reference to an administrator means the administrator is on-site and directly responsible for the day-to-day operations of a facility. "On-duty" in reference to a manager means a manager designated by the administrator as required in Rule .0402 of this Subchapter and who is on-site and directly responsible for the day-to-day operations of a facility under the direction and supervision of the administrator.

(22) "Personal care aide" means a staff member who performs personal care services as defined by G.S. 131D-2.1.

(23) "Physical restraint" means any physical or mechanical device attached to or adjacent to the resident's body that the resident cannot remove easily, and which restricts freedom of movement or normal access to one's body.

(24) "Physician extender" means a licensed physician assistant or a licensed nurse practitioner.

(25) "Resident" means the term as defined in G.S. 131D-2.1.

(26) "Responsible person" means a person chosen by the resident to act on their behalf to support the resident in decision-making; access to medical, social, or other personal information of the resident; manage financial matters; or receive notifications.

- (27) "Second shift" means the hours of work between 3:01 p.m. and 11:00 p.m.
- (28) "Staff" means any person who performs duties as an employee, paid or unpaid, on behalf of the adult care home.
- (29) "Supervision" means oversight, monitoring, and interventions implemented by the facility for the purpose of mitigating the risk of an accident, incident, illness, or injury to a resident to ensure the health, safety, and welfare of the resident and other residents.
- (30) "Supervisor" means a personal care aide supervisor as defined in Rule .0609 of this Subchapter.
- (31) "Third shift" means the hours of work between 11:01 p.m. and 7:00 a.m.

Authority G.S. 131D-2.16; 143B-153.

**SECTION .0400 - STAFF QUALIFICATIONS**

**10A NCAC 13F .0402 QUALIFICATIONS OF ADMINISTRATOR IN-CHARGE MANAGER**

The facility shall designate a manager when the administrator is absent from the facility. The administrator in-charge, manager, who is responsible to the administrator for carrying out the program in day-to-day operations of an adult care home in the absence of the administrator, administrator. The administrator remains ultimately responsible for the adult care home, and the manager shall serve under the direction and supervision of the administrator. The manager shall meet the following requirements:

- (1) be 21 years or older;
- (2) be a high school graduate or certified under the G.E.D. program program, or if hired before September 1, 2024, have passed an the alternative examination established by the Department;
- (3) have six months training or experience related to management or supervision in long term care or health care settings or be a licensed health professional, professional such as a mental health professional, nurse practitioner, physician assistant, or registered nurse, licensed a nursing home administrator administrator certified pursuant to G.S. 90-276(4), or certified an assisted living administrator; administrator certified pursuant to G.S. 90-288.14; and
- (4) earn 12 hours a year of continuing education credits related to in the management of adult care homes or care of aged and disabled persons. the elderly and individuals with physical, intellectual, or developmental disabilities, cognitive impairment, and mental illness.

Authority G.S. 131D.2.16; 131D-4.5; 131D-25; 143B-165.

**10A NCAC 13F .0404 QUALIFICATIONS OF ACTIVITY DIRECTOR**

Adult care homes shall have an activity director who meets the following qualifications:

- (1) The activity director hired after September 30, 2022 shall meet a minimum educational requirement by being a high school graduate or certified under the GED Program.
- (2) The activity director hired after September 30, 2022 shall complete, within nine months of employment or assignment to this position, the basic activity course for assisted living activity directors offered by community colleges or a comparable activity course as determined by the Department based on instructional hours and content. An activity director shall be exempt from the required basic activity course if one or more of the following applies:
  - (a) be a licensed recreational therapist or be eligible for certification as a therapeutic recreation specialist as defined by the North Carolina Recreational Therapy Licensure Act in accordance with G.S. 90C;
  - (b) have two years of experience working in programming for an adult recreation or activities program within the last five years, one year of which was full-time in an activities program for patients or residents in a health care or long term care setting;
  - (c) be a licensed occupational therapist or licensed occupational therapy assistant in accordance with G.S. 90, Article 18D; or
  - (d) be certified as an Activity Director Professional by the National Certification Council for Activity Professionals. Professionals; or
  - (e) the required basic activity course was completed prior to September 1, 2024.

Authority G.S. 131D-2.16; 131D-4.5; 143B-165.

**10A NCAC 13F .0408 QUALIFICATIONS OF PERSONAL CARE AIDE SUPERVISOR**

(a) Facilities with a census of 31 or more residents shall employ a Personal Care Aide Supervisor as defined in Paragraph (b) of this Rule. The term "Supervisor" as used throughout Section .0600 of this Subchapter refers to the Personal Care Aide Supervisor.

(b) A supervisor shall meet the following qualifications:

- (1) be 21 years or older;
- (2) be a high school graduate or certified under the G.E.D. program or if hired before September 1, 2024, have passed an alternative examination established by the Department;
- (3) meet the health requirements according to Rule .0406 of this Section;

- (4) have six months of experience in performing or supervising the performance of the duties to be supervised during the period of three years prior to July 1, 2000 or the date of hire, whichever is later, or be a licensed health professional such as a mental health professional, nurse practitioner, physician assistant, or registered nurse, or a nursing home administrator certified pursuant to G.S. 90-276(4);
- (5) meet the same minimum training and competency requirements of the aides being supervised; and
- (6) earn 12 hours a year of continuing education credits related to the care of the elderly and individuals with physical, intellectual, or developmental disabilities, cognitive impairment, and mental illness.

Authority G.S. 131D-2.16; 131D-4.3; 143B-165.

**SECTION .0600 - STAFFING**

**10A NCAC 13F .0601 MANAGEMENT OF FACILITIES WITH A CAPACITY OR CENSUS OF SEVEN TO THIRTY RESIDENTS FACILITIES - GENERAL ADMINISTRATOR AND MANAGER RESPONSIBILITIES**

(a) Each adult care home shall have an An adult care home administrator who is certified in accordance with Rule .1701 of this Subchapter. The administrator shall be responsible for the total operation of an adult care home and management of the facility to assure that all care and services are provided to maintain the health, safety, and welfare of the residents in accordance with all applicable local, state, and federal regulations and codes. The administrator shall also be responsible to the Division of Health Service Regulation and the county department of social services for meeting and maintaining complying with the rules of this Subchapter. The co-administrator, when there is one, shall share equal responsibility with the administrator for the operation of the home and for meeting and maintaining the rules of this Subchapter. The term administrator "administrator" also refers to co-administrator where it is used in this Subchapter.

(b) At all times there shall be one administrator or administrator in charge who is directly responsible for assuring that all required duties are carried out in the home and for assuring that at no time is a resident left alone in the home without a staff member. Except for the provisions in Paragraph (c) of this Rule, one of the following arrangements shall be used to manage a facility with a capacity or census of 7 to 30 residents:

- (1) The administrator is in the home or within 500 feet of the home with a means of two way telecommunication with the home at all times;
- (2) An administrator in charge is in the home or within 500 feet of the home with a means of two way telecommunication with the home at all times; or
- (3) When there is a cluster of licensed homes, each with a capacity of 7 to 12 residents, located adjacently on the same site, there shall be at

~~least one staff member, either live in or on a shift basis in each of these homes. In addition, there shall be at least one administrator or administrator in charge who is within 500 feet of each home with a means of two way telecommunication with each home at all times and directly responsible for assuring that all required duties are carried out in each home.~~

(c) ~~When the administrator or administrator in charge is absent from the home or not within 500 feet of the home, the following shall apply:~~

(1) ~~For absences of a non-routine nature that do not exceed 24 hours per week, a relief person in charge designated by the administrator shall be in charge of the home during the absence and in the home or within 500 feet of the home according to the requirements in Paragraph (b) of this Rule. The administrator shall assure that the relief person in charge is prepared to respond in case of an emergency in the home. The relief person in charge shall be 21 years or older.~~

(2) ~~For recurring or planned absences, a relief administrator in charge designated by the administrator shall be in charge of the home during the absence and in the home or within 500 feet of the home according to the requirements in Paragraph (b) of this Rule. The relief administrator in charge shall meet all of the qualifications required for the administrator in charge as specified in Rule .0402 of this Subchapter with the exception of Item (4) pertaining to the continuing education requirement.~~

(b) An adult care home manager shall be responsible for carrying out the day-to-day operations and all required duties of an adult care home in the absence of an administrator.

(c) The administrator shall have knowledge of and shall ensure the following:

- (1) the investigation and reporting of any allegations of resident abuse, neglect, and exploitation as specified in Rule .1212(d) of this Subchapter;
- (2) the investigation and reporting of any suspicion of or allegations of drug diversion as specified in Rule .1008 of this Subchapter;
- (3) the reporting of any incidents of resident elopement or when a resident is missing from the facility, as required in Rule .1212(e)(2) and Rule .0906(f)(4) of this Subchapter; and
- (4) the investigation and reporting of any incident or accident resulting in the hospitalization or death of a resident, as specified in Rule .1208 and Rule .1212 of this Subchapter.

(d) The administrator shall be made aware when the facility is unable to meet the staffing requirements of this Section.

(e) The administrator shall be made aware any time the facility seeks the assistance of the local law enforcement authority.



(f) For facilities with a census of 7 to 30 residents, the manager or staff person on duty shall immediately notify the administrator of any of the circumstances listed in Paragraphs (c), (d), and (e) of this Rule.

(g) For facilities with a census of 31 or more the manager or supervisor shall immediately notify the administrator of any of the circumstances listed in Paragraphs (c), (d), and (e) of this Rule.

Authority G.S. 131D-2.16; 131D-4.3; 131D-4.4; 131D-4.5; 131D-25; 143B-165.

**10A NCAC 13F .0602 MANAGEMENT OF FACILITIES WITH A CAPACITY OR CENSUS OF ~~31 TO 80~~ SEVEN TO THIRTY RESIDENTS**

(a) In facilities with a capacity or census of 31 to 80 residents, there shall be an administrator on call, which means able to be contacted by telephone, pager or two way intercom, at all times when not in the building. (For staffing chart, see Rule .0606 of this Subchapter.)

(b) When the administrator is not on duty in the facility, there shall be a person designated as administrator in charge on duty in the facility who has the responsibility for the overall operation of the facility and meets the qualifications for administrator in charge required in Rule .0602 of this Section. The personal care aide supervisor, as required in Rule .0605 of this Subchapter, may serve simultaneously as the administrator in charge.

In a facility with a census of greater than seven but less than 31 residents, there shall be one administrator or manager who is directly responsible for assuring that all required duties are carried out in the facility. One of the following arrangements shall be used to manage a facility with a census of seven to 30 residents:

- (1) the administrator is in the facility or within 500 feet of the facility with a means of two-way telecommunication with the facility at all times;
- (2) a manager is in the facility or within 500 feet of the facility with a means of two-way telecommunication with the facility at all times;  
or
- (3) when there is a cluster of licensed facilities, each with a census of 12 or fewer residents, there shall be at least one staff member, either live-in or on a shift basis in each of these facilities. In addition, there shall be at least one administrator or manager who is within 500 feet of each home with a means of two-way telecommunication with each facility at all times and directly responsible for assuring that all required duties are carried out in each facility. For the purpose of the rules in this Section, "a cluster of licensed facilities" means up to six licensed adult care homes which are under common ownership and are located adjacently on the same site.

Authority G.S. 131D-2.16; 131D-4.3; 131D-4.5; 131D-25; 143B-165.

**10A NCAC 13F .0603 MANAGEMENT OF FACILITIES WITH A CAPACITY OR CENSUS OF ~~81 OR MORE~~ 31 TO 80 RESIDENTS**

(a) ~~An adult care home with a capacity or census of 81 or more residents shall be under the direct control of an administrator, who shall be responsible for the operation, administration, management and supervision of the facility on a full time basis to assure that all care and services to residents are provided in accordance with all applicable local, state and federal regulations and codes. The administrator shall be on duty in the facility at least eight hours per day, five days per week and shall not serve simultaneously as a personal care aide supervisor or other staff to meet staffing requirements while on duty as an administrator or be an administrator for another adult care home except as follows. If there is more than one facility on a contiguous parcel of land or campus setting, and the combined licensed capacity of the facilities is 200 beds or less, there may be one administrator on duty for all the facilities on the campus. The administrator shall not serve simultaneously as a personal care aide supervisor in this campus setting. For staffing chart, see Rule .0606 of this Subchapter.~~

(b) ~~When the administrator is not on duty in the facility, there shall be a person designated as administrator in charge on duty in the facility who has responsibility for the overall operation of the facility. The supervisor may serve simultaneously as the administrator in charge. Each facility on a contiguous parcel of land or campus setting, as described in Paragraph (a) of this Rule, shall have a person designated as the administrator in charge in the facility when the administrator is not on duty.~~

(c) ~~The administrator shall be on call, which means able to be contacted by telephone, pager or two way intercom at all times when not in the building.~~

Each facility with a census of greater than 30 but less than 81 residents shall:

- (1) have an administrator on-call at all times when not in the building; and
- (2) have a manager on-duty in the facility when the administrator is not on-duty in the facility. The personal care aide supervisor, as required in Rule .0608 of this Section, may serve simultaneously as the manager.

Authority G.S. 131D-2.16; 131D-4.3; 131D-4.5; 131D-25; 143B-165.

**10A NCAC 13F .0604 PERSONAL CARE AND OTHER STAFFING MANAGEMENT OF FACILITIES WITH A CENSUS OF 81 OR MORE RESIDENTS**

(a) ~~Adult care homes shall staff to the licensed capacity of the home or to the resident census. When a home is staffing to resident census, a daily census log shall be maintained which lists current residents by name, room assignment and date of admission and must be available for review by the Division of Health Service Regulation and the county departments of social services.~~

(b) ~~Homes with capacity or census of 12 or fewer residents shall comply with the following:~~

- (1) ~~At all times there shall be an administrator or administrator in charge in the home or within~~

- 500 feet of the home with a means of two way telecommunication.
- (2) ~~When the administrator or administrator in charge is not on duty within the home, there shall be at least one staff member on duty on the first and second shifts and at least one staff member on call within the building on third shift. There shall be a call system connecting the bedroom of the staff member, who may be asleep on the third shift, with each resident's bedroom.~~
- (3) ~~When the administrator or administrator in charge is on duty within the home on the first and second shifts and on call within the home on the third shift, another staff member (i.e., co administrator, administrator in charge or aide) shall be in the building or within 500 feet of the home with a means of two way telecommunication at all times.~~
- (4) ~~The administrator shall prepare a plan of operation for the home (each home in a cluster) specifying the staff involved, their regularly assigned duties and the amount of time estimated to be spent for each duty. There shall be a current plan of operation on file in the home, available for review by the Division of Health Service Regulation and the county department of social services.~~
- (5) ~~At least 12 hours shall be spent daily providing for the personal services, health services, drug management, planned activities, and other direct services needed by the residents. These duties are the primary responsibility of the staff member(s) on duty on the first and second shifts; however, other help, such as administrator in charge and activities coordinator may be used to assist in providing these services.~~
- (6) ~~Between the hours of 9 p.m. and 7 a.m. the staff member on duty and the person on call may perform housekeeping and food service duties as long as a staff member can respond immediately to resident calls or the residents are otherwise supervised. The duties shall not hinder care of residents or immediate response to resident calls, disrupt residents' normal lifestyles and sleeping patterns, nor take a staff member out of view of where the residents are.~~
- (7) ~~There shall be staff available daily to assure housekeeping and food service.~~
- (e) ~~A cluster of homes with capacity or census of 12 or fewer residents shall comply with the following staffing:~~
- (1) ~~When there is a cluster of up to six licensed homes located adjacently, there shall be at least one administrator or administrator in charge who lives within 500 feet of each of the homes with a means of two way telecommunication at all times and who is directly responsible for~~
- ~~assuring that all required duties are carried out in each home; and~~
- (2) ~~In each of the homes, at least one staff member shall be on duty on the first and second shifts and at least one staff member shall be on call within the building during the third shift. There shall be a call system connecting the bedroom of the staff member, who may be asleep on the third shift, with each resident's bedroom.~~
- (d) ~~Homes with capacity or census of 13-20 shall comply with the following staffing. When the home is staffing to census and the census falls below 13 residents, the staffing requirements for a home with 12 or fewer residents shall apply.~~
- (1) ~~At all times there shall be an administrator or administrator in charge in the home or within 500 feet of the home with a means of two way telecommunication.~~
- (2) ~~When the administrator or administrator in charge is not on duty within the home, there shall be at least one staff member on duty on the first, second and third shifts.~~
- (3) ~~When the administrator or administrator in charge is on duty within the home, another staff member (i.e. co administrator, administrator in charge or aide) shall be in the building or within 500 feet of the home with a means of two way telecommunication at all times.~~
- (4) ~~The job responsibility of the staff member on duty within the home is to provide the direct personal assistance and supervision needed by the residents. Any housekeeping duties performed by the staff member between the hours of 7 a.m. and 9 p.m. shall be limited to occasional, non routine tasks. The staff member may perform housekeeping duties between the hours of 9 p.m. and 7 a.m. as long as such duties do not hinder care of residents or immediate response to resident calls, do not disrupt residents' normal lifestyles and sleeping patterns and do not take the staff member out of view of where the residents are. The staff member on duty to attend to the residents shall not be assigned food service duties.~~
- (5) ~~In addition to the staff member(s) on duty to attend to the residents, there shall be staff available daily to perform housekeeping and food service duties.~~
- (e) ~~Homes with capacity or census of 21 or more shall comply with the following staffing. When the home is staffing to census and the census falls below 21 residents, the staffing requirements for a home with a census of 13-20 shall apply.~~
- (1) ~~The home shall have staff on duty to meet the needs of the residents. The daily total of aide duty hours on each 8 hour shift shall at all times be at least:~~
- (A) ~~First shift (morning) 16 hours of aide duty for facilities with a census or capacity of 21 to 40 residents; and 16 hours of aide duty plus four additional~~

- hours of aide duty for every additional 10 or fewer residents for facilities with a census or capacity of 40 or more residents. (For staffing chart, see Rule .0606 of this Subchapter.)
- (B) Second shift (afternoon) 16 hours of aide duty for facilities with a census or capacity of 21 to 40 residents; and 16 hours of aide duty plus four additional hours of aide duty for every additional 10 or fewer residents for facilities with a census or capacity of 40 or more residents. (For staffing chart, see Rule .0606 of this Subchapter.)
- (C) Third shift (evening) 8.0 hours of aide duty per 30 or fewer residents (licensed capacity or resident census). (For staffing chart, see Rule .0606 of this Subchapter.)
- (D) The facility shall have additional aide duty to meet the needs of the facility's heavy care residents equal to the amount of time reimbursed by Medicaid. As used in this Rule, the term, "heavy care resident", means an individual residing in an adult care home who is defined as "heavy care" by Medicaid and for which the facility is receiving enhanced Medicaid payments.
- (E) The Department shall require additional staff if it determines the needs of residents cannot be met by the staffing requirements of this Rule.
- (2) The following describes the nature of the aide's duties, including allowances and limitations:
- (A) The job responsibility of the aide is to provide the direct personal assistance and supervision needed by the residents.
- (B) Any housekeeping performed by an aide between the hours of 7 a.m. and 9 p.m. shall be limited to occasional, non-routine tasks, such as wiping up a water spill to prevent an accident, attending to an individual resident's soiling of his bed, or helping a resident make his bed. Routine bed-making is a permissible aide duty.
- (C) If the home employs more than the minimum number of aides required, any additional hours of aide duty above the required hours of direct service between 7 a.m. and 9 p.m. may involve the performance of housekeeping tasks.
- (D) An aide may perform housekeeping duties between the hours of 9 p.m. and 7 a.m. as long as such duties do not hinder the aide's care of residents or immediate response to resident calls, do not disrupt the residents' normal lifestyles and sleeping patterns, and do not take the aide out of view of where the residents are. The aide shall be prepared to care for the residents since that remains his primary duty.
- (E) Aides shall not be assigned food service duties; however, providing assistance to individual residents who need help with eating and carrying plates, trays or beverages to residents is an appropriate aide duty.
- (3) In addition to the staffing required for management and aide duties, there shall be sufficient personnel employed to perform housekeeping and food service duties.
- (f) Information on required staffing shall be posted in the facility according to G.S. 131D-4.3(a)(5).
- (a) For an adult care home with a census of 81 or more residents, there shall be an administrator on-duty at the facility at least eight hours per day, five days per week and shall not serve simultaneously as a personal care aide supervisor or other staff to meet staffing requirements while on duty as an administrator or be an administrator for another adult care home except as follows. If there is more than one facility under the same ownership on a contiguous parcel of land or campus setting, and the combined licensed capacity of the facilities is 200 beds or less, there may be one administrator on duty for all the facilities on the campus. The administrator shall not serve simultaneously as a personal care aide supervisor or other staff in this campus setting.
- (b) When the administrator is not on-duty, there shall be a manager on-duty. The supervisor may serve simultaneously as the manager if the individual meets the qualifications required in Rule .0402 of this Subchapter. Each facility on a contiguous parcel of land or campus setting, as described in Paragraph (a) of this Rule, shall have a person designated as the manager in the facility when the administrator is not on-duty.
- (c) The administrator shall be on-call, at all times when not on-duty.
- Authority G.S. 131D-2.16; ~~131D-4.3~~; 131D-4.5; 131D-25; 143B-165.

**10A NCAC 13F .0605 STAFFING OF PERSONAL CARE AIDE SUPERVISORS GENERAL STAFFING REQUIREMENTS FOR ADULT CARE HOMES**

- (a) On first and second shifts in facilities with a capacity or census of 31 or more residents and on third shift in facilities with a capacity or census of 91 or more residents, there shall be at least one supervisor of personal care aides, hereafter referred to as supervisor, on duty in the facility for less than 64 hours of aide duty per shift; two supervisors for 64 to less than 96 hours of aide duty per shift; and three supervisors for 96 to less than 128 hours of aide duty per shift. In facilities sprinklered for fire suppression with a capacity or census of 91 to 120 residents, the supervisor's time on third shift may be counted as required aide duty. (For staffing chart, see Rule .0606 of this Section.)

~~(b) On first and second shifts in facilities with a capacity or census of 31 to 70 residents, the supervisor may provide up to four hours of aide duty per shift which may be counted as required aide hours of duty. The supervisor's hours on duty shall not be counted as required hours of aide duty except as specified in this Rule.~~

~~Note: Supervisors may be involved in performing some personal care in facilities with a capacity or census of 71 or more residents, but their primary responsibility is the direct supervision of personal care aides and the time involved in performing any personal care cannot be counted as required aide hours.~~

~~(c) On third shift in facilities with a capacity or census of 31 to 60 residents, the supervisor shall be in the facility or within 500 feet and immediately available, as defined in Rule .0601 of this Subchapter. In facilities sprinklered for fire suppression with a capacity or census of 31 to 60 residents, the supervisor's time on duty in the facility on third shift may be counted as required aide duty.~~

~~(d) On third shift in facilities with a capacity or census of 61 to 90 residents, the supervisor shall be on duty in the facility for at least four hours and within 500 feet and immediately available, as defined in Rule .0601 of this Subchapter, for the remaining four hours. In facilities sprinklered for fire suppression with a capacity or census of 61 to 90 residents, the supervisor's time on duty in the facility on third shift may be counted as required aide duty.~~

~~(e) A supervisor is responsible for the direct supervision of personal care aides, including those who administer medications, to assure that care and services are provided to residents by personal care aides in a safe and secure manner and according to licensure rules. This involves observing personal care aides in the performance of their duties; instructing, correcting and consulting with aides as needed; and reviewing documentation by aides.~~

~~(f) A supervisor on duty shall not serve simultaneously as the administrator but may serve simultaneously as the administrator in charge in the absence of the administrator.~~

~~(g) A supervisor shall meet the following qualifications:~~

- ~~(1) be 21 years or older;~~
- ~~(2) be a high school graduate or certified under the G.E.D. program, or have passed an alternative examination established by the Department;~~

- ~~(3) meet the general health requirements according to Rule .0406 of this Section;~~
- ~~(4) have at least six months of experience in performing or supervising the performance of duties to be supervised during a period of three years prior to the effective date of this Rule or the date of hire, whichever is later, or be a licensed health professional or a licensed nursing home administrator;~~
- ~~(5) meet the same minimum training and competency requirements of the aides being supervised; and~~
- ~~(6) earn at least 12 hours a year of continuing education credits related to the care of aged and disabled persons in accordance with procedures established by the Department of Health and Human Services.~~

(a) Adult care homes shall staff to the facility's resident census and provide staffing to meet the care and supervision needs of the residents in accordance with the rules of this Subchapter.

(b) At no time shall residents be left alone without a staff member in the facility.

(c) The facility shall maintain a daily census log which lists current residents by name, room assignment and date of admission, which shall be available for review by the Division of Health Service Regulation and the county departments of social services.

(d) The facility shall post daily staffing information in a location accessible to residents and visitors in accordance with G.S. 131D-4.3(a)(5). The information shall include:

- (1) the name and contact information of the administrator and manager;
- (2) the number of required supervisors on each shift; and
- (3) the number of aides required on each shift.

*Authority G.S. 131D-2.16; 131D-4.3; 131D-4.5; 143B-165.*

**10A NCAC 13F .0606 STAFFING CHART STAFFING FOR FACILITIES WITH A CENSUS OF SEVEN TO TWELVE RESIDENTS**

The following chart specifies the required aide, supervisory and management staffing for each eight hour shift in facilities with a capacity or census of 21 or more residents according to Rules .0601, .0603, .0602, .0604 and .0605 of this Subchapter.

Bed Count	Position Type	First Shift	Second Shift	Third Shift
21-30	Aide	16	16	8
	Supervisor	Not Required	Not Required	Not Required
	Administrator/SIC	In the building, or within 500 feet and immediately available.		
31-40	Aide	16	16	16
	Supervisor	8*	8*	In the building, or within 500 feet and immediately available.**
	Administrator	On call		
	Aide	20	20	16

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Bed Count	Position Type	First Shift	Second Shift	Third Shift
41-50	Supervisor	8*	8*	In the building, or within 500 feet and immediately available.**
	Administrator	On call		
51-60	Aide	24	24	16
	Supervisor	8*	8*	In the building, or within 500 feet and immediately available.**
	Administrator	On call		
61-70	Aide	28	28	24
	Supervisor	8*	8*	4 hours within the facility/4 hours within 500 feet and immediately available.**
	Administrator	On call		
71-80	Aide	32	32	24
	Supervisor	8	8	4 hours within the facility/4 hours within 500 feet and immediately available.**
	Administrator	On call		
81-90	Aide	36	36	24
	Supervisor	8	8	4 hours within the facility/4 hours within 500 feet and immediately available.**
	Administrator	5 days/week: Minimum of 40 hours. When not in facility, on call.		
91-100	Aide	40	40	32
	Supervisor	8	8	8**
	Administrator	5 days/week: Minimum of 40 hours. When not in facility, on call.		
101-110	Aide	44	44	32
	Supervisor	8	8	8**
	Administrator	5 days/week: Minimum of 40 hours. When not in facility, on call.		
111-120	Aide	48	48	32
	Supervisor	8	8	8**
	Administrator	5 days/week: Minimum of 40 hours. When not in facility, on call.		
121-130	Aide	52	52	40
	Supervisor	8	8	8
	Administrator	5 days/week: Minimum of 40 hours. When not in facility, on call.		
131-140	Aide	56	56	40
	Supervisor	8	8	8
	Administrator	5 days/week: Minimum of 40 hours. When not in facility, on call.		
141-150	Aide	60	60	40
	Supervisor	8	8	8
	Administrator	5 days/week: Minimum of 40 hours. When not in facility, on call.		
151-160	Aide	64	64	48
	Supervisor	16	16	8
	Administrator	5 days/week: Minimum of 40 hours. When not in facility, on call.		
161-170	Aide	68	68	48
	Supervisor	16	16	8
	Administrator	5 days/week: Minimum of 40 hours. When not in facility, on call.		
171-180	Aide	72	72	48
	Supervisor	16	16	8

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Bed Count	Position Type	First Shift	Second Shift	Third Shift
	Administrator	5 days/week: Minimum of 40 hours. When not in facility, on call.		
181-190	Aide	76	76	56
	Supervisor	16	16	8
	Administrator	5 days/week: Minimum of 40 hours. When not in facility, on call.		
191-200	Aide	80	80	56
	Supervisor	16	16	8
	Administrator	5 days/week: Minimum of 40 hours. When not in facility, on call.		
201-210	Aide	84	84	56
	Supervisor	16	16	8
	Administrator	5 days/week: Minimum of 40 hours. When not in facility, on call.		
211-220	Aide	88	88	64
	Supervisor	16	16	16
	Administrator	5 days/week: Minimum of 40 hours. When not in facility, on call.		
221-230	Aide	92	92	64
	Supervisor	16	16	16
	Administrator	5 days/week: Minimum of 40 hours. When not in facility, on call.		
231-240	Aide	96	96	64
	Supervisor	24	24	16
	Administrator	5 days/week: Minimum of 40 hours. When not in facility, on call.		

\*Supervisor may conduct up to four hours of aide duty.

\*\*Supervisor' time on duty in the facility may be counted as required aide duty if the facility is sprinklered.

(a) In a facility with a census of greater than six but less than 13 residents, there shall be an administrator or manager in the facility or within 500 feet of the facility with a means of two-way telecommunication at all times.

(b) When the administrator or manager is not on-duty, there shall be at least one staff member on-duty on the first and second shifts and at least one staff member available within the building, who need not be on-duty, on third shift. There shall be a call system connecting the bedroom of the available staff member, who may be asleep on the third shift, with each resident's bedroom. If there are residents in the facility who are disoriented or known to have wandering behavior, there shall be at least one staff member on-duty and awake at all times.

(c) When the administrator or manager is on duty on the first or second shifts and available within the facility on third shift, another staff member (i.e., co-administrator, manager or aide) shall be in the building or within 500 feet of the facility with a means of two-way telecommunication at all times.

(d) The administrator shall prepare a plan of operation for each licensed facility specifying the staff involved, their regularly assigned duties and the amount of time estimated to be spent for each duty. There shall be a current plan of operation on file in the facility, available for review by the Division of Health Service Regulation and the county department of social services.

(e) Each facility shall assign at least one staff member per shift to provide personal care services and supervision of residents as needed by the residents. The staff member so assigned shall not perform food service duties during the shift of rendering care services and supervision. The staff member so assigned shall not perform housekeeping duties during the shift of rendering care services and supervision, except:

- (1) between the hours of 7:00 a.m. and 9:00 p.m., and then only when the housekeeping duties are incidental to the rendering of care services; and

- (2) between the hours of 9:00 p.m. and 7:00 a.m. and then only to the extent that the housekeeping duties do not hinder the assigned staff's duties of care or immediate response to residents, nor impede the assigned staff member's ability to monitor the residents.

(f) There shall be additional staff to provide daily housekeeping and food service duties.

(g) A cluster of facilities, each with capacity or census of 12 or fewer residents, shall comply with the following staffing:

- (1) When there is a cluster of up to six licensed facilities located adjacently, there shall be at least one administrator or manager who lives within 500 feet of each of the facilities with a means of two-way telecommunication at all times.
- (2) The administrator or manager on-duty shall be directly responsible for assuring that all required daily duties are carried out in each facility.

*Authority G.S. 131D-2.16; 131D-4.3; 131D-4.5; 143B-165.*

**10A NCAC 13F .0607 STAFFING FOR FACILITIES WITH A CENSUS OF 13 TO 20 RESIDENTS**

(a) In a facility with a census of greater than 12 but less than 21 residents, there shall be an administrator or manager in the facility or within 500 feet of the facility with a means of two-way telecommunication at all times.

(b) When the administrator or manager is not on duty within the facility, there shall be at least one awake staff member on duty on the first, second, and third shifts.

(c) When the administrator or manager is on duty within the facility, another staff member (i.e. co-administrator, manager or

aide) shall be in the building or within 500 feet of the facility with a means of two-way telecommunication at all times and available to assist if needed.

(d) Each facility shall assign at least one staff member per shift to provide personal care services and supervision of residents as needed by the residents. The staff member so assigned shall not perform food service duties during the shift of rendering care services and supervision. The staff member so assigned shall not perform housekeeping duties during the shift of rendering care services and supervision, except:

- (1) between the hours of 7:00 a.m. and 9:00 p.m., and then only when the housekeeping duties are incidental to the rendering of care services; and
- (2) between the hours of 9:00 p.m. and 7:00 a.m., and then only to the extent that the housekeeping duties do not hinder the assigned staff's duties of care or immediate response to residents, nor impede the assigned staff member's ability to monitor the residents.

(e) There shall be additional staff to provide daily housekeeping and food service duties.

Authority G.S. 131D-2.16; 131D-4.3; 131D-4.5; 143B-165.

**10A NCAC 13F .0608 STAFFING FOR FACILITIES WITH A CENSUS OF 21 OR MORE RESIDENTS**

(a) Each facility with a census of 21 or more residents shall have staff on duty to meet the needs of the residents.

(b) In addition to the requirement in Paragraph (a) of this Rule, each facility with a census of 21 or more residents shall comply with the following staffing requirements:

- (1) On first shift and second shift, the total aide duty hours shall be at least:
  - (A) 16 hours of aide duty for facilities with a census of 21 to 40 residents.
  - (B) 20 hours of aide duty for facilities with a census of 41 to 50 residents.
  - (C) 24 hours of aide duty for facilities with a census of 51 to 60 residents.
  - (D) 28 hours of aide duty for facilities with a census of 61 to 70 residents.
  - (E) 32 hours of aide duty for facilities with a census of 71 to 80 residents.
  - (F) 36 hours of aide duty for facilities with a census of 81 to 90 residents.
  - (G) 40 hours of aide duty for facilities with a census of 91 to 100 residents.
  - (H) 44 hours of aide duty for facilities with a census of 101 to 110 residents.
  - (I) 48 hours of aide duty for facilities with a census of 111 to 120 residents.
  - (J) 52 hours of aide duty for facilities with a census of 121 to 130 residents.
  - (K) 56 hours of aide duty for facilities with a census of 131 to 140 residents.
  - (L) 60 hours of aide duty for facilities with a census of 141 to 150 residents.
  - (M) 64 hours of aide duty for facilities with a census of 151 to 160 residents.

- (N) 68 hours of aide duty for facilities with a census of 161 to 170 residents.
- (O) 72 hours of aide duty for facilities with a census of 171 to 180 residents.
- (P) 76 hours of aide duty for facilities with a census of 181 to 190 residents.
- (Q) 80 hours of aide duty for facilities with a census of 191 to 200 residents.
- (R) 84 hours of aide duty for facilities with a census of 201 to 210 residents.
- (S) 88 hours of aide duty for facilities with a census of 211 to 220 residents.
- (T) 92 hours of aide duty for facilities with a census of 221 to 230 residents.
- (U) 96 hours of aide duty for facilities with a census of 231 to 240 residents.

(2) On third shift, the total aide duty hours shall be at least:

- (A) 8 hours of aide duty for facilities with a census of 21 to 30 residents.
- (B) 16 hours of aide duty for facilities with a census of 31 to 60 residents.
- (C) 24 hours of aide duty for facilities with a census of 61 to 90 residents.
- (D) 32 hours of aide duty for facilities with a census of 91 to 120 residents.
- (E) 40 hours of aide duty for facilities with a census of 121 to 150 residents.
- (F) 48 hours of aide duty for facilities with a census of 151 to 180 residents.
- (G) 56 hours of aide duty for facilities with a census of 181 to 210 residents.
- (H) 64 hours of aide duty for facilities with a census of 211 to 240 residents.

(3) If the Department determines the needs of the residents at a facility are not being met by staffing requirements of Paragraph (b) of this Rule, the Department shall require the facility to employ staff to meet the needs of the residents.

(b) The aide shall provide personal care services and supervision needed by the residents.

(c) Aides shall not provide housekeeping duties except:

- (1) Between the hours of 7:00 a.m. to 9:00 p.m.:
  - (A) to prevent an accident or injury;
  - (B) when occasionally attending to an individual resident housekeeping need; and
  - (C) when the number of aides on duty exceeds the minimum required by Paragraph (a) of this Rule.
- (2) Between the hours of 9:00 p.m. to 7:00 a.m., as long as the housekeeping duties do not:
  - (A) hinder the aide's care of residents or immediate response to resident calls;
  - (B) do not disrupt the residents' normal lifestyles and sleeping patterns; and
  - (C) do not take the aide out of view of where the residents are as the aide

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shall be prepared to care for the residents since that remains his or her primary duty.

(d) Aides shall not be assigned food service duties except when providing assistance to individual residents who need help with eating and carrying plates, trays, or beverages to residents.

(e) In addition to the staffing required for management and aide duties, there shall be additional staff to perform housekeeping and food service duties.

Note: The following chart illustrates the required aide, supervisory and management staffing requirements for each eight-hour shift in facilities with a census of 21 or more residents according to Rules .0602, .0603, .0604, .0608, and .0609 of this Section.

<u>Census</u>	<u>Position Type</u>	<u>First Shift</u>	<u>Second Shift</u>	<u>Third Shift</u>
<u>21 - 30</u>	<u>Aide</u>	<u>16</u>	<u>16</u>	<u>8</u>
	<u>Supervisor</u>	<u>Not Required</u>	<u>Not Required</u>	<u>Not Required</u>
	<u>Administrator</u>	<u>In the building, or within 500 feet and immediately available.</u>		
<u>31-40</u>	<u>Aide</u>	<u>16</u>	<u>16</u>	<u>16</u>
	<u>Supervisor</u>	<u>8*</u>	<u>8*</u>	<u>In the building, or within 500 feet and immediately available.**</u>
	<u>Administrator</u>	<u>On call</u>		
<u>41-50</u>	<u>Aide</u>	<u>20</u>	<u>20</u>	<u>16</u>
	<u>Supervisor</u>	<u>8*</u>	<u>8*</u>	<u>In the building, or within 500 feet and immediately available.**</u>
	<u>Administrator</u>	<u>On call</u>		
<u>51-60</u>	<u>Aide</u>	<u>24</u>	<u>24</u>	<u>16</u>
	<u>Supervisor</u>	<u>8*</u>	<u>8*</u>	<u>In the building, or within 500 feet and immediately available.**</u>
	<u>Administrator</u>	<u>On call</u>		
<u>61-70</u>	<u>Aide</u>	<u>28</u>	<u>28</u>	<u>24</u>
	<u>Supervisor</u>	<u>8*</u>	<u>8*</u>	<u>4 hours within the facility/4 hours within 500 feet and immediately available.**</u>
	<u>Administrator</u>	<u>On call</u>		
<u>71-80</u>	<u>Aide</u>	<u>32</u>	<u>32</u>	<u>24</u>
	<u>Supervisor</u>	<u>8</u>	<u>8</u>	<u>4 hours within the facility/4 hours within 500 feet and immediately available.**</u>
	<u>Administrator</u>	<u>On call</u>		
<u>81-90</u>	<u>Aide</u>	<u>36</u>	<u>36</u>	<u>24</u>
	<u>Supervisor</u>	<u>8</u>	<u>8</u>	<u>4 hours within the facility/4 hours within 500 feet and immediately available.**</u>
	<u>Administrator</u>	<u>5 days/week: Minimum of 40 hours. When not in facility, on call.</u>		
<u>91-100</u>	<u>Aide</u>	<u>40</u>	<u>40</u>	<u>32</u>
	<u>Supervisor</u>	<u>8</u>	<u>8</u>	<u>8**</u>
	<u>Administrator</u>	<u>5 days/week: Minimum of 40 hours. When not in facility, on call.</u>		
<u>101-110</u>	<u>Aide</u>	<u>44</u>	<u>44</u>	<u>32</u>
	<u>Supervisor</u>	<u>8</u>	<u>8</u>	<u>8**</u>
	<u>Administrator</u>	<u>5 days/week: Minimum of 40 hours. When not in facility, on call.</u>		
<u>111-120</u>	<u>Aide</u>	<u>48</u>	<u>48</u>	<u>32</u>
	<u>Supervisor</u>	<u>8</u>	<u>8</u>	<u>8**</u>
	<u>Administrator</u>	<u>5 days/week: Minimum of 40 hours. When not in facility, on call.</u>		



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<u>Census</u>	<u>Position Type</u>	<u>First Shift</u>	<u>Second Shift</u>	<u>Third Shift</u>
<u>121-130</u>	<u>Aide</u>	<u>52</u>	<u>52</u>	<u>40</u>
	<u>Supervisor</u>	<u>8</u>	<u>8</u>	<u>8</u>
	<u>Administrator</u>	<u>5 days/week: Minimum of 40 hours. When not in facility, on call.</u>		
<u>131-140</u>	<u>Aide</u>	<u>56</u>	<u>56</u>	<u>40</u>
	<u>Supervisor</u>	<u>8</u>	<u>8</u>	<u>8</u>
	<u>Administrator</u>	<u>5 days/week: Minimum of 40 hours. When not in facility, on call.</u>		
<u>141-150</u>	<u>Aide</u>	<u>60</u>	<u>60</u>	<u>40</u>
	<u>Supervisor</u>	<u>8</u>	<u>8</u>	<u>8</u>
	<u>Administrator</u>	<u>5 days/week: Minimum of 40 hours. When not in facility, on call.</u>		
<u>151-160</u>	<u>Aide</u>	<u>64</u>	<u>64</u>	<u>48</u>
	<u>Supervisor</u>	<u>16</u>	<u>16</u>	<u>8</u>
	<u>Administrator</u>	<u>5 days/week: Minimum of 40 hours. When not in facility, on call.</u>		
<u>161-170</u>	<u>Aide</u>	<u>68</u>	<u>68</u>	<u>48</u>
	<u>Supervisor</u>	<u>16</u>	<u>16</u>	<u>8</u>
	<u>Administrator</u>	<u>5 days/week: Minimum of 40 hours. When not in facility, on call.</u>		
<u>171-180</u>	<u>Aide</u>	<u>72</u>	<u>72</u>	<u>48</u>
	<u>Supervisor</u>	<u>16</u>	<u>16</u>	<u>8</u>
	<u>Administrator</u>	<u>5 days/week: Minimum of 40 hours. When not in facility, on call.</u>		
<u>181-190</u>	<u>Aide</u>	<u>76</u>	<u>76</u>	<u>56</u>
	<u>Supervisor</u>	<u>16</u>	<u>16</u>	<u>8</u>
	<u>Administrator</u>	<u>5 days/week: Minimum of 40 hours. When not in facility, on call.</u>		
<u>191-200</u>	<u>Aide</u>	<u>80</u>	<u>80</u>	<u>56</u>
	<u>Supervisor</u>	<u>16</u>	<u>16</u>	<u>8</u>
	<u>Administrator</u>	<u>5 days/week: Minimum of 40 hours. When not in facility, on call.</u>		
<u>201-210</u>	<u>Aide</u>	<u>84</u>	<u>84</u>	<u>56</u>
	<u>Supervisor</u>	<u>16</u>	<u>16</u>	<u>8</u>
	<u>Administrator</u>	<u>5 days/week: Minimum of 40 hours. When not in facility, on call.</u>		
<u>211-220</u>	<u>Aide</u>	<u>88</u>	<u>88</u>	<u>64</u>
	<u>Supervisor</u>	<u>16</u>	<u>16</u>	<u>16</u>
	<u>Administrator</u>	<u>5 days/week: Minimum of 40 hours. When not in facility, on call.</u>		
<u>221-230</u>	<u>Aide</u>	<u>92</u>	<u>92</u>	<u>64</u>
	<u>Supervisor</u>	<u>16</u>	<u>16</u>	<u>16</u>
	<u>Administrator</u>	<u>5 days/week: Minimum of 40 hours. When not in facility, on call.</u>		
<u>231-240</u>	<u>Aide</u>	<u>96</u>	<u>96</u>	<u>64</u>
	<u>Supervisor</u>	<u>24</u>	<u>24</u>	<u>16</u>
	<u>Administrator</u>	<u>5 days/week: Minimum of 40 hours. When not in facility, on call.</u>		

\*Supervisor may conduct up to four hours of aide duty.

\*\* Supervisor's time on duty in the facility may be counted as required aide duty if the facility is sprinklered.

Authority G.S. 131D-2.16; 131D-4.3; 131D-4.5; 143B-165.

**10A NCAC 13F .0609 PERSONAL CARE AIDE SUPERVISORS**

(a) The personal care aide supervisor shall be responsible for the direct supervision of personal care aides, including those who administer medications, to assure that care and services are provided to residents by personal care aides in accordance with their training, the facility's policies and procedures, the licensure rules of this Subchapter, and Chapter 131D of the general statutes. The personal care aide supervisor shall also be responsible for observing personal care aides in the performance of their duties; instructing, correcting, and consulting with aides as needed; and reviewing documentation by aides.

(b) During the first and second shifts in facilities with a census of 31 or more residents and on third shift in facilities with a census of 91 or more residents, the facility shall have supervisors on-duty during each shift as follows:

- (1) One supervisor, on duty in the facility for less than 64 hours of aide duty per shift.
- (2) Two supervisors for 64 to less than 96 hours of aide duty per shift.
- (3) Three supervisors for 96 to less than 128 hours of aide duty per shift.

(c) Supervisors shall not provide hours of aide duty while servicing as a supervisor except as follows:

- (1) On third shift in facilities with a census of 31 to 120 residents and a sprinkler fire suppression system.

- (2) On first and second shifts, up to four hours, in facilities with a census of 31 to 70 residents.
- (3) On first and second shifts in facilities with a census of 71 or more residents in which some personal care duties are performed but however the time involved in performing any personal care cannot be counted as required aide hours.
- (d) On third shift in facilities with a census of 31 to 60 residents, the supervisor shall be in the facility or within 500 feet and immediately available, as defined in Rule .0608 of this Section.
- (e) On third shift in facilities with a census of 61 to 90 residents, the supervisor shall be on duty in the facility for at least four hours and within 500 feet and immediately available, as defined in Rule .0608 of this Section, for the remaining four hours.
- (f) The supervisor on duty shall not serve simultaneously as the administrator but may serve simultaneously as the manager in the absence of the administrator.

Authority G.S. 131D-2.16; 131D-4.3; 131D-4.5; 143B-165.

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

**SECTION .0100 - DEFINITIONS**

**10A NCAC 13G .0102 LIST OF DEFINITIONS**

In addition to the definitions set forth in G.S. 131D-2.1, the following definitions shall apply throughout this Subchapter:

- (1) "Abuse" as defined in G.S. 131D-2.1.
- (2) "Activities of daily living" means bathing, dressing, personal hygiene, ambulation, or locomotion, transferring, toileting, and eating.
- (3) "Acute care needs" means symptoms or a condition that develops quickly and is not a part of the resident's baseline health or mental health status or is a change or worsening in the symptoms of a resident's chronic condition, which may have a slower onset and worsen over time.
- (4) "Administrator" means the term as defined in G.S. 90-288.13 and G.S. 131D-2.1.
- (5) "Adult care home" means the term as defined in G.S. 131D-2.1.
- (6) "Alternative examination" means a test developed and administered by the Department to meet the educational requirements of an activity director or supervisor-in-charge for those applicants who do not possess a high school diploma or General Education Diploma (G.E.D.) prior to September 1, 2024.
- (7) "Aide duty" means time spent by qualified staff providing assistance with activities of daily living, medication administration, or supervision of residents as determined by the resident's assessment, care plan, physician's orders, and current symptoms.
- (8) "Ambulatory" means able to respond and evacuate a facility without physical or verbal prompting from staff or another person.

- (9) "Department" means the North Carolina Department of Health and Human Services.
- (10) "Discharge" means a resident's termination of their residency at the adult care home, resulting in the resident's move to another location.
- (11) "Exploitation" means the term as defined in G.S. 131D-2.1.
- (12) "Facility" means a licensed family care home.
- (13) "Family care home" means the term as defined in G.S. 131D-2.1.
- (14) "First shift" means between the hours of 7:01 a.m. and 3:00 p.m.
- (15) "Food service duties" means tasks that may be performed by staff related to serving meals to residents, including assisting with food preparation, arranging, and setting the dining tables, serving food and beverages, and cleaning the dining room after meal service is complete.
- (16) "Housekeeping duties" means tasks that may be performed by staff such as cleaning and sanitizing facility common areas and resident rooms, sweeping, vacuuming, dusting, mopping, collecting, and disposing of trash.
- (17) "Legal representative" means a person authorized by state or federal law (including but not limited to power of attorney representative payee) to act on behalf of the resident to support the resident in decision-making; access medical, social, or other personal information of the resident; manage financial matters or receive notifications.
- (18) "Long-term care" means a continuum of care and services available in an individual's community that provides the care and supports required during a persistent or chronic state of health, throughout which time a person is unable to independently perform some or all activities of daily living or requires supervision due to physical or cognitive impairment.
- (19) "Medication aide" means an individual who administers medications to residents and meets all requirements as set forth in Rule .0403 of this Subchapter.
- (20) "Neglect" means the term as defined in G.S. 131D-2.1.
- (21) "Non-ambulatory" means not able to respond and evacuate a facility without physical or verbal prompting from staff or another person.
- (22) "On-call" means able to be contacted by two-way telecommunication.
- (23) "On-duty" in reference to an administrator means the administrator is on-site and directly responsible for the day-to-day operations of a facility. "On-duty" in reference to a supervisor-in-charge means a supervisor-in-charge designated by the facility as required in Rule .0402 of this Subchapter and who is on-site and directly responsible for the day-to-day

- operations of a facility under the direction and supervision of the administrator.
- (24) "Personal care aide" means a staff member who performs personal care services as defined by G.S. 131D-2.1.
- (25) "Physical restraint" means any physical or mechanical device attached to or adjacent to the resident's body that the resident cannot remove easily, and which restricts freedom of movement or normal access to one's body.
- (26) "Physician extender" means a licensed physician assistant or licensed nurse practitioner.
- (27) "Resident" means the term as defined in G.S. 131D-2.1.
- (28) "Responsible person" means a person chosen by the resident to act on their behalf to support the resident in decision-making; access to medical, social, or other personal information of the resident; manage financial matters; or receive notifications.
- (29) "Second shift" means between the hours of 3:01 p.m. and 11:00 p.m.
- (30) "Staff" means any person who performs duties as an employee, paid or unpaid, on behalf of the family care home.
- (31) "Supervision" means oversight, monitoring, and interventions implemented by the facility for the purpose of mitigating the risk of an accident, incident, illness, or injury to a resident to ensure the health, safety, and welfare of the resident and other residents.
- (32) "Supervisor-in-charge" means an individual responsible for the total operation of a family care home in the absence of the administrator and under the direction and supervision of the administrator as described in Rule .0402 of this Subchapter.
- (33) "Third shift" means between the hours of 11:01 p.m. and 7:00 a.m.

Authority G.S. 131D-2.16; 143B-153.

**SECTION .0400 – STAFF QUALIFICATIONS**

**10A NCAC 13G .0404 QUALIFICATIONS OF ACTIVITY DIRECTOR**

Adult care homes shall have an activity director who meets the following qualifications:

- (1) The activity director hired after September 30, 2022 shall meet a minimum educational requirement by being a high school graduate or certified under the GED Program.
- (2) The activity director hired after September 30, 2022 shall have complete, within nine months of employment or assignment to this position, the basic activity course for assisted living activity directors offered by community colleges or a comparable activity course as

determined by the Department based on instructional hours and content. An activity director shall be exempt from the required basic activity course if one or more of the following applies:

- (a) be a licensed recreational therapist or be eligible for certification as a therapeutic recreation specialist as defined by the North Carolina Recreational Therapy Licensure Act in accordance with G.S. 90C;
- (b) have two years of experience working in programming for an adult recreation or activities program within the last five years, one year of which was full-time in an activities program for patients or residents in a health care or long term care setting;
- (c) be a licensed occupational therapist or licensed occupational therapy assistant in accordance with G.S. 90, Article 18D; or
- (d) be certified as an Activity ~~Director~~ Professional by the National Certification Council for Activity ~~Professionals~~ Professionals; or
- (e) the required basic activity course was completed prior to September 1, 2024.

Authority G.S. 131D-2.16; 131D-4.5; 143B-165.

**SECTION .0600 – STAFFING OF THE HOME FACILITY**

**10A NCAC 13G .0601 MANAGEMENT AND OTHER STAFF**

(a) A family care home administrator who is approved in accordance with Rule .1501 of this Subchapter shall be responsible for the total operation ~~of a family care home~~ and management of the facility to assure that all care and services are provided to maintain the health, safety, and welfare of the residents in accordance with all applicable local, state, and federal regulations and codes. The administrator shall also be responsible to the Division of Health Service Regulation and the county department of social services for ~~meeting and maintaining~~ complying with the rules of this Subchapter. The co-administrator, when there is one, shall share equal responsibility with the administrator for the operation of the home facility and for meeting and maintaining the rules of this Subchapter. The term ~~administrator~~ "administrator" also refers to co-administrator where it is used in this Subchapter.

(b) The administrator shall have knowledge of and shall ensure the following:

- (1) the investigation and reporting of any allegations of resident abuse, neglect, and exploitation as specified in Rule .1213(d) of this Subchapter;
- (2) the investigation and reporting of any suspicion of or allegations of drug diversion as specified in Rule .1008 of this Subchapter;

- (3) the reporting of any incidents of resident elopement or when a resident is missing from the facility as required in Rule .1213(e)(2) and Rule .0906(f)(4) of this Subchapter; and
- (4) the investigation and reporting of any incident or accident resulting in the hospitalization or death of a resident as specified in Rule .1209 and Rule .1213 of this Subchapter.

(c) The administrator shall be made aware when the facility is unable to meet the staffing requirements of this Section.

(d) The administrator shall be made aware any time the facility seeks the assistance of the local law enforcement authority.

(b)(e) At all times there shall be one the administrator or supervisor-in-charge who shall be in the facility or within 500 feet of the facility with a means of two-way telecommunication. The administrator or supervisor-in-charge is directly responsible for assuring that all required duties are carried out in the home facility and for assuring that at no time is a resident left alone in the home facility without a staff member. Except for the provisions cited in Paragraph (c) of this Rule regarding the occasional absence of the administrator or supervisor in charge, one of the following arrangements shall be used:

- (1) The administrator shall be in the home facility or reside within 500 feet of the home with a means of two-way telecommunication with the home at all times. When the administrator does not live in the licensed home, there shall be at least one staff member who lives in the home or one on each shift and the administrator shall be directly responsible for assuring that all required duties are carried out in the home;
- (2) The administrator shall employ a supervisor in-charge to live in the home facility or reside within 500 feet of the home with a means of two-way telecommunication with the home at all times. When the supervisor in-charge does not live in the licensed home, there shall be at least one staff member who lives in the home or one on each shift and the supervisor in-charge shall be directly responsible for assuring that all required duties are carried out in the home; or
- (3) When there is a cluster of licensed homes located adjacently on the same site, there shall be at least one staff member in each home, either live in or on a shift basis, and at least one administrator or supervisor in-charge who lives within 500 feet of each home with a means of two-way telecommunication with each home at all times and who is directly responsible for assuring that all required duties are carried out in each home.

(e) When the administrator or supervisor in-charge is absent from the home or not within 500 feet of the home, the following shall apply:

- (1) For absences of a non-routine nature that do not exceed 24 hours per week, a relief person in-charge designated by the administrator shall be in-charge of the home during the absence and in the home or within 500 feet of the home

according to the requirements in Paragraph (b) of this Rule. The administrator shall assure that the relief person in-charge is prepared to respond appropriately in case of an emergency in the home. The relief person in-charge shall be 18 years or older.

- (2) For recurring or planned absences, a relief-supervisor in-charge designated by the administrator shall be in-charge of the home during the absence and in the home or within 500 feet of the home according to the requirements in Paragraph (b) of this Rule. The relief supervisor in-charge shall meet all of the qualifications required for the supervisor in-charge as specified in Rule .0402 of this Subchapter with the exception of Item (4) pertaining to the continuing education requirement.

(f) When the administrator or supervisor-in-charge are not in the facility or within 500 feet of the facility, a staff person who meets the staff qualification requirements of this Subchapter shall be on duty in the facility. The staff person shall be on duty in the facility no more than eight hours per 24 hours and no more than 24 hours total per week.

(d)(g) Additional staff shall be employed as needed for housekeeping and the supervision and care of the residents-residents in accordance with the rules of this Subchapter.

(e)(h) Information on required staffing shall be posted in the facility according to G.S. 131D-4.3(a)(5). The facility shall post daily staffing information in a location accessible to residents and visitors in accordance with G.S.131D-4.3(a)(5). The information shall include:

- (1) the name and contact information of the administrator and supervisor in-charge;
- (2) the number of required supervisors on each shift; and
- (3) the number of aides required on each shift.

*Authority G.S. 131D-2.16; 131D-25; 143B-165.*

**TITLE 11 – DEPARTMENT OF INSURANCE**

*Notice is hereby given in accordance with G.S. 150B-21.2 that the Department of Insurance intends to amend the rule cited as 11 NCAC 12 .0332.*

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

**Proposed Effective Date:** April 1, 2024

**Public Hearing:**

**Date:** January 9, 2024

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

**Location:** 1st Floor Hearing Room, Room 131 (Albemarle Building) located at 325 N. Salisbury Street, Raleigh, NC 27603

**Reason for Proposed Action:** *The reason the change is needed is because of recently enacted legislation, S.L. 2023-133. Section 8 of the on-site audit requirements for TPAs and this would make conforming amendments to 11 NCAC 12 .0332.*

**Comments may be submitted to:** *Loretta Peace-Bunch, 325 N. Salisbury Street, Raleigh, NC 27603; phone (919) 807-6004; email Loretta.Peace-Bunch@ncdoi.gov*

**Comment period ends:** *January 30, 2024*

**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 a written objection to the Rules Review Commission. 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 letters via U.S. Mail, private courier service, or hand delivery to 1711 New Hope Church Road, Raleigh, North Carolina, or via email to oah.rules@oah.nc.gov. If you have any further questions concerning the submission of objections to the Commission, please review 26 NCAC 05 .0110 or call a Commission staff attorney at 984-236-1850.

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

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

**CHAPTER 12 - LIFE AND HEALTH DIVISION**

**SECTION .0300 - GENERAL PROVISIONS**

**11 NCAC 12 .0332 REVIEW/AUDIT OF THIRD PARTY ADMINISTRATORS**

- (a) Definitions. As used in this rule:
- (1) "Certification" means the certification required by G.S. 58-56-26(c).
  - (2) "Insurer" has the same meaning as in G.S. 58-56-2(4).
  - (3) "Third party administrator" or "TPA" has the same meaning as in G.S. 58-56-2(5).
- (b) For the certification submitted on July 1, 2010, the insurer shall submit a certification signed by an officer of the insurer, which identifies the name and federal tax identification number of the TPA that is the subject of the certification. The certification shall contain the following language:  
 "I, (name and title of the officer of the insurer), am familiar with the requirements of G.S. 58-56-26(c), and hereby certify that (insurance company full licensed name and federal tax identification number) performed a ~~review, an on-site audit,~~

~~review, an audit~~ or both in accordance with G.S. 58-56-26(c) for every third party administrator identified in or attached to this certification for calendar year 2009."

The certification shall contain the names of TPAs to which G.S. 58-56-26(c) does not apply and the reasons for the exception of each TPA.

(c) For certifications submitted on July 1, 2011 and each subsequent year, each insurer shall certify that the insurer's review and ~~on-site~~ audit include:

- (1) An assessment of the TPA's business practices and procedures and evaluations of all of the following:
  - (A) The TPA's compliance with provisions of the written agreement with the insurer;
  - (B) The TPA's compliance and adherence to the TPA's internal policies and procedures for contract management, claims administration, and general administration, if applicable;
  - (C) The TPA's performance of claims adjudication and payment, if applicable;
  - (D) The TPA's performance of underwriting services, if applicable; and
  - (E) The TPA's performance of collecting premiums or other monies; and
- (2) A written summary of the objectives and scope of the review or ~~on-site~~ audit and the results of the review or ~~on-site~~ audit, including a corrective action plan addressing any deficiencies found during the review or ~~on-site~~ audit.

(d) An ~~on-site~~ audit may be conducted either on-site or virtually and shall include an inspection of the TPA's place of business and shall verify the accuracy, integrity, and completeness of the information received during a review conducted by the insurer under G.S. 58-56-26(c). An on-site audit shall also include an inspection of the TPA's place of business.

(e) In addition to a statement certifying compliance with the requirements of Paragraphs (c) and (d) of this Rule, a certification submitted on or after July 1, 2011 and each subsequent year shall be dated and include:

- (1) The insurer's name as it appears on the insurer's license or certificate of authority and the insurer's federal tax identification number;
- (2) The name and federal tax identification number of every TPA with which the insurer has a written administrative agreement under G.S. 58-56-6;
- (3) Any exceptions to the certification identifying each excepted TPA by name and federal tax identification number and an explanation for the exception of the TPA;
- (4) The year for which the certification is made; and
- (5) The name, title and signature of an officer of the insurer making the certification.

(f) A sample format for the certification is available free of charge from the Life and Health Division at the Department of Insurance Web site at [www.ncdoi.com](http://www.ncdoi.com).

(g) An insurer that did not have any written administrative agreements with TPAs during the reporting year for which the certification is required shall submit a report instead of a certification. This report shall include the information required under Paragraph (e) of this Rule; except the information required by Subparagraphs (e)(2) and (e)(3) of this Rule need not be included.

(h) A review may be conducted on the premises of the insurer or at another location designated by the insurer and may be conducted by electronic means. A review or on-site audit may be performed by either the insurer or the insurer's designated representative. The insurer's designated representative shall not be an employee of or independent contractor with the TPA and shall be an independent, disinterested person or entity.

(i) The certification shall be submitted annually to the Life and Health Division through the NAIC system for electronic rate and form filings ("SERFF" or its successor system or program). If an insurer is unable to use the NAIC system or program, the insurer shall submit the certification by way of the U.S. Postal Service or other mail delivery service or by way of electronic mail, compressed in Adobe Acrobat (PDF).

Authority G.S. 58-2-40; 58-56-26.

**TITLE 15A – DEPARTMENT OF ENVIRONMENTAL QUALITY**

*Notice is hereby given in accordance with G.S. 150B-21.2 and G.S. 150B-21.3A(c)(2)g. that the Wildlife Resources Commission intends to amend the rule cited as 15A NCAC 10F .0310, readopt with substantive changes the rules cited as 15A NCAC 10A .0501-.0503; 10E .0101, .0104, and repeal through readoption the rules cited as 15A NCAC 10E .0102, and .0103.*

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

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

**Proposed Effective Date:** May 1, 2024

**Public Hearing:**

**Date:** January 23, 2024

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

**Location:** Zoom meeting, registration required: [https://ncwildlife.org.zoomgov.com/webinar/register/WN\\_GGZwHA5FSuCW-2C\\_tTgIhQ](https://ncwildlife.org.zoomgov.com/webinar/register/WN_GGZwHA5FSuCW-2C_tTgIhQ), or join by phone: (877) 853-5247 ID: 160 914 2130

**Reason for Proposed Action:** Pursuant to G.S. 150B-21.3A, the agency is required to readopt rules in 15A NCAC 10A .0500 and 10E .0100 as part of the periodic review process.

*The amendment to 15A NCAC 10F .0310 is proposed to correct a coordinate that marks the no-wake zone near the south shore of Motts Creek at the Cape Hatteras National Seashore.*

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

**Comment period ends:** January 30, 2024

**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 a written objection to the Rules Review Commission. 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 letters via U.S. Mail, private courier service, or hand delivery to 1711 New Hope Church Road, Raleigh, North Carolina, or via email to [oah.rules@oah.nc.gov](mailto:oah.rules@oah.nc.gov). If you have any further questions concerning the submission of objections to the Commission, please review 26 NCAC 05 .0110 or 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 10A - WILDLIFE RESOURCES COMMISSION**

**SECTION .0500 - DECLARATORY RULINGS**

**15A NCAC 10A .0501 WHEN ISSUED**

In accordance with G.S. 150B-4 and the procedures set forth in Rule .0503 of this Section, ~~and except as provided in Rule .0502 of this Section, a declaratory ruling is authorized to be issued by the Wildlife Resources Commission when there is submitted to the Executive Director shall issue a declaratory ruling when~~ a written request signed and verified under oath by or on behalf of a person or group of persons ~~of common interest who will be substantially affected in their persons, property, public office or employment by such ruling; aggrieved, and which request shows~~ on its face:

- (1) that there is ~~an actual~~ a controversy as to the validity of a rule; or that there is a controversy as to the applicability of a specific rule or regulation of the Commission, or of a specific

statute administered or enforced by the Commission, to an existing factual situation; or that there is a conflict or inconsistency regarding the interpretation of a specific law or rule adopted by the Commission;

- (2) that ~~every~~ the relevant ~~fact~~ facts and ~~circumstance~~ circumstances necessary to the ruling ~~is~~ are definitively stated and ~~is~~ are conceded by all parties to be a true and existing fact or circumstance for all purposes;
- (3) that ~~all~~ the parties who will be directly or indirectly affected by the ruling, other than the Commission and its agents and employees, have joined in the request therefor and in the verification of the facts therein set forth; and
- (4) that the ruling will be final and determinative of the controversy and binding on ~~all~~ the parties affected thereby, subject only to reversal or modification by a court on direct judicial review as provided by law.

- (6) that the requested ruling would not be final and binding on the parties ~~to be~~ affected thereby, subject only to direct judicial review as provided by law;
- (7) that the request for ruling challenges the validity of a statute administered or enforced by the Commission;
- (8) that the requested ruling would require an interpretation of a statute not administered or enforced by the Commission or of a rule, ~~regulation,~~ order, or ordinance of some other governmental agency;
- (9) that the Commission is without power or authority to issue the requested ruling for ~~any~~ a reason; or
- (10) that the request is not made in good faith.

Authority G.S. 150B-4.

**15A NCAC 10A .0502 WHEN NOT ISSUED**

The Wildlife Resources Commission shall not issue A declaratory ruling will not be issued upon any a request which does not comply with the requirements of Rules .0501 and .0503 of this Section, or that is the is not in writing or upon the written request of a person or group not aggrieved, who will not be substantially affected, either directly or indirectly, in his person, property, public office or employment by the ruling requested; or when it is or becomes apparent from any a source:

- (1) that no ~~actual~~ controversy exists, either as among the respective parties or ~~as~~ between the parties and the Commission, as to the applicability of a specific rule ~~or regulation~~ of the Commission, or of a specific statute administered or enforced by the Commission, to an existing factual situation;
- (2) that the question to be ruled upon is academic, hypothetical, moot, speculative, or lacking in specificity;
- (3) that ~~any~~ a relevant fact or circumstance necessary to the ruling is controverted, unverified, indefinite as to time or place, or omitted from the request for ruling;
- (4) that the proposed ruling will substantially affect a person, other than an agent or employee of the Commission, who is not a party to the ~~request therefor;~~ request;
- (5) that a case or proceeding involving the substance of the requested ruling is pending before a court or another agency;

Authority G.S. 150B-4.

**15A NCAC 10A .0503 PROCEDURE**

(a) ~~Form and Content of Request.~~ A request for a declaratory ruling ~~must be a written communication, specifically designated as a "Request for Declaratory Ruling," addressed shall be in writing and sent to the Executive Director, Director of the Wildlife Resources Commission, Archdale Building, 512 North Salisbury Street, Raleigh, North Carolina 27611 and must contain the following:~~ Commission at 1701 Mail Service Center, Raleigh, NC 27699-1700 for U.S. Postal Service delivery, or 1751 Varsity Drive, Raleigh, NC 27606-2576 for other delivery services or in person. The request shall contain:

- (1) names and addresses of ~~all~~ the persons requesting the ruling;
- (2) designation of the person or persons authorized to receive the ruling or ~~any~~ communication relative thereto, if different from those requesting;
- (3) statement of ~~all~~ the material facts and circumstances sufficient to show the existence and nature of the controversy and the relation of ~~all~~ the parties with respect thereto;
- (4) identification of the specific ~~rule, regulation rule or statute involved by number or substance, or both;~~
- (5) the specific question to be ruled upon;
- (6) a statement that the substance of the request is not ~~then~~ pending for decision before ~~any~~ a court or ~~any other another~~ agency of government;
- (7) signature of ~~all~~ the persons making the request or of one or more authorized representatives of ~~all~~ the such persons, indicating the capacity of such representation; and
- (8) verification by, or on behalf of, ~~all~~ the persons making the request.

**PROPOSED RULES**

(b) ~~Form of Verification.~~ The verification of a request for a declaratory ruling ~~must~~ shall be executed before an official authorized to administer oaths, ~~and may be in substance as follows:~~ oaths.

North Carolina

\_\_\_\_\_ County

\_\_\_\_\_, being duly

{name(s)}

sworn, says (say) that he is (they are) \_\_\_\_\_;

(capacity)

~~that he has (they have) read the foregoing Request for Declaratory Ruling and understand(s) its contents; and that the matters therein stated are true of his (their) own knowledge, except those matters stated on information and belief, and as to the matters so stated, he believes (they believe) them to be true.~~

\_\_\_\_\_  
[signature(s)]

Subscribed and sworn to before me

this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_.

\_\_\_\_\_  
(signature of official)

TITLE OF OFFICIAL

(L.S.)

(c) ~~Action on Request.~~ The ~~Executive Director shall cause the~~ request for a declaratory ruling ~~to~~ shall be marked or stamped with the date of receipt and, within 60 days thereafter: receipt, and the Commission shall respond to the request as required by G.S. 150B-4(a1).

- (1) ~~deny the ruling in writing, stating the reason or reasons for such denial;~~
- (2) ~~place the request on the agenda for the next ensuing meeting of the Wildlife Resources Commission;~~
- (3) ~~issue a ruling in accordance with existing policy of the Commission, in which case the ruling shall be deemed that of the Commission; or~~
- (4) ~~take such other action as he may deem appropriate.~~

(d) ~~Form and Content of Ruling.~~ A The Commission's response to a request for a declaratory ruling is a written communication, specifically designated as a "declaratory ruling" (with a number, the substance, or sub title as may be desirable for identification and future reference), addressed to the persons requesting the ruling or to the person or persons authorized in the request to receive the ruling or communications relative thereto, and containing the following:

- (1) reference to the request for declaratory ruling;
- (2) reference to authority for the ruling; ruling (the statute and these regulations, or the specific action of the Commission);
- (3) names and addresses of the persons affected by the ruling, unless it is general in effect and is so indicated;
- (4) recital of the material facts on which the ruling is based, or reference to the facts as stated in the request;
- (5) the ruling;
- (6) date of issue; and

(7) signature of Executive Director.

(e) ~~Notice of Ruling or Denial of Ruling.~~ Any A declaratory ruling issued by the ~~Wildlife Resources~~ Commission or the Executive Director and ~~any~~ the communication denying such a ruling shall be sent by registered mail, ~~"return receipt~~

~~requested,"~~ requested, to the persons requesting the ruling, or to such person or persons as are designated in the request to receive the ruling or communications relative thereto.

Authority G.S. 150B-11; 150B-17.

**SUBCHAPTER 10E – PUBLIC FISHING AND BOATING ACCESS AREAS**

**15A NCAC 10E .0101 DEFINITION**

For the purpose of this ~~Subchapter~~ Subchapter, the term "public fishing and boating access area" following definitions shall apply:

- (1) "Boating Access Area" means any area of land which adjoins or abuts on the public waters of the state; property which is owned, leased, cooperatively managed, or controlled by the North Carolina Wildlife Resources Commission; which is Commission, and developed and maintained for the purpose of providing the following types of vessels ingress to and egress from public waters and public fishing opportunities; and which is posted with a sign or signs designating the same as a public fishing or boating access area. Public fishing areas include Community Fishing Program waters and other cooperatively managed public waters developed for public fishing. waters:
  - (A) motorboats, as defined in G.S. 75A-2(1e); and



(B) non-motorized vessels that use an electric motor or manual means as the principal source of propulsion.

(2) "Public Fishing Area" means property which is owned, leased, cooperatively managed, or controlled by the Commission, and developed and maintained to provide public fishing opportunities. These areas include Community Fishing Program waters.

Authority G.S. 113-134; 113-264; 113-305.

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

**SUBCHAPTER 10E - FISHING AND BOATING ACCESS AREAS**

**15A NCAC 10E .0102 REGULATIONS POSTED**

Authority G.S. 113-134; 113-264.

**15A NCAC 10E .0103 SIGNS AND MARKERS**

Authority G.S. 113-134; 113-264.

**15A NCAC 10E .0104 USE OF AREAS REGULATED PUBLIC FISHING AND BOATING ACCESS AREAS**

(a) Individuals using public fishing areas and boating access areas shall adhere to posted signs and markings regulating use of the area.

(b) Except where facilities are provided or where otherwise posted, use of public fishing areas for purposes other than fishing is prohibited.

(c) Except where facilities are provided or permits are issued, use of boating access areas for purposes other than launching and retrieving vessels and parking vehicles with vessel trailers is prohibited.

(d) Operating concessions is prohibited on public fishing areas and boating access areas.

(e) Organized activities and events on boating access areas require a permit from the Commission. Individuals may apply for a permit at [www.ncwildlife.org](http://www.ncwildlife.org) by providing the following information:

- (1) organization name, if applicable;
- (2) contact name, address, phone number, and email;
- (3) public fishing area or boating access area name and body of water;
- (4) description of activity or event;
- (5) dates and time of activity or event; and
- (6) number of individuals and or boats expected.

Permits shall be available for inspection by wildlife enforcement officers when the activity is taking place.

~~(a)(f) No person shall leave any vehicle, trailers, and other obstruction objects that obstruct, prevent, or impede use of ramps or facilities constructed for the purpose of launching or landing boats, or fishing, shall not be left in a location, position or condition, on any public fishing area or~~

~~boating access area in such a location, position or condition that prevents or impedes the use by others, other persons of any ramp or other facility constructed for the purpose of launching or landing boats or fishing.~~

~~(b)(g) Vehicles, boats, boat trailers, and other objects shall be parked in designated parking zones. No person shall park a vehicle, boat, boat trailer, or other object at a public fishing or boating access area unless parking in a designated parking zone. Public fishing or boating access areas and facilities remain available for use when designated parking zones are at capacity. When designated parking zones are at capacity, individuals any person may still enter and use the areas or facilities, facilities, provided other arrangements for parking are made that do not violate this Rule or the regulations of this Subchapter, if applicable.~~

~~(h) No person shall operate a vehicle at a public fishing area or boating access area in a manner that endangers life, limb, or property.~~

~~(e)(i) No person shall possess a loaded firearm on any a public fishing area or boating access area, except that individuals with a valid concealed handgun permit may possess a handgun where allowed. Individuals carrying a handgun shall adhere to the requirements of G.S. 14-415.11, a handgun may be carried by an individual with a valid concealed handgun permit. The individual carrying a handgun must adhere to the requirements set forth in North Carolina G.S. 14-415.11, even if the state issuing the concealed handgun permit is not North Carolina. The permission to Individuals shall not carry a handgun does not apply to access areas on public fishing and boating access areas at the following game lands:~~

- (1) Bladen Lakes State Forest
- (2) Buckhorn
- (3) Butner-Falls of Neuse
- (4) Chatham
- (5) DuPont State Forest
- (6) Harris
- (7) Hyco
- (8) Jordan
- (9) Kerr Scott
- (10) Lee
- (11) Mayo
- (12) Pee Dee River north of U.S 74
- (13) Sutton Lake
- (14) Vance
- (15) the portion of R. Wayne Bailey-Caswell that is located north of U.S. 158 and east of N.C. 119

~~(d)(j) No person, when using any public fishing or boating access area, shall deposit debris or refuse anywhere on the grounds of the area, a public fishing area or boating access area.~~

~~No person, when using any public fishing or boating access area, shall do any act that is prohibited or neglect to do any act that is required by signs or markings placed on such area under authority of this Rule for the purpose of regulating the use of the area.~~

~~(e)(k) No person shall operate a motorboat in the public waters of North Carolina vessel within 50 yards of a Commission-owned or managed boat launching ramp boating access area at greater than "no wake speed", as defined in 15A NCAC 10F .0301 unless otherwise posted, wake" speed. For the purpose of this Rule, "no~~

~~wake" speed means idling speed or a slow speed creating no appreciable wake.~~

~~(f) Except where facilities are provided or permits are issued, it is unlawful to use any boating access area for purposes other than the launching and retrieving of vessels and parking vehicles with vessel trailers. All other uses, including swimming, skiing, camping, building fires, operating concessions or other activities not directly involved with launching and retrieving of vessels are prohibited, except those activities for which the Commission has issued a permit. All organized activities and events require a permit from the Commission and can be applied for at [www.newwildlife.org](http://www.newwildlife.org). Permits shall be available for inspection by wildlife enforcement officers at the time the activity is taking place.~~

~~(g) Unless otherwise posted, it is unlawful to use any public fishing area for purposes other than fishing.~~

~~(h)(1) It is unlawful to feed or release wild, domesticated, or feral animals or birds birds, domesticated animals and feral animals on public fishing areas or boating access areas without prior written authorization of from the Wildlife Resources Commission. Written authorization Authorization will only may be granted to persons individuals acting on behalf of the Commission, to persons those conducting scientific investigations or surveys, and or for release of rehabilitated wildlife. Written authorization will not be granted for any feeding or release that is inimical to the conservation of native wildlife resources. For the purpose of enforcing As applied in this Paragraph, "domesticated animals" does not include pets under the control of the owner and raptors or hunting dogs where otherwise permitted for hunting or training purposes.~~

~~(i) The use of gasoline powered motors on Ethridge Pond Public Fishing Area and Newbold Pond Public Fishing Area in Edgecombe County is prohibited.~~

Authority G.S. 113-134; 113-264.

**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 Shallowbag Bay and the canals off Shallowbag Bay; and
  - (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 Hatteras Ferry Terminal and United States Coast Guard basins ending at Coast Guard Beacon Number One in the Hatteras Channel.

- (3) 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; and
  - (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; and
  - (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 S.R. 1141 otherwise known as Thicket Lump Drive, extending northwest roughly parallel to S.R. 1141, S.R. 1142 otherwise known as The Lane, and S.R. 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 S.R. 1289 otherwise known as C B Daniels S.R. Road to its end.
- (6) Stumpy Point:
  - (A) Stumpy Point Canal shore to shore on Pamlico Sound, beginning 50 yards west of the Stumpy Point Boating Access Area, 321 Bayview Drive; and
  - (B) Stumpy Point Basin off 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. 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 in the canals of Kitty Hawk Landing Subdivision;
- (11) Washington Baum Bridge Boating Access Area. 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; and
  - (B) the waters within 50 yards of the Avalon Beach Boating Access Area in Kitty Hawk Bay, 2025 Bay Drive.
- (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; and
- (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~~, 35.79270 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.

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 place 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 designated in Part (a)(1)(A) 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)(9); (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 designated in Subparagraph (a)(8) of this Rule;
- (4) the Board of Commissioners of the Town of Kitty Hawk for the area designated in Subparagraph (a)(10) of this 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.

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*Notice is hereby given in accordance with G.S. 150B-21.2 and G.S. 150B-21.3A(c)(2)g. that the Wildlife Resources Commission intends to adopt the rules cited as 15A NCAC 10C .0801, .0802; 10D .0294; 10H .1701, .1702, amend the rules cited as 15A NCAC 10B .0202, .0203, .0211, .0223; 10C .0205, .0208, .0305-.0307, .0313, .0314, .0316; 10D .0103, .0215, .0216, .0225, .0233, .0245, .0251, .0256, .0283, .0293; 10H .0102, .0105, .0109, .0901, .0904-.0906, .1505, .1510, repeal the rule cited as 15A NCAC 10B .0114, readopt with substantive changes the rules cited as 15A NCAC 10A .1302, .1303, and repeal through readoption the rule cited as 15A NCAC 10A .1301.*

*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):** <http://www.ncwildlife.org/Proposed-Regulations>

**Proposed Effective Date:** August 1, 2024

**Public Hearing:**

**Date:** January 9, 2024

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

(c) Swimming Area. No person operating or responsible for the operation of a vessel shall permit it to enter the marked swimming

Time: 7:00 p.m.

Location: Southwest Randolph High School (Auditorium), 1641 Hopewell Friends Rd, Asheboro, NC 27205

Date: January 11, 2024

Time: 7:00 p.m.

Location: Haywood Community College (Auditorium), 185 Freedlander Drive, Clyde, NC 28721

Date: January 17, 2024

Time: 7:00 p.m.

Location: Craven County Courthouse, 302 Broad Street, New Bern, NC 28560

Date: January 18, 2024

Time: 7:00 p.m.

Location: Zoom meeting, registration required:

https://ncwildlife-org.zoomgov.com/webinar/register/WN\_JQp6XDn8QSCXBrvDJJf3Bg,

or join by phone: 877-853-5247

Webinar ID: 161 386 3150

Reason for Proposed Action: Each year, the N.C. Wildlife Resources Commission reviews and adjusts seasons, bag limits, and the land management regulations, as needed, to achieve conservation management goals, comply with statutory changes, and respond to constituent requests.

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

Comment period ends: January 30, 2024

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 a written objection to the Rules Review Commission. 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 letters via U.S. Mail, private courier service, or hand delivery to 1711 New Hope Church Road, Raleigh, North Carolina, or via email to oah.rules@oah.nc.gov. If you have any further questions concerning the submission of objections to the Commission, please review 26 NCAC 05 .0110 or call a Commission staff attorney at 984-236-1850.

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

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

CHAPTER 10 - WILDLIFE RESOURCES AND WATER SAFETY

SUBCHAPTER 10A - WILDLIFE RESOURCES COMMISSION

SECTION .1300 - WILDLIFE POACHER REWARD FUND

15A NCAC 10A .1301 FUNDING SOURCES

Authority G.S. 15A-1343; 113-134; 113-294.

15A NCAC 10A .1302 OFFENSES AND REWARD AMOUNTS

(a) Rewards shall be paid only for information resulting in the arrest and conviction of persons who have committed Class 1 or Class 2 misdemeanors specified in G.S. 113-262, 113-294 and G.S. 113-337, and Class 1 misdemeanors involving wildlife resources specified in G.S. 113-264(b), 113-264(b), and Class 3 misdemeanors involving fisheries resources specified in Rule 10C .0302(a), .0304, .0401, .0402, and .0409 of this Chapter.

(b) The reward amount shall be equivalent to the amount of the fine, replacement costs, or restitution assessed by the court, whichever is greatest, not to exceed one thousand dollars (\$1,000). If no fine, replacement cost, or restitution is assessed, including in cases that result in a prayer for judgment, the reward shall be one hundred dollars (\$100.00).

Authority G.S. 113-134; 113-264; 113-294; 113-294.1; 113-337.

15A NCAC 10A .1303 ELIGIBILITY

(a) Rewards shall be paid only to individuals who provide information resulting in the arrest and conviction of persons who have committed commit the offenses specified in Rule .1302(a) of this Section. If more than one individual provides information resulting in the arrest of a person for the same offense, the Commission shall pay reward money in the individuals equal amounts to each individual not to exceed the amount specified in Rule .1302(b) of this Section.

(b) Rewards shall be paid after the final disposition of a case resulting in a conviction conviction, as defined in G.S. 113-171(a), or a prayer for judgment. For purposes of this Rule, a conviction shall be as defined in G.S. 113-171(a).

(c) The following individuals are not eligible to receive reward money:

- any a current Wildlife Resources Commission employee employees or members of his or her their immediate family;
any current Wildlife Resources Commissioner; Commissioners;
any a sworn law enforcement officer;
the perpetrator of the crime for which the information has been given and any an accomplice or accessory to that crime; and
any an individual who refuses to provide the Commission with his or her name and contact information.

Authority G.S. 113-134; 113-171; 113-294.1.

SUBCHAPTER 10B - HUNTING AND TRAPPING

SECTION .0100 - GENERAL REGULATIONS

15A NCAC 10B .0114 DOG TRAINING AND FIELD TRIALS

Authority G.S. 113-134; 113-273; 113-276; 113-291.1; 113-291.5; 50 CFR 21.45.

SECTION .0200 - HUNTING

15A NCAC 10B .0202 BEAR

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

- (1) ~~Monday Saturday~~ on or ~~nearest immediately~~ prior to October 15 9 through the Saturday before Thanksgiving and the third ~~Monday Saturday~~ after Thanksgiving through January 1 in and west of Surry, Wilkes, Caldwell, Burke, and Cleveland counties;
- (2) second Monday in November through January 1 in Bladen, Brunswick, Carteret, Columbus, Cumberland, Duplin, New Hanover, Onslow, Pamlico, Pender, Robeson, and Sampson counties;
- (3) second Saturday in November through the second Sunday thereafter and the third Saturday after Thanksgiving through the fifth Sunday after Thanksgiving in Beaufort, Bertie, Craven, Hertford, Jones, Martin, and Washington counties;
- (4) second Saturday in November through the third Sunday thereafter and the third Saturday after Thanksgiving through the fifth Sunday after Thanksgiving in Dare, Hyde, and Tyrrell counties;
- (5) second Saturday in November through the second Sunday thereafter and the third Saturday after Thanksgiving through the fifth Sunday after Thanksgiving in Currituck, Gates, and Perquimans counties;
- (6) second Sunday in November through the following Sunday, when November 1 falls on a Sunday the season shall be from the third Sunday in November through the following Sunday, and the third Saturday after Thanksgiving through the fifth Sunday after Thanksgiving in Camden, Chowan, and Pasquotank counties;
- (7) third Saturday in November though the fifth Sunday thereafter in Edgecombe, Greene, Halifax, Lenoir, Nash, Northampton, Pitt, Wayne, and Wilson counties; and
- (8) concurrent with the open season for ~~all lawful weapons~~ All Lawful Weapons for hunting deer as specified in 15A NCAC 10B .0203(a)(1) in Alamance, Alexander, Anson, Cabarrus,

Caswell, Catawba, Chatham, Davie, Davidson, Durham, Franklin, Forsyth, Gaston, Granville, Guilford, Harnett, Hoke, Iredell, Johnston, Lee, Lincoln, Mecklenburg, Montgomery, Moore, Orange, Person, Randolph, Richmond, Rockingham, Rowan, Scotland, Stanly, Stokes, Union, Vance, Wake, Warren, and Yadkin counties.

(b) Restrictions

- (1) For purposes of this Paragraph, "bait" means ~~any~~ a natural, unprocessed food product that is a grain, fruit, nut, vegetable, or other material harvested from a plant crop that is not modified from its raw components.
- (2) Bears shall not be taken with the use or aid of:
  - (A) ~~any~~ processed food product as defined in G.S. 113-294(r), ~~any~~ an animal, animal part or product, salt, salt lick, honey, sugar, sugar-based material, syrups, candy, pastry, gum, candy block, oils, spices, peanut butter, or grease;
  - (B) ~~any~~ extracts of substances identified in Part (A) of this Subparagraph;
  - (C) ~~any~~ substances modified by substances identified in Part (A) of this Subparagraph, including ~~any~~ extracts of those substances; or
  - (D) ~~any~~ bear bait attractant, including sprays, aerosols, scent balls, and scent powders.
- ~~(3) Bears may be taken with the aid of bait from the Monday on or nearest October 15 to the Saturday before Thanksgiving in the counties in Subparagraph (a)(1) of this Rule.~~
- ~~(4)(3)~~ Bears may be taken with the aid of bait during the ~~entire~~ open season in the counties identified in ~~Subparagraphs Paragraph (a)(2) through (a)(8)(a)~~ Paragraph (a)(2) through (a)(8)(a) of this Rule.
- ~~(5)(4)~~ Bears shall not be taken while in the act of consuming bait as specified in G.S. 113-291.1(b)(2).
- ~~(6)(5)~~ Hunters shall not take bears using dogs in the following counties: Alamance south of Interstate 85, Anson west of N.C. ~~Hwy~~ Highway 742, Cabarrus, Chatham, Davie, Davidson, ~~Franklin~~, Forsyth, Gaston, Guilford, Lee, Lincoln, Mecklenburg, Montgomery, Orange south of Interstate 85, Randolph, Rockingham, Rowan, Stanly, Union, and Wake south of N.C. ~~Hwy~~ Highway 98. In ~~all~~ other counties and parts of counties, hunters may take bears using dogs and may release dogs in the vicinity of bait.
- (c) No Open Season. It shall be unlawful to take bear on posted designated bear sanctuaries management areas except when authorized by permit issued by the Commission. See 15A NCAC 10D .0106 for posted designated bear sanctuaries management areas.

(d) The daily bag limit for bear is one, the possession limit is one, and the season limit is one.

Authority G.S. 113-134; 113-291.1; 113-291.2; 113-291.7; 113-305.

15A NCAC 10B .0203 WHITE-TAILED DEER

(a) Open All Lawful Weapons Seasons for hunting deer:

(1) Deer With Visible Antlers. Deer with antlers or spikes protruding through the skin, as distinguished from knobs or buttons covered by skin or velvet, may be taken during the following seasons, including on game lands unless otherwise specified in the rules of 15A NCAC 10D .0200.

(A) Saturday on or nearest October 15 through January 1 in Beaufort, Bladen, Brunswick, Carteret, Columbus, Cumberland, Craven, Dare, Duplin, Harnett, Hoke, Hyde, Jones, Lenoir, Moore, New Hanover, Onslow, Pamlico, Pender, Richmond, Robeson, Sampson, Scotland, Tyrrell, and Washington counties. It is unlawful to hunt or kill deer in Lake Waccamaw or within 50 yards of its shoreline in Columbus County.

(B) Saturday on or nearest October 15 through January 1 in Bertie, Camden, Chowan, Currituck, Edgecombe, Franklin, Gates, Greene, Halifax, Hertford, Johnston, Martin, Nash, Northampton, Pasquotank, Perquimans, Pitt, Vance, Wake, Warren, Wayne, and Wilson counties.

(C) Saturday before Thanksgiving Day through January 1 in Alexander, Alleghany, Ashe, Catawba, Cleveland, Davie, Forsyth, Gaston, Iredell, Lincoln, Polk, Rutherford, Stokes, Surry, Watauga, Wilkes, and Yadkin counties.

(D) ~~Monday of~~ Saturday after Thanksgiving week Day through the ~~third Saturday after Thanksgiving Day~~ January 1 in Avery, Buncombe, Burke, Caldwell, Cherokee, Clay, Graham, Haywood, Henderson, Jackson, Macon, Madison, McDowell, Mitchell, Swain, Transylvania, and Yancey counties.

(E) Two Saturdays before Thanksgiving Day through January 1 in Alamance, Anson, Cabarrus, Caswell, Chatham, Davidson, Durham, Granville, Guilford, Lee, Mecklenburg, Montgomery, Orange, Person, Randolph, Rockingham, Rowan, Stanly, and Union counties.

(F) Saturday on or nearest September 10 through January 1 in the parts of Camden, Gates, and Pasquotank counties known as the Dismal Swamp National Wildlife Refuge; in the parts of Hyde, Tyrrell, and Washington counties known as the Pocosin Lakes National Wildlife Refuge; in the part of Hyde county known as Lake Mattamuskeet National Wildlife Refuge; in the parts of Dare and Hyde counties known as Alligator River National Wildlife Refuge; in the parts of Anson and Richmond counties known as the Pee Dee National Wildlife Refuge; and in the part of Currituck County known as the Mackay Island National Wildlife Refuge.

(2) Antlered or Antlerless Deer. Except on Game Lands, antlered or antlerless deer may be taken during the open seasons and in the counties and portions of counties listed in Parts (A) through (H) of this Subparagraph. Antlered or antlerless deer may be taken the fourth Saturday in September in all counties by persons under the age of 18.

(A) The open antlered or antlerless deer hunting dates established by the U.S. Fish and Wildlife Service from the Saturday on or nearest September 10 through January 1 in the parts of Camden, Gates, and Pasquotank counties known as the Dismal Swamp National Wildlife Refuge; in the parts of Hyde, Tyrrell, and Washington counties known as the Pocosin Lakes National Wildlife Refuge; in the parts of Anson and Richmond counties known as the Pee Dee National Wildlife Refuge; and in the parts of Currituck County known as the Currituck National Wildlife Refuge and the Mackay Island National Wildlife Refuge.

(B) The open antlered or antlerless deer hunting dates established by the military commands at the military installations listed in this Paragraph, from Saturday on or nearest October 15 through January 1 in the part of Brunswick County known as the Sunny Point Military Ocean Terminal, in the part of Craven County known and marked as Cherry Point Marine Base, in the part of Onslow County known and marked as the Camp Lejeune Marine Base, on Fort Bragg

- (C) ~~Liberty Military Reservation, and on Camp Mackall Military Reservation. Youth deer hunts. First Saturday in October for youth antlered or antlerless deer hunting by permit only on a portion of Belews Creek Steam Station in Stokes County designated by agents of the Commission; the third Saturday in October for youth antlered or antlerless deer hunting by permit only on Mountain Island State Forest in Lincoln and Gaston counties; and the second Saturday in November for youth antlered or antlerless deer hunting by permit only on a portion of Warrior Creek located on W. Kerr Scott Reservoir in Wilkes County designated by agents of the Commission. A youth is defined as a person under 18 years of age.~~
- (D)(C) ~~The first open Saturday of the Deer With Visible Antlers season Season described in Subparagraph (a)(1) of this Rule in Cherokee, Clay, Haywood Haywood, Jackson, Macon, Swain, and Transylvania counties; and in Buncombe and Henderson counties, except for the areas described in Subparts (a)(2)(H)(i) and (ii) of this Rule. counties.~~
- (E)(D) ~~The first open day of the Deer With Visible Antlers season Season described in Subparagraph (a)(1) of this Rule through the first Saturday thereafter in Buncombe, Henderson, Madison Madison, and McDowell counties. counties, except in the areas described in Subparts (a)(2)(G)(i) and (ii) of this Rule.~~
- (F)(E) ~~The first open day of the season for Deer With Visible Antlers described in Subparagraph (a)(1) of this Rule through the second Saturday thereafter in Avery, Burke, Caldwell, Mitchell, and Yancey counties.~~
- (G)(F) ~~The first open day of the season for Deer With Visible Antlers described in Subparagraph (a)(1) of this Rule through the fourth Saturday thereafter in Cleveland, Polk, and Rutherford counties.~~
- (H)(G) ~~Open days of the season for Deer With Visible Antlers described in Subparagraph (a)(1) of this Rule in and east of Ashe, Watauga, Wilkes, Alexander, Catawba, Lincoln, and Gaston counties and in the following parts of counties:~~
  - (i) ~~The part of Buncombe County east of ~~NC N.C.~~ 191, south of the French Broad and Swannanoa Rivers, west of ~~US U.S.~~ 25, and north of ~~NC N.C.~~ 280; and~~
  - (ii) ~~The part of Henderson County east of ~~NC N.C.~~ 191 and north and west of ~~NC N.C.~~ 280.~~
- (b) Open Archery Seasons for hunting deer:
  - (1) Authorization. Subject to the restrictions set out in Subparagraph (2) of this Paragraph and the bag limits set out in Paragraph (e) of this Rule, deer may be taken with archery equipment during the following seasons:
    - (A) ~~Saturday on or nearest September 10 through the day immediately preceding the first open day of the Blackpowder Firearms Season described in Subparagraph (c)(1) of this Rule; and the Sunday immediately following the closing of Blackpowder Firearms Season identified in Part (c)(1)(B) of this Rule to the Sunday before Thanksgiving in the counties and parts of counties having the open seasons for Deer With Visible Antlers specified by Part (a)(1)(D) of this Rule except on Buffalo Cove, Nicholson Creek, Rockfish Creek, Sandhills, and South Mountains Game Lands. Rule, including on game lands unless otherwise specified in the rules of 15A NCAC 10D 0200.~~
    - (B) ~~Sunday immediately following the closing of the open season for Deer With Visible Antlers through January 1 in the counties and parts of counties having the open season for Deer With Visible Antlers specified by Part (a)(1)(D) of this Rule.~~
  - (2) Restrictions
    - (A) ~~In the areas of the State where the Commission regulates the use of dogs as provided in G.S. 113-291.5, dogs may not be used for hunting deer during the Archery Season, except a single dog on a leash may be used to retrieve a dead or wounded deer in accordance with G.S. 113-291.1(k).~~
    - (B) ~~Only archery equipment of the types authorized in 15A NCAC 10B .0116 for taking deer may be used during the Archery Season.~~
    - (C) ~~Antlered or antlerless deer may be taken during Archery Season specified by Part (b)(1)(A) of this Rule.~~

- ~~(D) Only deer with visible antlers shall be taken during the Archery Season specified by Part (b)(1)(B) of this Rule.~~
- (c) Open Blackpowder Firearms Seasons for hunting deer:
- (1) Authorization. Subject to the restrictions set out in Subparagraph (2) of this Paragraph, deer may be taken only with blackpowder firearms and archery equipment ~~during the following seasons: from~~
- (A) ~~Two two~~ Saturdays preceding the first day of the open season for Deer with Visible Antlers described in Parts (a)(1)(A), (B), (C), ~~(D)~~, (E), and (F) of this Rule through the second Friday thereafter ~~except on Buffalo Cove, Nicholson Creek, Rockfish Creek, Sandhills, and South Mountains Game Lands, including on game lands unless otherwise specified in the rules of 15A NCAC 10D .0200.~~
- (B) ~~Monday on or nearest October 1 through the second Saturday thereafter in the counties and parts of counties having the open seasons for Deer With Visible Antlers specified by Part (a)(1)(D) of this Rule.~~
- (2) Restrictions
- (A) Antlered or antlerless deer may be taken during Blackpowder Firearms Season in ~~any~~ a county or county part set forth in Part ~~(a)(2)(E), (a)(2)(D), (E), (F), (G), or (H)(G)~~ of this Rule that has one or more open days within the ~~all lawful weapons season~~ All Lawfull Weapons Season to legally harvest antlerless deer.
- (B) Antlered or antlerless deer may be taken during the ~~first~~ second open ~~day~~ Saturday of the Blackpowder Firearms Season thru the first ~~Saturday~~ Friday thereafter in any county or county part set forth in Part ~~(a)(2)(D)~~ (a)(2)(C) of this ~~Rule~~ Rule.
- (C) Antlered or antlerless deer may be taken on the ~~first~~ second open Saturday of the Blackpowder Firearms Season in any county or county part not set forth in Subparagraph (a)(2) of this Rule.
- (D) In the areas of the State where the Commission regulates the use of dogs as provided in G.S. 113-291.5, dogs shall not be used for hunting deer during the Blackpowder Firearms Season, except a single dog on a leash may be used to retrieve a dead or wounded deer in accordance with G.S. 113-291.1(k).
- (3) As used in this Rule, "blackpowder firearms" means any firearm, including any firearm with a matchlock, flintlock, percussion cap, or similar type of ignition system, manufactured before 1899, that cannot use fixed ammunition; any replica of this type of firearm if the replica is not designed or redesigned for using rimfire or conventional centerfire fixed ammunition; and any muzzle-loading rifle, muzzle-loading shotgun, or muzzle-loading or cylinder-loading handgun that is designed to use blackpowder, blackpowder substitute, or any other propellant loaded through the muzzle, cylinder, or breech and that cannot use fixed ammunition.
- (d) Open Urban Season for hunting deer:
- (1) Authorization. Subject to the restrictions set out in Subparagraph (3) of this Paragraph and the bag limits set out in Paragraph (e) of this Rule, antlered or antlerless deer may be taken with archery equipment in participating cities in the State, as defined in G.S. 160A-1(2), from the second Saturday following January 1 through the sixth Sunday thereafter. Deer shall not be taken on game lands within a city boundary.
- (2) Participation. Cities that intend to participate in the Urban Season shall send a letter to that effect no later than April 1 of the year prior to the start of the Urban Season to the Executive Director or his designee at 1722 Mail Service Center, Raleigh, N.C. 27699-1700. Cities shall also submit a map of the city's boundaries within which the Urban Season shall apply.
- (3) Restrictions:
- (A) In the areas of the State where the Commission regulates the use of dogs as provided in G.S. 113-291.5, dogs shall not be used for hunting deer during the Urban Season except a single dog on a leash may be used to retrieve a dead or wounded deer in accordance with G.S. 113-291.1(k).
- (B) Only archery equipment of the types authorized in 15A NCAC 10B .0116 for taking deer shall be used during the Urban Season.
- (e) Bag limits. The possession and season limit is six deer, two that may be deer with visible antlers and four that may be antlerless deer. Antlerless deer include males with knobs or buttons covered by skin or velvet as distinguished from spikes protruding through the skin. A hunter may obtain multiple Bonus Antlerless Deer Harvest Report Cards from the Wildlife Resources Commission or any Wildlife Service Agent to allow the harvest of two additional antlerless deer per card for deer harvested during the season described in Paragraph (d) of this Rule within the boundaries of participating municipalities, except on State-owned game lands. Antlerless deer harvested and reported on the bonus antlerless harvest report card shall not count as part of the possession and season limit.



(f) Deer Management Assistance Program. The bag limits described in Paragraph (e) of this Rule do not apply to deer harvested in areas covered in the Deer Management Assistance Program (DMAP) as described in G.S. 113-291.2(e) for those individuals using Commission-issued DMAP tags and reporting harvest as described on the DMAP license. Season bag limits shall be set by the number of DMAP tags issued and in the hunters' possession. All deer harvested under this program, regardless of the date of harvest, shall be tagged with DMAP tags and reported as instructed on the DMAP license. The hunter does not have to validate the Big Game Harvest Report Card provided with the hunting license for deer tagged with the DMAP tags. Any deer harvested on lands enrolled in the DMAP and not tagged with DMAP tags may only be harvested during the regularly established deer seasons subject to the restrictions of those seasons, including bag limits, and reported using the big game harvest report card or the bonus antlerless harvest report card.

*Authority G.S. 113-134; 113-270.3; 113-276.1; 113-291.1; 113-291.2; 113-291.5.*

**15A NCAC 10B .0211 RING-NECKED PHEASANT**

(a) On the barrier islands of Carteret, Dare, and Hyde counties east of Core Sound and Pamlico Sound, the open season for taking ring-necked pheasant is shall be the Saturday before Thanksgiving Day through the last day of February to February 1 on male pheasant only.

(b) In areas of the state not specified in Paragraph (a) of this Rule, the open season for taking male and female ring-necked pheasant is the earlier of the first Saturday in September or Labor Day, through the last day of February.

~~(b)~~(c) The In the areas of the state specified in Paragraph (a) of this Rule, the daily bag limit for ring-necked pheasants is three, the possession limit is six, and the season limit is 30.

(d) In areas of the state not specified in Paragraph (a) of this Rule, there is no daily bag limit, no season limit, and no possession limit.

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

**15A NCAC 10B .0223 FERAL SWINE**

(a) There is no closed season for taking feral swine on private lands anytime during the day or night.

(b) Feral swine may be taken on game lands from the hours of one-half hour before sunrise until one-half hour after sunset during ~~the an~~ open season for ~~any game animal animals or game bird birds~~ using ~~any the~~ legal ~~manner manners~~ of take allowed during those ~~seasons; season, except that dogs may not be used to~~ hunt feral swine on game lands that do not allow the use of dogs for hunting white-tailed deer or black bear. Where lawful, the hunting of feral swine with dogs is allowed during the applicable deer or bear season unless otherwise specified in the Rules of 15A NCAC 10D .0200.

(c) Feral swine may be taken on game lands from one-half hour after sunset to one-half hour before sunrise by permit only. Individuals may apply for permits on or after July 1 online at ncwildlife.org, by phone, or in person at a wildlife service agent location. The number of permits issued annually will be based on achieving population management objectives of the Commission.

The Commission shall issue available feral swine permits to applicants selected at random by computer. Permits shall be non-transferrable. All applicable laws and rules regarding the taking of feral swine shall apply.

(d) There are no bag limits on feral swine.

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

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

**SUBCHAPTER 10C - INLAND FISHING REGULATIONS**

**SECTION .0200 - GENERAL REGULATIONS**

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

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

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

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

- (1) "Public Mountain Trout Waters" are the waters included in this Rule and those designated in 15A NCAC 10D .0104.
- (2) "Catch and Release Artificial Flies and Lures Only Trout Waters" are Public Mountain Trout Waters where only artificial flies and lures having one single hook may be used. No trout may be possessed or harvested while fishing these streams. Waters with this designation include tributaries unless otherwise noted.
- (3) "Delayed Harvest Trout Waters" are Public Mountain Trout Waters where between October 1 and one-half hour after sunset on the Friday before the first Saturday of the following June, it is unlawful to possess natural bait, use more than one single hook on an artificial lure, or harvest or possess trout while fishing. From 6:00 a.m. until noon on the first Saturday in June, only youth anglers may fish and these waters have no bait or lure restrictions. From noon on the first Saturday in June until October 1, anglers ~~of all ages~~ may fish and these waters ~~have with~~ no bait or lure restrictions. Waters

with this designation do not include tributaries unless otherwise noted.

- (4) "Hatchery Supported Trout Waters" are Public Mountain Trout Waters that have no bait or lure restrictions. Waters with this designation do not include tributaries unless otherwise noted.
- (5) "Special Regulation Trout Waters" are Public Mountain Trout Waters where watercourse-specific regulations apply. Waters with this designation do not include tributaries unless otherwise noted.
- (6) "Wild Trout Waters" are Public Mountain Trout Waters identified in this Rule or 15A NCAC 10D .0104. Only artificial lures having only one single hook may be used. No person shall possess natural bait while fishing these waters. Waters with this designation do not include tributaries unless otherwise noted.
- ~~(7) "Wild Trout Natural Bait Waters" are Public Mountain Trout Waters where artificial lures and natural baits, except live fish, may be used provided they are fished using only one single hook. Waters with this designation include tributaries unless otherwise noted.~~
- ~~(8)(7)~~ "Undesignated Waters" are the other waters in the State. These waters have no bait or lure restrictions.

(c) Seasons, creel, and size limits. Seasons, creel, and size limits for trout are listed in Rule .0316 of this Subchapter.

(d) Classifications. This Paragraph designates waters in each county that have a specific classification. Waters on game lands are designated in 15A NCAC 10D .0104, unless otherwise indicated in this Paragraph. The other waters are classified as Undesignated Waters.

- (1) Alleghany
  - ~~(A) Delayed Harvest Trout Waters are as follows:  
Little River from the S.R. 1133 bridge to 275 yards downstream of the intersection of S.R. 1128 and S.R. 1129, marked by a sign on both banks~~
  - ~~(B)(A)~~ Hatchery Supported Trout Waters are as follows:  
Big Pine Creek  
Bledsoe Creek  
Brush Creek from the N.C. 21 bridge to the confluence with the Little River, except where posted against trespassing  
Cranberry Creek  
Glade Creek  
Little River from ~~275~~ 400 yards ~~downstream~~ upstream of the ~~intersection of S.R. 1128 and S.R. 1129, bridge,~~ bridge, marked by a sign on ~~both banks, each bank,~~ to McCann Dam  
Meadow Fork  
Pine Swamp Creek  
Piney Fork

Prathers Creek  
~~(C)(B)~~ Wild Trout Waters are as follows:  
The waters located on Stone Mountain State Park

- (2) Ashe County
  - (A) Catch and Release Artificial Flies and Lures Only Trout Waters are as follows:  
Big Horse Creek from the Virginia state line to Mud Creek at S.R. 1363, excluding tributaries
  - (B) Delayed Harvest Trout Waters are as follows:  
Big Horse Creek from the S.R. 1324 bridge to the North Fork New River  
Helton Creek from 900 yards upstream of the S.R. 1372 bridge, marked by a sign on both banks to ~~the North Fork New River~~ a point adjacent to intersection of N.C. 16 and S.R. 1536  
South Fork New River from the upstream end of Todd Island to the S.R. 1351 bridge  
Trout Lake
  - (C) Hatchery Supported Trout Waters are as follows:  
Beaver Creek from N.C. 221 to the confluence of Beaver Creek and South Beaver Creek  
Big Horse Creek from Mud Creek at S.R. 1363 to the S.R. 1324 bridge  
Big Laurel Creek from the S.R. 1315 bridge to the confluence with the North Fork New River  
Buffalo Creek from the S.R. 1133 bridge to the N.C. 194-88 bridge  
Cranberry Creek from the Alleghany Co. line to the South Fork New River  
Nathans Creek  
North Fork New River from the Watauga Co. line to Sharp Dam  
Old Fields Creek from N.C. 221 to the South Fork New River  
Peak Creek from the upper boundary of the NCDA-NCSU Upper Mountain Research Station to Trout Lake  
Roan Creek  
Three Top Creek
- (3) Avery County
  - (A) Catch and Release Artificial Flies and Lures Only Trout Waters are as follows:  
Elk River, the portion on Lees-McRae College property, excluding the millpond  
Lost Cove Creek, the game land portion, excluding Gragg Prong and Rockhouse Creek

- (B) Wilson Creek, the game land portion Hatchery Supported Trout Waters are as follows:
  - Boyde Coffey Lake
  - Elk River from the S.R. 1305 crossing immediately upstream of Big Falls to the Tennessee state line
  - Linville River from S.R. 1504 to the Blue Ridge Parkway boundary line, except where posted against trespassing
  - Milltimber Creek
  - North Toe River from Watauga St. to Roby Shoemaker Wetlands and Family Recreational Park, except where posted against trespassing
  - North Toe River from S.R. 1164 to Mitchell Co. line, except where posted against trespassing
  - Squirrel Creek
  - Wildcat Lake
- (C) Wild Trout Waters are as follows:
  - Birchfield Creek
  - Cow Camp Creek
  - Cranberry Creek from the headwaters to the U.S. 19E, N.C. 194, bridge
  - Gragg Prong
  - Horse Creek
  - Kentucky Creek
  - North Harper Creek
  - Plumtree Creek
  - Roaring Creek
  - Rockhouse Creek
  - Shawneehaw Creek, the portion adjacent to Banner Elk Greenway
  - South Harper Creek
  - Webb Prong
- (4) Buncombe County
  - (A) Catch and Release Artificial Flies and Lures Only Trout Waters are as follows:
    - Carter Creek, the game land portion
  - (B) Hatchery Supported Trout Waters are as follows:
    - Bent Creek from the headwaters to the N.C. Arboretum boundary line
    - Cane Creek from the headwaters to the S.R. 3138 bridge
    - Corner Rock Creek from Little Andy Creek to the confluence with Walker Branch
    - Dillingham Creek from Corner Rock Creek to Ivy Creek
    - Ivy Creek from Dillingham Creek to the U.S. 19-23 bridge
    - Lake Powhatan
    - Reems Creek from Sugar Camp Fork to the U.S. 19-23 bridge, except where posted against trespassing
- (5) Burke County
  - (A) Catch and Release Artificial Flies and Lures Only Trout Waters are as follows:
    - Henry Fork, the portion on South Mountains State Park
  - (B) Delayed Harvest Trout Waters are as follows:
    - Jacob Fork from Shinny Creek to the lower South Mountains State Park boundary
  - (C) Hatchery Supported Trout Waters are as follows:
    - Carroll Creek, the game land portion above S.R. 1405
    - Henry Fork from the lower South Mountain State Park line to S.R. 1919 at Ivy Creek
    - Linville River, the portion within Linville Gorge Wilderness area and the portion below Lake James powerhouse from the upstream bridge on S.R. 1223 to Muddy Creek
  - (D) Special Regulation Trout Waters are as follows:
    - Catawba River from Muddy Creek to the City of Morganton water intake dam
  - (E) Wild Trout Waters are as follows:
    - The waters located on South Mountains State Park, except those waters identified in Parts A and B of this Subparagraph
- (6) Caldwell County
  - (A) Delayed Harvest Trout Waters are as follows:
    - Wilson Creek, the game land portion below Lost Cove Creek to Philips Branch
  - (B) Hatchery Supported Trout Waters are as follows:
    - Boone Fork Pond
    - Buffalo Creek from the mouth of Joes Creek to McCloud Branch
    - Joes Creek from the first falls upstream of S.R. 1574 to the confluence with Buffalo Creek
    - Wilson Creek from Phillips Branch to Brown Mountain Beach Dam, except where posted against trespassing

- Yadkin River from the Happy Valley Ruritan Community Park to S.R. 1515
- (C) Wild Trout Waters are as follows:  
Buffalo Creek from the Watauga Co. line to Long Ridge Branch including game land tributaries  
Joes Creek from the Watauga Co. line to the first falls upstream of the end of S.R. 1574  
Rockhouse Creek
- (7) Cherokee County  
(A) Hatchery Supported Trout Waters are as follows:  
Davis Creek from the confluence of Bald Creek and Dockery Creek to Hanging Dog Creek  
Hyatt Creek from Big Dam Branch to the Valley River  
Junaluska Creek from Ashturn Creek to the Valley River  
Shuler Creek from the Joe Brown Hwy, S.R. 1325 bridge, to the Tennessee state line  
Valley River from S.R. 1359 to the U.S. 19 Business bridge in Murphy  
(B) Special Regulation Trout Waters are as follows:  
Apalachia Reservoir  
(C) ~~Wild Trout Natural Bait Waters are as follows:  
Bald Creek, the game land portion  
Dockery Creek, the game land portion~~
- (8) Clay County  
(A) Delayed Harvest Trout Waters are as follows:  
Fires Creek from Rockhouse Creek to the foot bridge in the USFS Fires Creek Picnic Area  
(B) Hatchery Supported Trout Waters are as follows:  
Buck Creek, the game land portion downstream of the U.S. 64 bridge  
Fires Creek from the foot bridge in the USFS Fires Creek Picnic Area to S.R. 1300  
Tusquitee Creek from Compass Creek to the lower S.R. 1300 bridge
- (9) Graham County  
(A) Delayed Harvest Trout Waters are as follows:  
Snowbird Creek from the USFS footbridge at the old railroad junction to USFS Rd. 2579  
(B) Hatchery Supported Trout Waters are as follows:  
Calderwood Reservoir from Cheoah Dam to the Tennessee state line  
Cheoah Reservoir
- Panther Creek from the confluence of Stand Creek and Rock Creek to Lake Fontana  
Santeetlah Creek from Johns Branch to Lake Santeetlah  
Snowbird Creek from USFS Rd. 2579 to the S.R. 1127 bridge  
Stecoah Creek from the upper game land boundary to Lake Fontana  
Tulula Creek from S.R. 1201 to the lower bridge on S.R. 1275  
West Buffalo Creek  
Yellow Creek from Lake Santeetlah hydropower pipeline to the Cheoah River
- (C) Wild Trout Waters are as follows:  
Little Buffalo Creek  
South Fork Squally Creek  
Squally Creek  
(D) ~~Wild Trout Natural Bait Waters are as follows:  
Long Creek, the game land portion~~
- (10) Haywood County  
(A) Delayed Harvest Trout Waters are as follows:  
West Fork Pigeon River from Queen Creek to the first game land boundary upstream of Lake Logan  
(B) Hatchery Supported Trout Waters are as follows:  
Cold Springs Creek from Fall Branch to the Pigeon River  
Jonathan Creek from upstream of the S.R. 1302 bridge to the Pigeon River, except where posted against trespassing  
Pigeon River from Stamey Cove Branch to the upstream U.S. 19-23 bridge  
Richland Creek from the Russ Avenue, U.S. 276, bridge to the U.S. 19 bridge  
West Fork Pigeon River from Tom Creek to Queen Creek, ~~including the game land portion, except Middle Prong Creek~~
- (11) Henderson County  
(A) Delayed Harvest Trout Waters are as follows:  
North Fork Mills River, the game land portion below the Hendersonville watershed dam  
(B) Hatchery Supported Trout Waters are as follows:  
Broad River from the end of S.R. 1611 to the Rutherford Co. line  
Cane Creek from the railroad bridge upstream of the S.R. 1551 bridge to the U.S. 25 bridge

- Clear Creek from Laurel Fork to S.R. 1582  
 Green River from the Lake Summit powerhouse to the game land boundary  
 Hungry River from S.R. 1885 to the Green River
- (12) Jackson County
- (A) Catch and Release Artificial Flies and Lures Only Trout Waters are as follows:  
 Flat Creek  
 Tuckasegee River, the game land portion upstream of Tanasee Creek Lake, including the Duke Energy powerline corridor  
 Tuckasegee River the portion upstream from the Clark property
- (B) Delayed Harvest Trout Waters are as follows:  
 Tuckasegee River from downstream of the N.C. 107 bridge to the falls located 275 yards upstream of the U.S. 23-441 bridge, marked by a sign on both banks
- (C) Hatchery Supported Trout Waters are as follows:  
 Balsam Lake  
 Bear Creek Lake  
 Cedar Cliff Lake  
 Cullowhee Creek from Tilley Creek to the Tuckasegee River  
 Dark Ridge Creek from Jones Creek to Scott Creek  
 Greens Creek from Greens Creek Baptist Church on S.R. 1370 to Savannah Creek  
 Savannah Creek from Shell Branch to Cagle Branch  
 Scott Creek from Dark Ridge Creek to the Tuckasegee River, except where posted against trespassing  
 Tanasee Creek Lake  
 Tuckasegee River from John Brown Branch to the downstream N.C. 107 bridge  
 Tuckasegee River from the falls located 275 yards upstream of the U.S. 23-441 bridge, marked by a sign on both banks, to the S.R. 1534 bridge at Wilmont
- (D) Wild Trout Waters are as follows:  
 Gage Creek  
 North Fork Scott Creek  
 Tanasee Creek  
 Whitewater River from Silver Run Creek to the South Carolina state line
- Wolf Creek except Balsam Lake and Wolf Creek Lake
- (E) ~~Wild Trout Natural Bait Waters are as follows:  
 Chattooga River from the S.R. 1100 bridge to the South Carolina state line~~
- (13) Macon County
- (A) Delayed Harvest Trout Waters are as follows:  
 Nantahala River from Whiteoak Creek to the Nantahala hydropower discharge canal
- (B) Hatchery Supported Trout Waters are as follows:  
 Burningtown Creek from Left Prong to the Little Tennessee River  
 Cartoogechaye Creek from downstream of the U.S. 64 bridge to the Little Tennessee River  
 Cliffside Lake  
 Cullasaja River from Sequoyah Dam to the U.S. 64 bridge near the junction of S.R. 1672  
 Nantahala River from Dicks Creek to Whiteoak Creek  
 Nantahala River from the Nantahala hydropower discharge canal to the Swain Co. line  
 Queens Creek Lake
- (C) ~~Wild Trout Natural Bait Waters are as follows:  
 Chattooga River from the S.R. 1100 bridge to the South Carolina state line  
 Kimsey Creek  
 Park Creek~~
- (14) Madison County
- (A) Delayed Harvest Trout Waters are as follows:  
 Big Laurel Creek from the N.C. 208 bridge to the U.S. 25-70 bridge  
 Shelton Laurel Creek from the N.C. 208 bridge at Belva to the confluence with Big Laurel Creek  
 Spring Creek from the N.C. 209 bridge at the Hot Springs city limits to the iron bridge at end of Andrews Ave.
- (B) Hatchery Supported Trout Waters are as follows:  
 Big Laurel Creek from Puncheon Fork to the S.R. 1318, Big Laurel Rd., bridge downstream of Bearpen Branch  
 Big Pine Creek from the S.R. 1151 bridge to the French Broad River  
 Little Ivy Creek from the confluence of Middle Fork and Paint Fork at Beech Glen to the confluence with Ivy Creek at Forks of Ivy  
 Max Patch Pond

- Meadow Fork Creek from Meadow Fork Campground to Spring Creek
  - Puncheon Fork from Wolf Laurel Branch to Big Laurel Creek
  - Roaring Fork from Fall Branch to Meadow Fork
  - Shelton Laurel Creek from the confluence of Big Creek and Mill Creek to the N.C. 208 bridge at Belva Shut-in Creek
  - Spillcorn Creek
  - Spring Creek from the junction of N.C. 209 and N.C. 63 to the confluence with Meadow Fork
  - West Fork Shut-in Creek from the lower game land boundary to the confluence with East Fork Shut-in Creek
- (15) McDowell County
- (A) Catch and Release Artificial Flies and Lures Only Trout Waters are as follows:  
Newberry Creek, the game land portion
  - (B) Delayed Harvest Trout Waters are as follows:  
Catawba River, the portion adjacent to the Marion Greenway  
Curtis Creek, the game land portion downstream of the USFS boundary at Deep Branch  
Mill Creek from the U.S. 70 bridge to the I-40 bridge
  - (C) Hatchery Supported Trout Waters are as follows:  
Armstrong Creek from the Cato Holler line downstream to the upper Greenlee line  
Catawba River from the Catawba Falls Campground to the Old Fort Recreation Park  
Little Buck Creek, the game land portion  
North Fork Catawba River from the headwaters to North Cove School at the S.R. 1569 bridge
- (16) Mitchell County
- (A) Delayed Harvest Trout Waters are as follows:  
Cane Creek from the N.C. 226 bridge to the S.R. 1189 bridge  
North Toe River from the U.S. 19E bridge to the N.C. 226 bridge
  - (B) Hatchery Supported Trout Waters are as follows:  
Big Rock Creek from the headwaters to the N.C. 226 bridge at the S.R. 1307 intersection
- Cane Creek from S.R. 1219 to the N.C. 226 bridge
  - East Fork Grassy Creek
  - Grassy Creek from East Fork Grassy Creek to the mouth
  - Little Rock Creek from the Green Creek bridge to Big Rock Creek, except where posted against trespassing
  - North Toe River from the Avery Co. line to the S.R. 1121 bridge
- (C) Wild Trout Waters are as follows:  
Green Creek from the headwaters to the Green Creek bridge, except where posted against trespassing  
Little Rock Creek the portion upstream of the Green Creek bridge, including the tributaries, except where posted against trespassing  
Wiles Creek from the game land boundary to the mouth
- (17) Polk County
- (A) Delayed Harvest Trout Waters are as follows:  
Green River from the Fishtop Falls Access Area to the confluence with Cove Creek
  - (B) Hatchery Supported Trout Waters are as follows:  
Green River from the mouth of Cove Creek to the natural gas pipeline crossing  
North Pacolet River from Joels Creek to the N.C. 108 bridge
- (18) Rutherford County
- (A) Hatchery Supported Trout Waters are as follows:  
Broad River from the Henderson Co. line to the U.S. 64/74 bridge, except where posted against trespassing
- (19) Stokes County
- (A) Hatchery Supported Trout Waters are as follows:  
Dan River from the Virginia state line downstream to a point 200 yards below the end of S.R. 1421
- (20) Surry County
- (A) Delayed Harvest Trout Waters are as follows:  
Ararat River, the portion adjacent to the Ararat River Greenway  
Mitchell River from 0.6 miles upstream of the end of S.R. 1333 to the lowermost bridge on S.R. 1330
  - (B) Hatchery Supported Trout Waters are as follows:  
Ararat River from the S.R. 1727 bridge to the N.C. 103 bridge

- Big Elkin Creek from the dam 440 yards upstream of the N.C. 268 bridge to a point 265 yards downstream of N.C. 268, marked by a sign on both banks
  - Fisher River from the Virginia state line to the I-77 bridge
  - Little Fisher River from the Virginia state line to the N.C. 89 bridge
  - Lovills Creek from the U.S. 52 Business bridge to the Ararat River
  - Pauls Creek from the Virginia state line to 0.3 miles below the S.R. 1625 bridge
- (21) Swain County
- (A) Delayed Harvest Waters Trout Waters are as follows:  
Tuckasegee River from the U.S. 19 bridge to the Slope Street bridge
  - (B) Hatchery Supported Trout Waters are as follows:  
Alarka Creek from the game land boundary to Fontana Reservoir  
Calderwood Reservoir from Cheoah Dam to the Tennessee state line  
Cheoah Reservoir  
Connelly Creek from Camp Branch to the Tuckasegee River  
Deep Creek from the Great Smoky Mountains National Park Boundary line to the Tuckasegee River  
Nantahala River from the Macon Co. line to the existing Fontana Lake water level
- (22) Transylvania County
- (A) Catch and Release Artificial Flies and Lures Only Trout Waters are as follows:  
Davidson River from the headwaters to Avery Creek, excluding Avery Creek, Looking Glass Creek, Grogan Creek, Cedar Rock Creek and John Rock Branch
  - (B) Delayed Harvest Trout Waters are as follows:  
East Fork French Broad River from East Fork Baptist Church to the downstream S.R. 1107 bridge  
Little River from the confluence of Lake Dense to 100 yards downstream of Hooker Falls
  - (C) Hatchery Supported Trout Waters are as follows:  
Davidson River from Avery Creek to the lower USFS boundary  
French Broad River from the confluence of the North Fork French Broad River and West Fork
- French Broad River to the Island Ford Rd., S.R. 1110, Access Area
  - Middle Fork French Broad River from upstream of the U.S. 178 bridge to the French Broad River
  - West Fork French Broad River from S.R. 1312 to confluence with North Fork French Broad River
- (D) Wild Trout Waters are as follows:  
The waters located on Gorges State Park  
Whitewater River from Silver Run Creek to the South Carolina state line
- (E) ~~Wild Trout Natural Bait Waters are as follows:  
North Fork French Broad River, the game land portion downstream of S.R. 1326  
Thompson River from S.R. 1152 to the South Carolina state line, except where posted against trespassing~~
- (23) Watauga County
- (A) Catch and Release Artificial Flies and Lures Only Trout Waters are as follows:  
Laurel Creek from the confluence of North Fork Laurel Creek and South Fork Laurel Creek to Elk Creek, excluding tributaries  
Pond Creek from the headwaters to the Locust Ridge Rd. bridge, excluding the pond adjacent to Coffee Lake
  - (B) Delayed Harvest Trout Waters are as follows:  
Lake Coffey  
Watauga River from the S.R. 1114 bridge to the Valle Crucis Community Park lower boundary  
Watauga River from the S.R. 1103 bridge to the confluence with Laurel Creek
  - (C) Hatchery Supported Trout Waters are as follows:  
Beaverdam Creek from the confluence of Beaverdam Creek and Little Beaverdam Creek to an unnamed tributary adjacent to the intersection of S.R. 1201 and S.R. 1203  
Beech Creek  
Buckeye Creek from Buckeye Creek Reservoir dam to Grassy Gap Creek  
Buckeye Creek Reservoir  
Cove Creek from the S.R. 1233 bridge at Zionville to the S.R. 1214 bridge at Sherwood  
Dutch Creek from the second S.R. 1136 bridge to the mouth

Elk Creek from the S.R. 1510 bridge at Triplett to the Wilkes Co. line, except where posted against trespassing

Laurel Creek from the S.R. 1123 bridge at the S.R. 1157 intersection to the Watauga River

Meat Camp Creek from the S.R. 1340 bridge at the S.R. 1384 intersection to N.C. 194

Middle Fork New River from adjacent to the intersection of S.R. 1539 and U.S. 321 to the South Fork New River

Norris Fork Creek  
South Fork New River from the canoe launch 70 yards upstream of U.S. 421 bridge to the lower boundary of Brookshire Park

Stony Fork from the S.R. 1500 bridge at the S.R. 1505 intersection to the Wilkes Co. line

(D) Wild Trout Waters are as follows:

Dutch Creek from the headwaters to the second S.R. 1136 bridge

Howard Creek

Maine Branch from the headwaters to the North Fork New River

North Fork New River from the confluence with Maine Branch and Mine Branch to the Ashe Co. line

~~Watauga River from the Avery Co. line to the S.R. 1580 bridge~~

Winkler Creek from the lower bridge on S.R. 1549 to the confluence with the South Fork New River

(24) Wilkes County

(A) Delayed Harvest Trout Waters are as follows:

East Prong Roaring River from Bullhead Creek to the Stone Mountain State Park lower boundary

Elk Creek from the Watauga Co. line to the lower boundary of the Blue Ridge Mountain Club

Elk Creek, the portion on Leatherwood Mountains development

Reddies River from the Town of North Wilkesboro water intake dam to the confluence with the Yadkin River

Stone Mountain Creek from the falls at the Alleghany Co. line to the confluence with the East Prong Roaring River and Bullhead Creek

(B) Hatchery Supported Trout Waters are as follows:

Basin Creek from the S.R. 1730 bridge to the confluence with Lovelace Creek

Bell Branch Pond

Boundary Line Pond

Cub Creek from 0.5 miles upstream of the S.R. 2460 bridge to the S.R. 1001 bridge

Darnell Creek from the downstream ford on S.R. 1569 to the confluence with the North

Fork Reddies River

East Prong Roaring River from the Stone Mountain State Park lower boundary to the ~~S.R.~~

~~1002 Low Meadows Lane~~ bridge

Fall Creek from the S.R. 1300 bridge to the confluence with South Prong Lewis Fork, except where posted against trespassing

Middle Fork Reddies River from the headwaters to the bridge on S.R. 1580

Middle Prong Roaring River from the headwaters to the second bridge on S.R. 1736

North Fork Reddies River from the headwaters to the Union School bridge on S.R. 1559

Pike Creek

Pike Creek Pond

South Fork Reddies River from the S.R. 1355 bridge to the confluence with the Middle Fork Reddies River

South Prong Lewis Fork from Fall Creek to the U.S. 421 bridge adjacent to the S.R. 1155 intersection

(C) Wild Trout Waters are as follows:

The waters located on Stone Mountain State Park, except East Prong Roaring River from Bullhead Creek to the Stone Mountain State Park lower boundary where Delayed Harvest Trout Waters regulations apply, and Stone Mountain Creek from the falls at the Alleghany Co. line to the confluence with the East Prong Roaring River and Bullhead Creek in Stone Mountain State Park where Delayed Harvest Trout Waters regulations apply

(25) Yancey County

(A) Catch and Release Artificial Flies and Lures Only Trout Waters are as follows:

South Toe River from the headwaters to Upper Creek  
Upper Creek

(B) Delayed Harvest Trout Waters are as follows:

Cane River from Blackberry Ridge Rd. to the downstream boundary of Cane River County Park

(C) Hatchery Supported Trout Waters are as follows:



Bald Mountain Creek, except where posted against trespassing  
Cane River from Bee Branch, S.R. 1110, to Bowlens Creek  
Price Creek from the junction of S.R. 1120 and S.R. 1121 to Indian Creek  
South Toe River from Clear Creek to the lower boundary line of Yancey Co. Recreation Park, except where posted against trespassing

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

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

**15A NCAC 10C .0208 SPAWNING AREAS**

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

- (1) Slough 1 at 35.403687 N, 82.531970 W connected to the French Broad River, located 0.25 miles upstream of Butler Bridge Rd ~~(SR 1345)~~, Rd. (S.R. 1345).
- (2) Slough 2 at 35.398380 N, 82.528750 W connected to the French Broad River, located 1.0 miles upstream of Butler Bridge Rd.
- (3) Slough 3 at 35.396449 N, 82.525462 W connected to Mud Creek, located 0.1 miles upstream from confluence with the French Broad River.
- (4) Pleasant Grove slough at 35.298384 N, 82.584716 W connected to the French Broad River, located 0.25 miles upstream from S.R. 1205, Etowah School Road.

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

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

**SECTION .0300 – GAME FISH IN INLAND FISHING WATERS**

**15A NCAC 10C .0305 LARGEMOUTH BASS**

- (a) The daily creel limit for Largemouth Bass is five fish, except in waters identified in Paragraphs (d), (e), (f), (l), (m), and (n) of this Rule.
- (b) There is no minimum size limit for Largemouth Bass, but only two of them may be less than 14 inches except in waters identified in Paragraphs (d) through (n) of this Rule.
- (c) There is no closed season, except ~~for~~ in waters identified in Paragraph ~~(d)~~(n) of this Rule.
- (d) In Lake Cammack in Alamance County, and Lake Holt in Granville County, the daily creel limit for Largemouth Bass is 10 fish and no more than two fish greater than 14 inches may be possessed.

(e) In Lake Santeetlah in Graham County, there is no daily creel limit for Largemouth Bass and Smallmouth Bass less than 14 inches. The daily creel limit for Largemouth Bass and Smallmouth Bass greater than 14 inches is five fish in ~~the~~ aggregate.

(f) In Lake Chatuge in Clay County, the daily creel limit for Largemouth Bass, Smallmouth Bass, Alabama Bass, and Spotted Bass is 10 fish in ~~the~~ aggregate. The minimum size limit for Largemouth Bass is 12 inches.

(g) The minimum size limit for Largemouth Bass is 14 inches in the ~~following:~~ following waters:

- (1) Lake Raleigh in Wake County;
- (2) Lake Sutton in New Hanover County;
- (3) Pungo Lake in Washington and Hyde counties;
- (4) New Lake in Hyde County; and
- (5) Currituck, Roanoke, Croatan, Albemarle sounds, and ~~all~~ their tributaries, including Roanoke River downstream of Roanoke Rapids Dam, Chowan River, Meherrin River, Yeopim River, Pasquotank River, Perquimans River, Little River, Big Flatty Creek, North River, Northwest River, Scuppernong River, Alligator River, including the Alligator/Pungo Canal east of the ~~NC N.C.~~ Hwy 264/45 bridge, and ~~all the~~ other associated tributaries and canals in these river systems.

(h) In Cane Creek Lake in Union County, and Buckhorn Reservoir in Wilson and Nash counties, the minimum size limit for Largemouth Bass is 16 inches.

(i) In Lake Phelps in Tyrrell and Washington counties, the minimum size limit for Largemouth Bass is 14 inches, and no fish between 16 and 20 inches may be possessed.

(j) In ~~Shearon Harris Reservoir in Chatham and Wake counties~~ and Lake Hampton in Yadkin County, there is no minimum size limit for Largemouth ~~Bass, but only~~ Bass. No more than two Largemouth Bass less than 14 inches and no Largemouth Bass between 16 and 20 inches may be possessed.

(k) In Lake Thom-A-Lex in Davidson County, the minimum size limit for Largemouth Bass is 18 inches.

(l) In the Alleghany County portion of New River downstream of Fields Dam (Grayson County, Virginia), the daily creel limit for Largemouth Bass, Smallmouth Bass, and Spotted Bass is five fish in aggregate. There is no minimum size limit for Largemouth Bass, but no fish between 14 and 22 inches in length may be possessed and ~~only~~ one Largemouth Bass, Smallmouth Bass, or Spotted Bass greater than 22 inches may be possessed.

(m) In Lake Mattamuskeet and associated canals in Hyde County, the minimum size limit for Largemouth Bass is 16 inches and ~~only~~ one Largemouth Bass greater than 20 inches may be possessed.

(n) In Jean Guite Creek and associated canals within the Town of Southern Shores in Dare County and in the ponds associated with Martin Marietta Park in Craven County, no Largemouth Bass may be possessed.

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

**15A NCAC 10C .0306 CRAPPIE**

(a) There is no daily creel limit for Crappie, except ~~for~~ in waters identified in Paragraphs (d) through (h) of this Rule.

- (b) There is no minimum size limit except in waters identified in Paragraphs (f) through (h) of this Rule.
- (c) There is no closed season.
- (d) In Buckhorn Reservoir in Wilson and Nash counties, the daily creel limit is 20 fish.
- (e) In Lake Chatuge in Clay County, the daily creel limit is 30 fish.
- (f) In the following waters, the daily creel limit is 20 fish and the minimum size limit is 10 inches:
  - (1) Roanoke River and its tributaries downstream of Roanoke Rapids dam;
  - (2) Cashie River and its tributaries;
  - (3) Middle River and its tributaries;
  - (4) Eastmost River and its tributaries; and
  - (5) Lake Mattamuskeet in Hyde County.
- (g) In the following waters, the daily creel limit is 20 fish and the minimum size limit is eight inches:
  - (1) Lake Norman;
  - (2) Lake Hycó;
  - ~~(3) Lake Ramseur;~~
  - ~~(4)~~(3) Cane Creek Lake in Union County;
  - ~~(5)~~(4) Lake Hampton in Yadkin County;
  - ~~(6)~~(5) Tar River downstream of Tar River Reservoir Dam including tributaries;
  - ~~(7)~~(6) Neuse River downstream of Falls Lake Dam including tributaries;
  - ~~(8)~~(7) Haw River downstream of B. Everett Jordan Reservoir Dam including tributaries;
  - ~~(9)~~(8) Deep River downstream of Lockville Dam including tributaries;
  - ~~(10)~~(9) Cape Fear River including tributaries;
  - ~~(11)~~(10) Waccamaw River downstream of Lake Waccamaw Dam including tributaries;
  - ~~(12)~~(11) Lumber River including Drowning Creek including tributaries;
  - ~~(13)~~(12) public fishing waters east of Interstate 95, except Tar River Reservoir in Nash County, Sutton Lake in New Hanover County, and waters listed in Paragraph (f) of this Rule;
  - ~~(14)~~(13) public waters west of Interstate 77, except Lake Chatuge; and
  - ~~(15)~~(14) B. Everett Jordan Reservoir.
- (h) In John H. Kerr Reservoir, the daily creel limit is 25 fish and the minimum size limit is nine inches.

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

**15A NCAC 10C .0307 FLOUNDER**

- (a) The daily creel limit for flounder is ~~four~~ one fish.
- (b) The minimum size limit is 15 inches.
- (c) The season for taking and possessing flounder is September 1 through September 14.

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

**15A NCAC 10C .0313 AMERICAN SHAD AND HICKORY SHAD**

- (a) The daily creel limit for American and ~~hickory shad~~ Hickory Shad in the aggregate is 10 fish, only one of which may be an

- American shad, except for waters identified in Paragraphs (d) through (f) of this Rule.
- (b) There is no minimum size limit.
- (c) There is no closed season, except for waters identified in Paragraph (g) of this Rule.
- (d) In the inland waters of the Tar-Pamlico River, Pungo River, Pee Dee River, and their tributaries, the daily creel limit for American and ~~hickory shad~~ Hickory Shad is 10 in the aggregate.
- (e) In the inland waters of the Cape Fear River and its tributaries, the daily creel limit for American and ~~hickory shad~~ Hickory Shad is 10 in the aggregate, only five of which may be American shad.
- (f) In ~~all public waters of the Roanoke River upstream of Roanoke Rapids Dam, including~~ Roanoke Rapids Reservoir, Lake Gaston, and John H. Kerr Reservoir, and their tributaries, and in public waters of the Yadkin-Pee Dee River upstream of Blewett Falls Dam, including Blewett Falls Reservoir, and its tributaries, no American shad may be possessed.
- (g) The season for taking American and ~~hickory shad~~ Hickory Shad with dip nets and bow nets is March 1 through April 30.

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

**15A NCAC 10C .0314 STRIPED BASS**

- (a) The daily creel limit for striped bass and its hybrids is four fish in the aggregate, except in waters identified in Paragraphs (d) and (g) through ~~(m)~~(l) of this Rule.
- (b) The minimum size limit for these fish is 20 inches, except in waters identified in Paragraphs (d) through ~~(m)~~(l) of this Rule.
- (c) There is no closed season, except for waters identified in Paragraphs (i) through ~~(m)~~(l) of this Rule.
- (d) In the Dan River upstream from its confluence with Bannister River to the dam at Union Street in Danville, VA and in John H. Kerr Reservoir, the daily creel limit on striped bass and its hybrids is two in the aggregate and the minimum size limit is 20 inches. No fish greater than 26 inches may be possessed from October 1 through May 31. From June 1 through September 30, the daily creel limit ~~on~~ for striped bass and its hybrids is four in the aggregate with no minimum size limit.
- (e) In Lake Gaston and Roanoke Rapids Reservoir, the minimum size limit for striped bass and its hybrids is 20 inches from October 1 through May 31. There is no minimum size limit for these fish from June 1 through September 30.
- (f) In Farmer Lake, Hycó Lake, Moss Lake, Mountain Island Reservoir, Oak Hollow Lake, Lake Thom A Lex, Lake Townsend, and Salem Lake the minimum size limit for striped bass and its hybrids is 16 inches.
- (g) In Lake Chatuge in Clay County, the daily creel limit is 15 in the aggregate. There is no minimum size limit, ~~but only~~ and two may be greater than 22 inches.
- (h) In Lake Mattamuskeet, and in the Pee Dee River and its tributaries downstream from the Blewett Falls Dam to the South Carolina state line, the daily creel limit for striped bass and its hybrids is three fish in the aggregate, and the minimum size limit is 18 inches.
- (i) ~~In the inland fishing waters of Neuse, Pungo, and Tar Pamlico rivers and their tributaries extending upstream to the first impoundment of the main course on the river or its tributaries, and in the other inland fishing waters east of Interstate 95 not specified in Paragraphs (h) and (j) through (l) of this Rule, the daily creel~~

~~limit for striped bass and its hybrids is two fish in the aggregate. The minimum size limit is 26 inches. In these waters, the season for taking and possessing striped bass is closed from May 1 through September 30.~~

~~(j)(i)~~ In the inland fishing waters of the Tar, Pungo, Neuse, and Cape Fear River rivers and its their tributaries downstream of Buckhorn Dam extending upstream to the first impoundment of the main course on the river or its tributaries and in the ponds associated with Martin Marietta Park in Craven County, the season for taking and possessing striped bass is closed year-round.

~~(k)(j)~~ In the inland and joint fishing waters of the Roanoke River Striped Bass Management Area, as established in 15A NCAC 03R .0201 and identified in 15A NCAC 10C .0110 which includes the Roanoke, Cashie, Middle, and Eastmost rivers and their tributaries, the open season for taking and possessing striped bass and its hybrids is March 1 through April 30 from the joint-coastal fishing waters boundary at Albemarle Sound upstream to Roanoke Rapids Lake Dam. During the open season, the daily creel limit for striped bass and its hybrids is one fish in ~~the~~ aggregate, and the minimum size limit is 18 inches. No fish over 22 inches in length shall be ~~possessed in the daily creel limit.~~ possessed.

~~(l)(k)~~ In designated inland and joint fishing waters of Roanoke Sound, Croatan Sound, Albemarle Sound, Chowan River, Currituck Sound, Alligator River, Scuppernong River, and their tributaries, excluding the Roanoke River and Cashie River and their tributaries, the striped bass fishing season, size limits, and creel limits are the same as those established by rules or proclamations of the Marine Fisheries Commission in adjacent coastal fishing waters.

~~(m)(l)~~ In accordance with G.S. 113-292, the Executive Director may, by proclamation, suspend or extend the hook-and-line season for striped bass in the inland and joint waters of coastal rivers and their tributaries. It is unlawful to violate the provisions of a proclamation issued pursuant to this authority.

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

**15A NCAC 10C .0316 MOUNTAIN TROUT**

(a) The daily creel limit for trout in Hatchery-Supported Trout Waters is seven fish. There is no minimum size limit for these fish. The open season is from 7 a.m. on the first Saturday in April until March 1, except for waters designated in Paragraph (g) of this Rule.

(b) The daily creel limit for trout in Wild Trout Waters ~~and Wild Trout/Natural Bait Trout Waters~~ is four fish. The minimum size limit for these fish is seven inches. There is no closed season.

(c) No trout may be harvested from Catch and Release/Artificial Flies and Lures Only Trout Waters. Trout ~~may~~ shall not be possessed while fishing these waters.

(d) The daily creel limit for trout in Delayed Harvest Trout Waters is seven fish. There is no minimum size limit for these fish. The Youth-only Delayed Harvest Trout Water Season is from 6 a.m. on the first Saturday in June until 12 p.m. that same day. During this season ~~only~~ individuals under the age of 18 may fish. From 12 p.m. on the first Saturday in June until September 30, the Delayed Harvest Trout Waters Season is open for ~~all~~ anglers. From October 1 to one-half hour after sunset on the Friday before the first Saturday in June, trout ~~may~~ shall not be

harvested or possessed while fishing these waters. Delayed Harvest Trout Waters are closed to ~~all~~ fishing from one-half hour after sunset on the Friday before the first Saturday in June to 6 a.m. on the first Saturday in June.

(e) The daily creel limits, size limits, and seasons for trout in Special Regulation Trout Waters are as follows:

- (1) Apalachia Reservoir (Cherokee County) the daily creel limit is three trout. There is no minimum size limit, but only one may be greater than 14 inches. There is no closed season.
- (2) Catawba River (Burke County) from Muddy Creek to the City of Morganton water intake dam the daily creel limit is two fish. The minimum size limit is 14 inches. There is no closed season.

(f) The daily creel limit for trout in undesignated trout waters is seven fish. There is no minimum size limit for these fish.

(g) There is no closed season on taking trout from Linville River within Linville Gorge Wilderness Area and the impounded waters of the following power reservoirs and municipally-owned water supply reservoirs open to the public for fishing.

- (1) Bear Creek Lake;
- (2) Buckeye Creek Reservoir;
- (3) Calderwood Reservoir;
- (4) Cedar Cliff Lake;
- (5) Cheoah Reservoir;
- (6) Cliffside Lake;
- (7) Tanassee Creek Lake;
- (8) Queens Creek Lake; and
- (9) Wolf Lake.

(h) In designated Public Mountain Trout Waters the season for taking all species of fish is the same as the trout fishing season.

(i) ~~All trout~~ Trout water designations and manners of take are set forth in 15A NCAC 10C .0205.

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

**SECTION .0800 – JOINT FISHING WATERS**

**15A NCAC 10C .0801 INLAND GAME FISHES DESIGNATED IN JOINT FISHING WATERS**

(a) For the purposes of this Rule, the following fishes are classified and designated as inland game fishes in joint fishing waters:

- (1) Alabama bass, largemouth bass, redeye bass, smallmouth bass, and spotted bass;
- (2) black crappie and white crappie;
- (3) chain pickerel (jack), muskellunge, and redbfin pickerel;
- (4) kokanee salmon;
- (5) mountain trout, including but not limited to brook trout, brown trout, and rainbow trout;
- (6) Roanoke bass and rock bass (redeye);
- (7) sauger and walleye; and
- (8) sunfish, including bluegill (bream), flier, pumpkinseed, redbreast (robin), redear (shellcracker), warmouth, and the other species

of the sunfish family (Centrarchidae) not specifically listed in this Rule.

(b) Inland game fishes shall not be taken by methods other than with hook and line, except that landing nets may be used to land fishes caught on hook and line.

(c) Size, creel limits, and seasons for inland game fishes in joint fishing waters shall be the same as those designated in Section .0300 for inland fishing waters.

(d) Inland game fishes taken incidental to commercial fishing operations shall be immediately returned to the water unharmed.

(e) Inland game fishes taken from joint fishing waters shall not be sold.

(f) Individuals may take up to the daily creel limit of those species of inland game fish having a specified creel limit.

(g) On the waters being fished, individuals may possess:

- (1) the specified daily creel limit for the species;
- (2) fish conforming to the size limit for the species; and
- (3) the daily creel limit while fishing or afield.

(h) Individuals may possess up to three days creel limit at any place.

(i) No person, while fishing or afield, shall:

- (1) unnecessarily destroy any inland game fish taken from public fishing waters;
- (2) remove the head or tail or otherwise change the appearance of a game fish having a size limit to render it impracticable to measure its total original length; or
- (3) change the appearance of a game fish having a daily creel limit to obscure its identification or render it impracticable to count the number of fish in possession.

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

**15A NCAC 10C .0802 TAKING AND POSSESSION OF OTHER FISHES BY HOOK AND LINE IN JOINT FISHING WATERS**

(a) This Rule applies to fish taken by hook and line in joint fishing waters, excluding the species listed in 15A NCAC 10C .0801.

(b) Landing nets may be used to land fishes caught on hook and line.

(c) Set hooks, jug hooks, and trotlines may be used as designated in 15A NCAC 10C .0206 to take fishes in joint fishing waters.

(d) Size, creel limits, and seasons for fishes taken by hook and line in joint fishing waters shall be the same as those designated in Sections .0300 and .0400 for inland fishing waters with the following exceptions:

- (1) In the joint fishing waters of the Tar-Pamlico River, Pungo River, and their tributaries, the daily creel limit for American and Hickory Shad is 10 in aggregate.
- (2) In the joint fishing waters of the Cape Fear River and its tributaries, the daily creel limit for American and Hickory Shad is 10 in aggregate, five of which may be American Shad.
- (3) In the joint fishing waters of the Central Southern Management Area, as identified in 15A NCAC 03R .0201, size, creel limits, and

seasons for striped bass and its hybrids are listed in 15A NCAC 10C .0107.

(4) In the joint fishing waters of the Roanoke River Striped Bass Management Area, as identified in 15A NCAC 10C .0110(a)(2), which includes the Roanoke, Cashie, Middle, and Eastmost rivers and their tributaries, the open season for taking and possessing Striped Bass and its hybrids is March 1 through April 30 from the joint-coastal fishing waters boundary at Albemarle Sound upstream to Roanoke Rapids Lake dam. During the open season, the daily creel limit for Striped Bass and its hybrids is two fish in aggregate, and the minimum size limit is 18 inches. No fish between 22 inches and 27 inches in length shall be possessed in the daily creel limit. One fish larger than 27 inches may be possessed in the daily creel limit.

(5) In designated inland and joint fishing waters of the Albemarle Sound Management Area, as identified in 15A NCAC 10C .0110(a)(1), the Striped Bass fishing season, size limits, and creel limits are the same as those established by rules or proclamations of the Marine Fisheries Commission in adjacent coastal fishing waters.

(e) Fishes taken by hook and line in joint fishing waters may be sold except those fishes for which the sale is prohibited in Sections .0300 and .0400 for inland fishing waters.

(f) For fishes taken by hook and line in joint fishing waters, individuals may take up to the daily creel limit of fish having a specified creel limit.

(g) On the waters being fished, individuals may possess:

- (1) the specified daily creel limit for the species;
- (2) fish conforming to the size limit of the species; and
- (3) the daily creel limit while fishing or afield.

(h) Individuals may possess up to three days creel limit at any place.

(i) No person, while fishing or afield, shall:

- (1) remove the head or tail or change the appearance of a fish taken by hook and line specified in Sections .0300 or .0400 as having a size limit, to render it impractical to measure its total original length, except for American Eel as provided in 15A NCAC 10C .0410.
- (2) change the appearance of a fish taken by hook and line that has a species-specific daily creel limit in Sections .0300 or .0400, to obscure its identification or render it impractical to count the number of fish in possession, except for American Eel as provided in 15A NCAC 10C .0410.

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

**SUBCHAPTER 10D - GAME LANDS REGULATIONS**

**SECTION .0100 - GAME LANDS REGULATIONS**

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

- (a) The following shall be prohibited on game lands:
- (1) hunting on a designated game land while under the influence of ~~alcohol or a narcotic drug~~; an impairing substance, as defined by G.S. 20-4.01(48b);
  - (2) failing to comply with restrictions enacted by the National Park Service regarding the use of the Blue Ridge Parkway where it adjoins game lands;
  - (3) parking a vehicle on game lands in a manner that blocks traffic or gates, or prevents vehicles from using a roadway; and
  - (4) erecting or occupying a tree stand or platform attached by nails, screws, bolts, or to a tree on a game land to hunt. This prohibition does not apply to lag-screw steps or portable stands that are removed after use with no metal remaining in or attached to the tree.
- (b) Unless allowed by permit, hunting on game lands shall be during the open season for game animals and game birds.
- (c) Individual game lands or parts of game lands may be closed to hunting or limited to specific dates by this Subchapter.
- (d) Persons shall hunt with weapons lawful for the open game animal or game bird seasons.
- (e) On managed waterfowl impoundments, persons shall:
- (1) not enter the posted impoundment areas earlier than 4:00 a.m. on the permitted hunting dates;
  - (2) not hunt after 1:00 p.m. on the permitted hunting dates;
  - (3) not set decoys out prior to 4:00 a.m.;
  - (4) remove decoys by 3:00 p.m. daily; and
  - (5) not operate a vessel or vehicle powered by an internal combustion engine.
- (f) On Sundays, the following shall be prohibited:
- (1) hunting with a firearm between 9:30 a.m. and 12:30 p.m.;
  - (2) the use of a firearm to take deer that are run or chased by dogs;
  - (3) hunting with a firearm within 500 yards of a place of religious worship, as defined by G.S. 14-54.1(b), or an accessory structure thereof; and
  - (4) hunting migratory game birds.
- (g) On designated Youth Waterfowl ~~Days~~ Days, the following shall apply:
- (1) hunting on managed waterfowl impoundments shall be from one-half hour before sunrise to sunset;
  - (2) Subparagraphs (e)(1), (e)(3), and (e)(5) of this Rule; and
  - (3) youth may hunt on a game land and on an impoundment without a special hunt permit, including permit-only areas, except where prohibited in Paragraph (a) of this Rule.
- (h) On designated Veterans and Military Waterfowl Days veterans, as defined in 38 USC 101, and members of the Armed

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

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

(j) Definitions:

- (1) For purposes of this Subchapter, "Dove Only Area" refers to a Game Land on which doves may be taken and dove hunting is limited to Mondays, Wednesdays, Saturdays, Thanksgiving Day, Christmas Day, and New Year's Days within the federally-announced season.
- (2) For purposes of this Subchapter, "Three Days per Week Area" refers to a Game Land on which game may be taken during the open seasons and hunting is limited to Mondays, Wednesdays, Saturdays, Thanksgiving Day, Christmas Day, Veterans Day, Martin Luther King Day, and New Year's Days, except for game lands in this Rule that specifically allow hunting on Tuesdays, Thursday, and Fridays. Hunting is not allowed on Christmas Day, Veterans Day, and New Year's Day when these holidays fall on Sunday. Falconry may also be practiced on Sundays. These "open days" also apply to antlerless deer hunting seasons listed for each game land. Raccoon and opossum hunting may continue until 7:00 a.m. on Tuesdays, until 7:00 a.m. on Thursdays, and until midnight on Saturdays.
- (3) For purposes of this Subchapter, "Six Days per Week Area" refers to a Game Land on which game may be taken on the open days of Monday, Tuesday, Wednesday, Thursday, Friday, and Saturday during the open seasons. Falconry may be practiced on Sundays.
- (4) For purposes of this Subchapter, "Seven Days per Week Area" refers to a Game Land on which game may be taken during the open season on Mondays, Tuesdays, Wednesdays, Thursdays, Fridays, Saturdays, and Sundays.
- (5) For purposes of this Subchapter, "Four Days per Week Area" refers to a Game Land on which game may be taken during the open seasons and hunting is limited to Tuesdays, Thursdays, Saturdays, Sundays, Labor Day, Veterans Day, Christmas Day, New Year's Day, and Martin Luther King Day. Raccoon and opossum hunting may continue until 7:00 a.m. on Wednesdays, 7:00 a.m. on Fridays, and 7:00 a.m. on Mondays.

- (6) For purposes of this Subchapter, "Permit" means a written authorization from the Commission required for take or other activities listed on the permit during open seasons, if applicable, in a specified area and subject to annual limitations imposed by the Commission to meet wildlife, hunter, or land management objectives, unless otherwise specified. Individuals may apply for available permits online at [ncwildlife.org](http://ncwildlife.org), by phone, or in person at a wildlife service agent location. The Commission shall issue permits to applicants selected at random by computer in accordance with G.S. 113-264. Permits shall be non-transferrable. The laws and rules regarding the species or activity shall apply.
- (7) For the purposes of this Subchapter, "Either-Sex" means antlered or antlerless.

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

(l) On permit hunts, ~~deer of either sex antlered or antlerless deer~~ may be taken on the hunt dates indicated on the permit. Completed applications shall be received by the Commission not later than the first day of September next preceding the dates of hunt. Permits shall be issued by random computer selection, shall be mailed to the permittees prior to the hunt, and are nontransferable. A hunter making a kill shall validate the kill and report the kill to a wildlife cooperater agent or by phone.

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

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

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

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

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

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

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

*Authority G.S. 113-134; 113-264; 113-291.2; 113-291.5; 113-296; 113-305.*

### SECTION .0200 - USE OF GAME LANDS

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

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

- (1) Antlered or antlerless deer may be taken from the first open day of the All Lawful Weapons Season for Deer With Visible Antlers through the second Wednesday thereafter.
- (2) Horseback riding, including all equine species, is allowed seven days per week from May 16 through August 31, and on Sundays only, September 1 through May 15. Horseback riding is allowed on roads opened to vehicular traffic and on those gated roads and trails that are posted for equestrian use. People age 16 or older horseback riding on this game land shall possess a Game Lands license as required by G.S. 270.3(b)(3).
- ~~(3) The area encompassed by the following roads is permit only for quail and woodcock hunting and bird dog training: From Yanceyville south on NC 62 to the intersection of SR 1746, west on SR 1746 to the intersection of SR 1156, south on SR 1156 to the intersection of SR 1783, east on SR 1783 to the intersection of NC 62, north on NC 62 to the intersection of SR 1736, east on SR 1736 to the intersection of SR 1730, east on SR 1730 to NC 86, north on NC 86 to NC 62.~~
- ~~(4)~~(3) On the posted waterfowl impoundment, waterfowl hunting is by permit after November 1.
- ~~(5)~~(4) Camping is restricted to September 1 through the last day of February and March 31 through May 14.
- ~~(6)~~(5) Target shooting is prohibited, except at the R. Wayne Bailey-Caswell Shooting Range.

(b) Hunting shall be by permit for the following species in the area posted as the Caswell Small Game Focal Area:

- (1) quail and woodcock; and
- (2) rabbit and squirrel on days outside of the three days per week framework.

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

**15A NCAC 10D .0216 CHATHAM GAME LAND IN CHATHAM COUNTY**

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

- (1) ~~Deer of either sex~~ Antlered or antlerless deer may be taken the first open day of the applicable Deer With Visible Antlers Season through the second Friday thereafter.
- (2) Horseback riding, including all equine species, is allowed seven days per week from May 16 through August 31, and on Sundays only September 1 through May 15.
- (3) The use of bicycles is restricted, except for hunters engaged in the act of hunting during the open days of the seasons for game birds and game animals.
- ~~(3)~~(4) Target shooting is prohibited.

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

**15A NCAC 10D .0225 DOVER BAY GAME LAND IN CRAVEN COUNTY**

- (a) Dover Bay game land is a Six Days per Week Area.
- (b) On this game land ~~deer of either sex~~ antlered or antlerless deer may be taken on the days of the applicable Deer With Visible Antlers ~~season.~~ Season.
- (c) Target shooting is prohibited.

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

**15A NCAC 10D .0233 HARRIS GAME LAND IN CHATHAM, HARNETT, AND WAKE COUNTIES**

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

- (1) ~~Deer of either sex~~ Antlered or antlerless deer may be taken the first open day of the applicable Deer With Visible Antlers Season through the second Friday thereafter.
- (2) Waterfowl on posted waterfowl impoundments may be taken on the following days:
  - (a) the opening and closing days of the applicable waterfowl seasons;
  - (b) Thanksgiving, Christmas, New Year's, and Martin Luther King, Jr. Days; and
  - (c) Tuesdays and Saturdays of the applicable waterfowl season.
- (3) The use or construction of permanent hunting blinds shall be prohibited.
- (4) Wild turkey hunting is by permit only, except on those areas posted as an archery zone.
- ~~(5)~~ Target shooting is prohibited.
- ~~(5)~~ The use of bicycles is restricted, except for hunters engaged in the act of hunting during the

open days of the seasons for game birds and game animals.

(6) Horseback riding is prohibited.

~~(7)~~ Target shooting is prohibited.

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

**15A NCAC 10D .0245 LEE GAME LAND IN LEE COUNTY**

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

- (1) ~~Deer of either sex~~ Antlered or antlerless deer may be taken the first open day of the applicable Deer With Visible Antlers Season through the second Friday thereafter.
- (2) The use of bicycles is restricted, except for hunters engaged in the act of hunting during the open days of the seasons for game birds and game animals.
- ~~(2)~~(3) Target shooting is prohibited.

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

**15A NCAC 10D .0251 NANTAHALA GAME LAND IN CHEROKEE, CLAY, GRAHAM, JACKSON, MACON, SWAIN, AND TRANSYLVANIA COUNTIES**

- (a) Nantahala game land is a Seven Days per Week Area.
- (b) In this game land Deer of either sex may be taken the first open Saturday of the applicable Deer With Visible Antlers Season in that portion located in Transylvania County.
- ~~(c) Dogs may be used to hunt feral swine during the open bear season established in 15A NCAC 10B .0202 and from January 1 through January 31.~~

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

**15A NCAC 10D .0256 NORTH RIVER GAME LAND IN CAMDEN AND CURRITUCK COUNTIES**

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

- (1) ~~Deer of either sex~~ Antlered or antlerless deer may be taken all the open days of the applicable Deer With Visible Antlers Season.
- (2) The boundary of the Game Land shall extend five yards from the edge of the marsh or shoreline.
- (3) Hunting on the posted waterfowl impoundment is by permit.
- ~~(4)~~ During the period November 1 through March 15, all activities, except waterfowl hunting and trapping during the trapping season on North River Game Land Waterfowl Impoundments, are restricted to the posted Scouting-only Zone.
- ~~(4)~~(5) Bear shall not be harvested on Sunday.

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

**15A NCAC 10D .0283 THURMOND CHATHAM GAME LAND IN ALLEGHANY AND WILKES COUNTIES**

Thurmond Chatham game land is a Seven Days per Week Area, in which the following applies:

- (1) ~~Deer of either sex~~ Antlered or antlerless deer may be taken the first open day of the applicable Deer With Visible Antlers Season through the second Friday thereafter.
- (2) Horseback riding is prohibited except on designated trails May 16 through August 31, and all horseback riding is prohibited from September 1 through May 15. People age 16 or older horseback riding on this game land shall possess a Game Lands license as required by G.S. 270.3(b)(3).
- (3) ~~The maximum period of consecutive overnight camping at any designated campground is 14 days within any 30 day period from May 1 through August 31. After 14 consecutive days of camping all personal belongings must be removed from the game land. Camping is restricted to September 1 through the last day of February; and March 31 through May 14.~~

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

**15A NCAC 10D .0293 YADKIN RIVER GAME LAND IN DAVIDSON, DAVIE, MONTGOMERY, ROWAN, AND STANLY COUNTIES**

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

- (1) ~~Deer of either sex~~ Antlered or antlerless deer may be taken ~~the first open day of the applicable Deer With Visible Antlers Season through the second Friday thereafter in that portion in Montgomery county, and deer of either sex may be taken all on~~ the open days of the applicable Deer With Visible Antlers Season ~~in those portions in Davidson, Davie, Rowan, and Stanly counties.~~ Season.
- (2) On the Lick Creek Tract, deer and bear hunting is archery only.

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

**15A NCAC 10D .0294 NORTH BEND GAME LAND IN BURKE COUNTY**

North Bend game land is hunting by permit only. The following shall apply:

- (1) The use of bicycles is restricted to designated trails, except for hunters engaged in the act of hunting during the open days of the seasons for game birds and game animals.

- (2) Camping is restricted to September 1 through the last day of February; and March 31 through May 14.
- (3) Horseback riding is prohibited.
- (4) Target shooting is prohibited.

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

**SUBCHAPTER 10H – REGULATED ACTIVITIES  
SECTION .0100 - CONTROLLED HUNTING PRESERVES FOR DOMESTICALLY RAISED GAME BIRDS**

**15A NCAC 10H .0102 ESTABLISHMENT AND OPERATION**

(a) Controlled hunting preserves shall be at least ~~400~~ 50 acres and shall be one contiguous block of land.

(b) The boundary of each controlled hunting preserve shall be posted with printed signs that face both outward and inward from the preserve boundary. ~~boundary and meet the following requirements:~~

- (1) ~~Signs shall be at least 12 inches wide and at least nine inches tall with white background and black lettering of uniform font.~~
- (2) ~~Signs shall be placed along the boundaries of the controlled hunting preserve, not more than 150 feet apart.~~
- (3) ~~Text of signs facing outward from the boundary shall contain the following information in font no less than ¼ of an inch in height:~~
  - (A) ~~the words "Controlled Hunting Preserve";~~
  - (B) ~~the words, "The owner or lessee of this property is operating by authority of a license issued by the N.C. Wildlife Resources Commission. Hunting on this preserve shall be in accordance with regulations of the Commission.";~~
  - (C) ~~the words, "State hunting license is required"; and~~
  - (D) ~~the name of the licensed operator of the controlled hunting preserve.~~
- (4) ~~Text of signs facing inward from the boundary shall bear the words "Controlled Hunting Preserve" in font no less than ¾ of an inch in height.~~

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

**15A NCAC 10H .0105 RECORDS AND REPORTING REQUIREMENTS**

(a) The controlled hunting preserve operator shall maintain a written record of each hunter using the controlled hunting preserve. This record shall contain the following information:

- (1) name, address, and license number of the preserve;
- (2) the name, address, and state hunting license number of each hunter using the preserve;



- (3) the date(s) of the hunt;
- (4) the number and species of each bird harvested by the hunter on the preserve; and
- (5) the signature of the operator.

This record shall be executed in duplicate. The original record shall be given to the hunter to serve as a receipt for birds harvested on the preserve as required in Rule .0103 of this Section. The duplicate record shall be retained by the operator for 12 months after the date(s) of the hunt. It shall be unlawful for a person to possess game birds harvested on controlled hunting preserves without a receipt as described in this Rule.

(b) The operator shall maintain a written record of each bird species released on the preserve. This record shall include the number and species of each bird released and the date of the release.

(c) The records required by this Rule shall be available for inspection at the request of the Commission.

(d) Licensed operators that release birds shall report the number released, the species of the birds released, and the county where the release occurred to renew their operator's license. This reporting requirement shall be limited to those birds released during the time period of the operator's current valid license or last valid license and shall be reported on the Controlled Shooting Hunting Preserve Game Birds Report Form found online at [www.ncwildlife.org](http://www.ncwildlife.org) or at the Commission headquarters.

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

**15A NCAC 10H .0109 QUAIL CALL-PEN TRAPS**

Licensed controlled hunting preserve operators that release pen-raised quail for hunting or dog training shall be authorized to use quail call-pen traps, between September 1 and April 30, to recover released domestically raised quail, subject to the following requirements:

- (1) ~~all~~ traps shall have a weather-resistant permanent tag attached with the operator's name and address written legibly; and
- (2) ~~no trap traps~~ shall not be located within 100 yards of any boundary of the hunting ~~preserve~~; and preserve.
- (3) ~~no trapped, unbanded quail shall be retained.~~

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

**SECTION .0900 – GAME BIRD PROPAGATORS**

**15A NCAC 10H .0901 GAME BIRD PROPAGATION LICENSE**

(a) The game bird propagation license ~~shall authorize is required for the purchase, possession, propagation, propagation and sale, transportation, transfer, and release of propagated upland game birds, except wild turkey, and migratory~~ domestically raised waterfowl and game birds and their eggs, subject to the following limitations and conditions:

- (1) ~~The~~ the sale of dead pen-raised quail for food is governed by the regulations of the North Carolina Department of ~~Agriculture~~; Agriculture and Consumer Services; and

(2) ~~The~~ the purchase, possession, sale, transportation, and transfer of migratory game birds and their eggs is subject to additional requirements in 50 CFR 21, which is hereby incorporated by reference, including subsequent amendments and editions. 50 CFR 21 may be found free of charge at: [www.ecfr.gov](http://www.ecfr.gov).

(3) ~~Except on controlled hunting preserves each license holder may release no more than six domestically raised game birds for the purpose of dog training each day.~~

(b) ~~Application for~~ Individuals may obtain a game bird propagation license ~~shall be made on a form available from the Commission~~ at [www.newwildlife.org](http://www.newwildlife.org) or at the Commission headquarters located at 1751 Varsity Drive, Raleigh, NC 27606-2576. ~~Information required from the applicant shall include the applicant's:~~

- (1) ~~name;~~
- (2) ~~mailing address;~~
- (3) ~~residence address;~~
- (4) ~~telephone number; and~~
- (5) ~~date of birth.~~

(c) The game bird propagation license shall be posted and displayed at the propagation facility so that it is visible to visitors ~~or patrons at all times.~~ and patrons.

Authority G.S. 106-549.94; 113-134; 113-273; 50 C.F.R., Part 21.

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

(a) ~~Diseased Birds.~~ It shall be unlawful for a game bird propagation license holder to knowingly sell or ~~otherwise~~ transfer possession of ~~any~~ a live game bird that shows evidence of a communicable disease, except for transfers to a veterinarian or pathologist for examination and diagnostic purposes. Disposition of any game bird with a communicable disease not likely to infect wild game bird populations shall be the responsibility of the license holder.

(b) ~~Sale of Live Birds or Eggs.~~ Subject to the limitations set forth in Rule .0901 of this Section, ~~any~~ game birds that are authorized to be propagated under this Section, or ~~the~~ their eggs, eggs thereof, may be sold or transferred alive by a licensed game bird propagator to another licensed game bird propagator or licensed controlled ~~shooting hunting~~ preserve operator or to ~~any~~ a person that holds a valid license or permit that authorizes possession.

(c) ~~Receipt Required.~~ Upon sale or transfer, a written receipt of the transaction shall be prepared in duplicate showing the date, the names and license or permit numbers of both parties, and the species and quantity of the game birds or game bird eggs transferred. A copy of the receipt shall be retained by ~~each~~ of the parties as provided by Rule .0906 of this Section.

(d) ~~Bird Marking.~~ Any live Live migratory waterfowl sold or transferred to ~~any~~ a person for use in training retrievers or conducting retriever trials shall be marked by one of the methods provided by 50 CFR ~~21.45~~ 21.45, which is hereby incorporated by reference, including subsequent amendments and editions.

This document may be accessed ~~found free of charge at www.ecfr.gov. www.ecfr.gov at no cost.~~ All other ~~domestically raised game birds sold or transferred for the same purposes shall be individually marked on one leg with a band imprinted with the propagator's license number.~~

(e) ~~Sale of Dead Game Birds as Food.~~ Subject to Rule .0901 of this Section and to ~~any~~ applicable laws and regulations relating to pure foods, public health, and advertising, domestically raised waterfowl and game birds produced by licensed game bird propagators ~~may shall not~~ be killed ~~at any time in any manner,~~ ~~except~~ by shooting during the closed season. Dead game birds, except for dead pen-raised quail, and game bird eggs may be sold for food purposes as follows:

- (1) Sale Direct to Consumer. Unprocessed dead domestically raised waterfowl and game birds may be sold directly to a consumer when accompanied by a receipt showing the name of the consumer, the name and license number of the propagator, and the quantity and species of the ~~game~~ birds sold. A copy of the receipt shall be retained by the propagator for one year after the transaction. It shall be unlawful for the consumer to resell unprocessed dead domestically raised waterfowl and game birds.
- (2) Sale to or Through a Processor.
  - (A) Unprocessed dead domestically raised waterfowl and game birds may be sold to a commercial food processor that holds a permit to possess them or transferred to a commercial food processor for processing and packaging prior to sale. Sale or transfer shall be evidenced by written receipt retained by each party for a year after the sale or transfer, that includes the following information:
    - (i) the processor's name and permit number;
    - (ii) the propagator's name and license number; and
    - (iii) the number and species of ~~game~~ birds sold or transferred.
  - (B) Domestically raised waterfowl and game ~~Game~~ bird carcasses processed by a commercial food processor for wholesale or retail sale shall be enclosed in a wrapper or container marked with the following:
    - (i) the number and species of ~~game~~ birds contained;
    - (ii) the license number of the propagator; and
    - (iii) the words "domestically raised."
- (3) Domestically raised waterfowl and Propagated game bird eggs shall not be sold for food.

Authority G.S. 113-134; 113-273; 50 CFR 21.45.

15A NCAC 10H .0905 TRANSPORTATION

(a) Live Domestically Raised Waterfowl and Game Birds or Game Bird Eggs

- (1) Private Carriers. Live ~~propagated~~ domestically raised waterfowl and game birds or ~~game bird~~ eggs may be transported by private carrier when accompanied by a copy of the receipt specified in Rules .0903 or .0904 of this Section.
- (2) Common Carriers. When live ~~propagated~~ domestically raised waterfowl and game birds or ~~game bird~~ eggs are transported by common carrier, each separate container shall be tagged or labeled with the following information:
  - (A) the name, address, and license number of the shipping propagator;
  - (B) the name, address, and license or permit number of the consignee; and
  - (C) the number and species of domestically raised waterfowl or game birds or ~~game bird~~ eggs contained therein.

(b) Dead Domestically Raised Waterfowl and Game Birds

- (1) Private Consumers. Unprocessed dead domestically raised waterfowl and game birds may be transported by consumers or hunters when accompanied by a receipt from a licensed game bird propagator required by Rule .0904(e)(1) of this Section or by a copy of the receipt from a controlled ~~shooting~~ hunting preserve operator as required by 15A NCAC 10H .0105.
- (2) Processed Domestically Raised Waterfowl and Game Birds. The carcasses of processed ~~propagated~~ domestically raised game birds other than quail may be transported in any manner when packaged in a wrapper or container marked as required by Rule .0904(e)(2) of this Section.

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

15A NCAC 10H .0906 RECORDS

(a) Licensed game bird propagators that sell domestically raised waterfowl and game birds shall maintain a file of receipts by calendar year with the following information:

- (1) ~~The~~ the dates and sources of acquisition of domestically raised waterfowl and game birds and ~~game bird~~ eggs;
- (2) ~~The~~ the species and quantities of the domestically raised waterfowl and game birds and ~~game bird~~ eggs, as required by Rule .0903 of this Section; and
- (3) ~~Receipts~~ receipts showing ~~all~~ transfers of ~~propagated~~ domestically raised waterfowl and game birds, except dead quail sold for food purposes, and ~~game bird~~ eggs as required by Rule .0904 of this Section.

(b) Records shall be made available for inspection at the request of the Commission.

(c) Records shall be retained for at least one year following the license year to which they pertain.

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

**SECTION .1500 – WILDLIFE AND ALLIGATOR CONTROL AGENTS**

**15A NCAC 10H .1505 WILDLIFE CONTROL AGENT LICENSE RENEWAL AND REVOCATION**

(a) A WCA may renew his or her WCA license by completing at least one Commission-approved continuing education course within the previous year. A list of Commission-approved continuing education courses may be found at [www.ncwildlife.org/wca](http://www.ncwildlife.org/wca).

(b) WCAs that do not renew their license for two consecutive calendar years shall be ineligible for renewal and shall be required to repeat the requirements specified in 15A NCAC 10H .1501, prior to obtaining a new WCA license.

(c) The Executive Director or his or her designee may warn, cite, or revoke a WCA's license, if the WCA violates any provision of G.S. 14, Article 47; G.S. 113, Subchapter IV; any rules promulgated by the Commission; conditions of the WCA license; or standards taught in a Commission-approved WCA training course. The determination whether to warn, cite, or revoke a WCA's wildlife control agent license shall be based upon the seriousness of the violation.

(d) An individual whose WCA license is suspended or revoked shall not be eligible for the Wildlife Control Technician certification.

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

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

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

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

- (C) euthanasia; and
- (D) issuing depredation permits in accordance with the applicable provision and requirements of 15A NCAC 10H .1502.

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

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

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

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

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

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

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

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

(h) An individual whose WCA license is suspended or revoked shall not be eligible for a WCT certification.

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

**SECTION .1700 – FIELD TRIALS AND DOG TRAINING**

**15A NCAC 10H .1701 FIELD TRIALS**

(a) The following definitions shall apply to the rules in Subchapters 10H and 10D of this Chapter:

- (1) "Commission-sanctioned field trial" means a field trial that has been authorized by the Wildlife Resources Commission and for which a Field Trial Permit has been issued.
- (2) "Active participant" means an individual participating in a field trial who handles dogs or uses a firearm.
- (3) "Field Trial Permit" means the permit issued by the Wildlife Resources Commission that authorizes an individual to hold a commission-sanctioned field trial for dogs.

(b) Individuals may apply for a Field Trial Permit from the Commission at [www.gooutdoorsnorthcarolina.com](http://www.gooutdoorsnorthcarolina.com) or at the Commission headquarters located at 1751 Varsity Drive, Raleigh, NC 27606 by submitting the following information:

- (1) field trial dates;
- (2) business affiliation;
- (3) species of animal or game bird;
- (4) fox preserve permit number, if applicable;
- (5) county, if species is an animal; and
- (6) address, if species is a gamebird.

representatives of the Commission during the time and at the place where the trial is being held.

*Authority G.S. 113-134; 113-273; 113-276; 113-291.1; 113-291.5; 50 CFR 21.45.*

(c) An individual serving as a judge of a commission-sanctioned field trial shall be exempt from license requirements. An individual who is serving as a judge of a non-sanctioned field trial using wildlife shall possess a North Carolina hunting license.

(d) The following license requirements shall apply to active participants in field trials:

- (1) North Carolina residents participating in a field trial that uses wildlife shall have a North Carolina hunting license;
- (2) non-residents participating in a commission-sanctioned field trial that uses wildlife shall possess a North Carolina hunting license or a hunting license from his or her state of residence; and
- (3) non-residents participating in other types of field trials that use wildlife shall possess a North Carolina hunting license

(e) Notwithstanding Paragraph (d) of this Rule, an individual without a license may participate in commission-sanctioned field trials for beagles conducted without firearms on private field trial areas that meet the fencing requirements specified in G.S. 113-276(k).

(f) Individuals shall not carry axes, saws, or climbing irons while training or running dogs during closed seasons for game animals.

(g) The following conditions shall apply to commission-sanctioned field trials for retrievers or bird dogs:

- (1) shotguns containing live ammunition or firearms using only blank ammunition shall be prohibited unless specifically authorized by a Field Trial Permit;
- (2) wild waterfowl, wild quail, or wild pheasant shall not be used in field trials when shotguns with live ammunition are permitted;
- (3) domestically raised waterfowl and game birds, lawfully obtained from a licensed game bird propagator may be used in field trials where shotguns with live ammunition are permitted;
- (4) waterfowl obtained from licensed game bird propagators for use in field trials when shotguns with live ammunition are authorized shall be marked by one of the methods specified in 50 CFR 21.45, including subsequent amendments and editions, found free of charge at [www.ecfr.gov](http://www.ecfr.gov); and
- (5) when domestically raised game birds are obtained from licensed game bird propagators for use in field trials where shotguns with live ammunition are authorized, the purchaser of the birds shall obtain a copy of the receipt from the propagator showing the date, number of birds purchased, propagator license number, and species of birds purchased. A copy of the receipt shall be available for inspection by

**15A NCAC 10H .1702 DOG TRAINING**

(a) Individuals using wildlife to train or run dogs shall possess a valid North Carolina hunting license.

(b) The following conditions shall apply during the closed season for waterfowl and game birds when training dogs with domestically raised waterfowl and game birds:

- (1) shotguns with number four size shot or smaller shall be used;
- (2) nontoxic shot shall be used when training dogs with domestically raised waterfowl;
- (3) domestically raised waterfowl shall be marked by one of the methods specified in 50 CFR 21.45, including subsequent amendments and editions, found free of charge at [www.ecfr.gov](http://www.ecfr.gov); when obtained from a licensed game bird propagator for use in dog training, the purchaser of the birds shall obtain a copy of the receipt from the propagator showing the date, number of birds purchased, propagator license number, and species of birds purchased. A copy of the receipt shall be available for inspection by representatives of the Commission; and
- (5) individuals may release no more than 6 domestically raised game birds daily.

*Authority G.S. 113-134; 113-273; 113-276; 113-291.1; 113-291.5; 50 CFR 21.45.*

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**CHAPTER 18 - ENVIRONMENTAL HEALTH**

*Notice is hereby given in accordance with G.S. 150B-21.2 and G.S. 150B-21.3A(c)(2)g. that the Commission for Public Health intends to amend the rules cited as 15A NCAC 18A .1008, .1017, repeal the rules cited as 15A NCAC 18A .1007, .1009, .1018, .1020, .1022, .1027, readopt with substantive changes the rules cited as 15A NCAC 18A .1001-.1004, .1006, .1011, .1012, .1014, and repeal through readoption the rules cited as 15A NCAC 18A .1019 and .1021.*

*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://cph.dph.ncdhhs.gov/>

**Proposed Effective Date:** April 1, 2024

**Public Hearing:**

**Date:** January 12, 2024

Time: 2:00 p.m.

Location: This public hearing will be held by teleconference at (919) 715-0769 (no access code required).

Reason for Proposed Action: The Commission for Public Health is proposing updates to rules 15A NCAC 18A .1001-.1004, .1006-.1009, .1011, .1012, .1014, .1017-.1022, and .1027, regarding the administration and enforcement of sanitation requirements in summer camps, to clarify existing language and align with current practices. In addition, rules 15A NCAC 18A .1001-.1004, .1006, .1011, .1012, .1014, .1019, and .1021 are being readopted in accordance with G.S. 150B-21.3A, Periodic Review and Expiration of Existing Rules.

Comments may be submitted to: Virginia Niehaus, CPH Rulemaking Coordinator, 1931 Mail Service Center, Raleigh, NC 27699-1931; email cphcomment@lists.ncmail.net

Comment period ends: January 30, 2024

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 a written objection to the Rules Review Commission. 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 letters via U.S. Mail, private courier service, or hand delivery to 1711 New Hope Church Road, Raleigh, North Carolina, or via email to oah.rules@oah.nc.gov. If you have any further questions concerning the submission of objections to the Commission, please review 26 NCAC 05 .0110 or call a Commission staff attorney at 984-236-1850.

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

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

SUBCHAPTER 18A - SANITATION

SECTION .1000 - SANITATION OF SUMMER CAMPS

15A NCAC 18A .1001 DEFINITIONS

The following definitions shall apply throughout this Section:

- Summer camp includes those camp establishments which provide food or lodging accommodations for groups of children or adults engaged in organized recreational or educational programs. It also includes day camps, church assemblies, and retreats.

- Basecamp means the permanent base of operations of the summer camp served by permanent connection to a public electrical service provider.
Bathing facility means any facility designed to wash the whole body, including a shower facility.
Camp food service kitchen means the interior of a camp kitchen facility at the basecamp, of permanent construction, operated and staffed by the camp employees, used to prepare food for camp attendees, employees, and guests. This term does not include an educational kitchen.
Clean means that an object or surface has been made free of garbage, solid waste, soil, dust, hair, dander, food, bodily fluids and secretions, and feces.
Closed means that a summer camp is not offering food or lodging to the public.
Community water supply means a community water system as defined at G.S. 130A-313(10).
Cookout means an organized activity staffed and operated by the summer camp at the basecamp involving outdoor cooking and dining.
Cross-connection means as defined in 15A NCAC 18C .0102(c)(8).
DCDEE means the Division of Child Development and Early Education of the North Carolina Department of Health and Human Services.
Department means the North Carolina Department of Health and Human Services. shall mean the Secretary of the Department of Environment and Natural Resources or his authorized representative.
Sanitarian shall mean a person authorized to represent the Department on the local or state level in making inspections pursuant to state laws and regulations.
Educational kitchen means a kitchen facility at base camp that can be operated by campers and staff for personal use or instructional purposes.
Employee means as defined in Part 1-2 of the Food Code incorporated by reference at 15A NCAC 18A .2650 as amended by 15A NCAC 18A 2651.
Equipment means as defined in Part 1-2 of the Food Code incorporated by reference at 15A NCAC 18A .2650 as amended by 15A NCAC 18A .2651. Equipment also includes washing machines and dryers.
Evaluation means an in-person visit from the regulatory authority to a summer camp for the purpose of assessing whether the summer camp will be issued a permit, or have a suspension

- lifted, pursuant to Rule .1004 of this Section. An evaluation does not result in a letter grade being issued.
- (15) "Garbage" means as defined at G.S. 130A-290(7).
- (16) "Good repair" means in a working safe condition. But for food service equipment and utensils, good repair means as defined at 15A NCAC 18A .2651(8).
- (17) "Inspection" means an in-person visit from the regulatory authority to an open summer camp with an active permit for the purpose of assessing the camp's sanitation pursuant to Rule .1008 of this Section. An inspection results in a letter grade being issued.
- (18) "Linen" means fabric items such as bedding, towels, cloth hampers, cloth napkins, tablecloths, wiping cloths, and work garments including cloth gloves.
- (19) "Litter" means refuse as defined in 130A-290(28).
- (20) "Local health department" means as defined in G.S. 130A-2(5).
- (21) "Non-community water supply" means a noncommunity water system as defined at G.S. 130A-313(10).
- (22) "Open" means that a summer camp is offering food or lodging to the public.
- (23) "Permanent sleeping quarters" means those buildings, cabins, platform tents, covered wagons, or teepees provided by the camp that remain in a fixed location during the camp operation session and provide overnight lodging accommodations for camp participants.
- (4) "Person" means an individual, firm, association, organization, partnership, business trust, corporation, or company.
- (5) "Potentially hazardous food" means any food or ingredient, natural or synthetic, in a form capable of supporting the growth of infectious or toxigenic microorganisms, including Clostridium botulinum. This term includes raw or heat treated foods of animal origin, raw seed sprouts, and treated foods of plant origin. The term does not include foods which have a pH level of 4.6 or below or a water activity (Aw) value of 0.85 or less.
- (24) "Pest" means as defined at G.S. 143-460(26a).
- (25) "Pest harborage" means any condition that provides water or food and shelter for pests.
- (26) "Poisonous or toxic materials" means as defined in Part 1-2 of the Food Code incorporated by reference at 15A NCAC 18A .2650 as amended by 15A NCAC 18A .2651.
- (27) "Potable water" means water that is safe for human consumption.
- (28) "Public electrical service provider" means an entity that furnishes electricity for pay.
- (29) "Refuse" means as defined at G.S. 130A-290(28).
- (30) "Regulatory authority" means the Department or authorized agent of the Department.
- (31) "Responsible person" means the administrator, operator, owner, or other person in charge of the operation of the summer camp.
- (32) "Rubbish" means refuse as defined in 130A-290(28).
- (33) "Sanitarian" means the same as "Registered Environmental Health Specialist" as defined at G.S. 90A-51(4).
- (~~6~~)(34) "Sanitize" means as defined in Part 4-7 of the Food Code incorporated by reference at 15A NCAC 18A .2650 as amended by 15A NCAC 18A .2654, the approved bactericidal treatment by a process which meets the temperature and chemical concentration levels in 15A NCAC 18A .2619.
- (35) "Sewage and other liquid waste" means sewage as defined in G.S. 130A-334(13).
- (36) "Solid waste" means as defined at G.S. 130A-290(35).
- (37) "Summer camp" means those camp establishments which prepare or serve food for pay or provide overnight lodging accommodations for pay, for groups of children or adults engaged in organized recreational or educational programs. This definition does not include:
  - (a) those day camps required to obtain a license through DCDEE;
  - (b) Campgrounds or other facilities that only rent property or campsites for camping;
  - (c) Resident camps, Children's Foster Care Camps, and Residential Therapeutic (Habilitative) Camps as defined in 15A NCAC 18A .3601; or
  - (d) Primitive experience camps as defined in 15A NCAC 18A .3501.
- (38) "Summer camp premises" means the physical facilities of the summer camp, the contents of those facilities, and the contiguous land or property under the control of the permit holder or responsible person. This term does not include a camp food service kitchen facility.
- (39) "Supplemental cooking rooms" means as defined in 15A NCAC 18A .2651(20).
- (40) "Swimming pool" means a public swimming pool as defined in Section .2500 of this Subchapter.
- (41) "Time/Temperature Control for Safety Food" or "TCS Food" means as defined in Part 1-2 of the Food Code incorporated by reference at 15A NCAC 18A .2650 as amended by 15A NCAC 18A .2651.
- (42) "Toilet facility" means water closets or privies.

- (43) "Vermin" means "Pest" as defined at G.S. 143-460(26a).
- (44) "Warewashing" means as defined in Part 1-2 of the Food Code incorporated by reference at 15A NCAC 18A .2650 as amended by 15A NCAC 18A .2651.
- (45) "Wildlife" means as defined in G.S. 143-460(38).

Authority G.S. 130A-4; 130A-248.

**15A NCAC 18A .1002 FIELD SANITATION**

- (a) Summer camps or other organizations may conduct overnight hikes or similar primitive camping activities away from base camp provided if accepted field sanitation standards are maintained maintained. in accordance with 15A NCAC 18A .3619.
- (b) Summer camps may conduct cookouts at basecamp provided field sanitation standards are maintained in accordance with items (1) and (4) through (7) of 15A NCAC 18A .3619, except that written procedures are not required.

Authority G.S. 130A-4; 130A-248.

**15A NCAC 18A .1003 INVESTIGATION STANDARDS AND APPROVAL OF PLANS**

- (a) The sponsor of a proposed site for a summer camp may make an advance appointment with a sanitarian from the health department of the county in which the site is located for a joint visit to the site by representatives of the sponsor and the health department. During the site visit, the sponsor's preliminary plans for development of needed structures and facilities will be evaluated, including water supply, sewage disposal, swimming facilities, solid waste disposal, and insect and rodent control. If it is determined that the proposed site and facilities, if properly developed and operated, will comply with this Section, the sponsor should proceed to develop final plans and specifications.
- (b)(a) Plans and specifications drawn to scale for the proposed construction of summer camp kitchen facilities, lodging facilities, bathing facilities, and toilet facilities buildings and equipment, water supply system, sewerage system, and swimming pool or other swimming facility shall be submitted in duplicate to the local health department of the county in which the site camp is located. Plans and equipment specifications for construction or remodeling of a camp food service kitchen shall be submitted in accordance with the provisions of Part 8-2 of the Food Code incorporated by reference at 15A NCAC 18A .2650 as amended by 15A NCAC 18A .2658. Construction shall not be started until the plans and specifications have been approved by the local health department. The local health department shall approve, disapprove, or mark incomplete plans for summer camps within 30 days of their receipt. If the local health department disapproves plans or marks them incomplete, the local health department shall provide written comments to the submitter informing them of what is missing or incomplete. If the local health department fails to approve, disapprove, or mark incomplete plans within 30 days of their receipt, the plans shall be deemed approved.

- (b) Plans for the proposed construction or remodeling of a public swimming pool at a summer camp shall be submitted in accordance with 15A NCAC 18A .2509.

Authority G.S. 130A-4; 130A-248.

**15A NCAC 18A .1004 PERMITS**

(a) No person shall operate a summer camp within the State of North Carolina who does not possess a valid permit from the Department. No summer camp permit to operate shall be issued until an inspection evaluation by a sanitarian the regulatory authority shows that the establishment complies with all rules within this Section. Permits or transitional permits are issued by and inspections made by the Department.

(b) If camp food service is provided by a caterer, the overall responsibility for food service sanitation remains with the camp management. Summer camps shall complete and submit an Advanced Notification for Operation at least 45 days prior to the first date of operation each calendar year. The advanced notification form shall be obtained from the Department and shall include the following information:

- (1) type of camp (Summer, Resident, Primitive Experience);
- (2) date notification is submitted;
- (3) dates of operation (a calendar schedule may be attached);
- (4) the name of the camp;
- (5) the physical and billing addresses of the camp;
- (6) the name of the camp responsible person;
- (7) contact information for the responsible person including phone numbers and emails;
- (8) type of water supply;
- (9) type of wastewater system;
- (10) the capacity of the camp including campers and staff;
- (11) the date the water supply will be accessible for sampling and inspection if applicable;
- (12) the dates, prior to the first date of operation, when facilities will be inspected by camp management to ensure that:
  - (A) camp facilities are clean, and in good repair;
  - (B) camp kitchen equipment, including required refrigeration and dishwashing equipment, is clean and operational;
  - (C) camp buildings and permanent sleeping quarters are free of all bats and other vermin, wildlife, and pest harborages; and
  - (D) the camp is free from conditions which represent a threat to the public health;
- (13) list of any public swimming pools, wading pools, or water recreation attractions at the camp; and
- (14) the name, signature, and title of the person completing the form.

(c) Upon transfer of ownership of an existing summer camp, the Department regulatory authority shall complete an evaluation of

evaluate the facility. ~~Facility to determine compliance with the rules.~~ If the establishment satisfies all the requirements of this Section, ~~the rules~~, a permit shall be issued. If the establishment does not satisfy all the requirements of this Section, ~~the rules~~, a permit shall not be issued. ~~However, if~~ If the Department regulatory authority determines that the noncompliant items are related to construction or equipment ~~items~~ problems that do not represent ~~an immediate~~ a threat to the public health, a transitional permit may be issued. The transitional permit shall expire ~~180~~ 90 days after the date of issuance, unless suspended or revoked before that date, and shall not be renewed. Upon expiration of the transitional permit, the ~~owner or operator~~ permit holder or responsible person shall have corrected the noncompliant items and obtained a summer camp permit, or the summer camp shall ~~be closed, not continue to operate.~~

(d) The regulatory authority ~~Department may~~ shall impose conditions on the issuance of a summer camp permit or transitional ~~permit~~ permit if necessary to ensure that the summer camp remains in compliance with the Rules of this Section. Conditions may be specified for one or more of the following areas:

- (1) The number of persons ~~served; served.~~
- (2) The categories of food ~~served; served.~~
- (3) Time schedules in completing minor construction ~~items; items.~~
- (4) Modification or maintenance of water supplies, water use fixtures and sanitary sewage ~~systems; systems.~~
- (5) Use of facilities for more than one ~~purpose; purpose.~~
- (6) Continuation of contractual arrangements upon which basis the permit was ~~issued; issued.~~
- (7) Submission and approval of plans for ~~renovation; and renovation.~~
- (8) Any other conditions necessary for the summer camp to remain in compliance with the Rules of this Section.

(e) A summer camp permit or transitional permit shall be immediately revoked in accordance with G.S. 130A-23(d) for failure of the facility to maintain a minimum grade of C. A permit or transitional permit may otherwise be suspended or revoked in accordance with G.S. 130A-23. ~~A new permit to operate shall be issued only after the establishment has been reinspected by the Department and found to comply with this Section. This reinspection shall be conducted within a reasonable length of time, not to exceed 30 days, If a permit or transitional permit has been suspended, the suspension shall be lifted if the regulatory authority has evaluated the establishment and found that the violations causing the suspension have been corrected. If a permit or transitional permit has been revoked, a new permit shall be issued only after the regulatory authority has evaluated the establishment and found it to comply with all applicable rules. These evaluations shall be scheduled and conducted within 15 days after the request is made by the summer camp's permit holder or responsible person, operator.~~

Authority G.S. 130A-4; 130A-248.

**15A NCAC 18A .1006 INSPECTIONS AND REINSPECTIONS**

Upon ~~receipt of~~ a request from the ~~management~~ permit holder or responsible person for a reinspection for the purpose of raising the ~~posted~~ grade, alphabetical grade of their summer camp, the ~~sanitarian~~ regulatory authority shall make an unannounced inspection within 15 calendar days from the date of the request, after the lapse of a reasonable period of time. If the camp is closed for the 15 calendar days following the request, the permit holder or responsible person shall inform the regulatory authority when the camp will open, and the regulatory authority shall make an unannounced inspection within 15 calendar days of when the camp opens.

Authority G.S. 130A-4; 130A-248.

**15A NCAC 18A .1007 INSPECTION FORMS**

Authority G.S. 130A-248.

**15A NCAC 18A .1008 GRADING**

(a) The ~~sanitation~~ grading of ~~all~~ summer camps shall be based on a system of scoring wherein ~~all~~ summer camps receiving a score of at least 90 percent shall ~~be awarded~~ receive Grade ~~A, A;~~ A; ~~all~~ summer camps receiving a score of at least 80 percent and less than 90 percent shall ~~be awarded~~ receive Grade ~~B, B;~~ B; and ~~all~~ summer camps receiving a score of at least 70 percent and less than 80 percent shall ~~be awarded~~ receive Grade ~~C . ; and no~~ C . ~~;~~ and no ~~summer camp~~ Permits shall be immediately revoked in accordance with G.S. 130A-23(d) for summer camps receiving a score of less than 70 percent, percent, or Grade C, shall operate.

(b) The grading of summer camps shall include the grading of the summer camp premises and the camp food service kitchen, if applicable, using an inspection form provided by the Department. The form shall include the following information:

- (1) name and mailing address of the summer camp;
- (2) name of summer camp permit holder;
- (3) summer camp permit status and score given;
- (4) length of season;
- (5) number of residents;
- (6) standards of construction and operation referenced in paragraph (c) and (d) of this Rule;
- (7) an explanation for all points deducted;
- (8) signature of the regulatory authority; and
- (9) date of the inspection.

(c) The grading of the summer camps premises shall be based on the standards of operation and construction as set forth in Rules 1002, .1010, .1011 and .1013 through .1016, and .1017(f) through .1028 of this Section as follows:

- (1) Violation of Rule .1010 of this Section related to summer camp site free of actual or potential health hazards shall equal no more than 3 points.
- (2) Violation of Rule .1011(a), (b), or (c) of this Section related to water supply approved and no cross connections shall equal no more than 4 points.
- (3) Violation of Rule .1011(d) of this Section related to hot water facilities provided, hot and



- cold water under pressure shall equal no more than 2 points.
- (4) Violation of Rule .1013 of this Section related to sewage and liquid waste disposal shall equal no more than 4 points.
- (5) Violation of Rule .1025 of this Section related to solid waste storage and cleaning facilities shall equal no more than 3 points.
- (6) Violation of Rule .1024(1) or (2) of this Section related to camp building floors, walls, and ceilings properly constructed, clean, and in good repair shall equal no more than 4 points.
- (7) Violation of Rule .1024(3) of this Section related to lighting and ventilation adequate, clean, and in good repair shall equal no more than 2 points.
- (8) Violation of Rule .1016 of this Section related to lodging facilities and permanent sleeping quarters provided by the camp, properly arranged, clean, and in good repair shall equal no more than 3 points.
- (9) Violation of Rule .1016 of this Section related to separate storage and handling of clean and dirty linen in lodging facilities provided by the camp shall equal no more than 2 points.
- (10) Violation of Rule .1014(a) through (d) of this Section related to toilet, handwashing, or bathing facilities shall equal no more than 4 points.
- (11) Violation of Rule .1014(e) of this Section related to laundry areas and equipment clean and in good repair; soiled laundry handled and stored separately from clean laundry shall equal no more than 2 points.
- (12) Violation of Rule .1015 of this Section related to drinking water facilities shall equal no more than 1 point.
- (13) Violation of Rule .1026(b) or 1028(a) of this Section related to storage, handling, and use of pesticides, poisonous or toxic materials, and hazardous materials shall equal no more than 3 points.
- (14) Violation of Rule .1026(a) or (e) of this Section related to, measures to exclude flies, rodents and other vermin from entry into food service areas and permanent sleeping quarters and measures to prevent pest harborages on the premises shall equal no more than 3 points.
- (15) Violation of Rule .1026(c) and .1028(b) of this Section related to camp premises clean or protective railings and fences in good repair, shall equal no more than 3 points.
- (16) Violation of Rule .1017(f) or (g), or 1026(d), of this Section related to sanitation standards, lighting protected, and live animals not present in educational kitchen facilities shall equal no more than 2 points.
- (17) Violation of Rule .1002 of this Section related to field sanitation standards maintained for

- cookouts or activities involving food preparation or service away from base camp and written procedures when required shall equal no more than 3 points.
- (18) Violation of Rule .1023 of this Section related to the storage and handling of ice outside of a camp food service kitchen shall equal no more than 2 points.
- (d) The grading of a camp food service kitchen shall be based solely on the standards of operation and construction set forth in Rule .1017(a) through .1017(e) of this Section as follows:
  - (1) Violation of Chapter 2 of the Food Code incorporated by reference at 15A NCAC 18A .2650 as amended by 15A NCAC 18A .2652 related to person in charge present; performance of PIC duties shall equal no more than 1 point.
  - (2) Violation of Chapter 2 of the Food Code incorporated by reference at 15A NCAC 18A .2650 as amended by 15A NCAC 18A .2652 related to management awareness, policy present; proper use of reporting, restriction, and exclusion; procedures for responding to vomiting and diarrheal events shall equal no more than 2 points.
  - (3) Violation of Chapter 2 or 3 of the Food Code incorporated by reference at 15A NCAC 18A .2650 as amended by 15A NCAC 18A .2652 and .2653 related to proper employee eating, tasting, drinking, or tobacco use; no discharge from eyes, nose, and mouth shall equal no more than 1 point.
  - (4) Violation of Chapter 2 of the Food Code incorporated by reference at 15A NCAC 18A .2650 as amended by 15A NCAC 18A .2652 related to hands clean and properly washed shall equal no more than 3 points.
  - (5) Violation of Chapter 3 of the Food Code incorporated by reference at 15A NCAC 18A .2650 as amended by 15A NCAC 18A .2653 related to no bare hand contact with ready-to-eat food or approved alternate method properly followed shall equal no more than 2 points.
  - (6) Violation of Chapters 5 or 6 of the Food Code incorporated by reference at 15A NCAC 18A .2650 as amended by 15A NCAC 18A .2655 and .2656 related to handwashing facilities supplied and accessible shall equal no more than 1 point.
  - (7) Violation of .1017(d) or Chapter 3 or 5 of the Food Code incorporated by reference at 15A NCAC 18A .2650 as amended by 15A NCAC 18A .2653 and .2655 related to food obtained from an approved source; food received at proper temperature; food in good condition, safe, unadulterated; required records available, shellstock tags, parasite destruction; water and ice from approved source shall equal no more than 3 points.

**PROPOSED RULES**

- (8) Violation of Chapter 3 of the Food Code incorporated by reference at 15A NCAC 18A .2650 as amended by 15A NCAC 18A .2653 related to food separated and protected; disposition of returned, previously served, reconditioned, and unsafe food shall equal no more than 2 points.
- (9) Violation of Chapter 3 of the Food Code incorporated by reference at 15A NCAC 18A .2650 as amended by 15A NCAC 18A .2653 related to food-contact surfaces cleaned and sanitized shall equal no more than 2 points.
- (10) Violation of Chapter 3 of the Food Code as amended by 15A NCAC 18A .2653 related to cooking time and temperatures; pasteurized eggs used where required shall equal no more than 2 points.
- (11) Violation of Chapter 3 of the Food Code incorporated by reference at 15A NCAC 18A .2650 as amended by 15A NCAC 18A .2653 related to reheating procedures for hot holding shall equal no more than 2 points.
- (12) Violation of Chapter 3 of the Food Code incorporated by reference at 15A NCAC 18A .2650 as amended by 15A NCAC 18A .2653 related to cooling time and temperatures; proper cooling methods shall equal no more than 2 points.
- (13) Violation of Chapter 3 of the Food Code incorporated by reference at 15A NCAC 18A .2650 as amended by 15A NCAC 18A .2653 related to hot holding temperatures shall equal no more than 2 points.
- (14) Violation of Chapter 3 of the Food Code incorporated by reference at 15A NCAC 18A .2650 as amended by 15A NCAC 18A .2653 related to cold holding temperatures shall equal no more than 2 points.
- (15) Violation of Chapter 3 of the Food Code incorporated by reference at 15A NCAC 18A .2650 as amended by 15A NCAC 18A .2653 related to date marking and disposition shall equal no more than 2 points.
- (16) Violation of Chapter 3 of the Food Code incorporated by reference at 15A NCAC 18A .2650 as amended by 15A NCAC 18A .2653 related to time as a public health control procedures and records shall equal no more than 2 points.
- (17) Violation of Chapter 3 of the Food Code incorporated by reference at 15A NCAC 18A .2650 as amended by 15A NCAC 18A .2653 related to consumer advisory provided for raw or undercooked foods; pasteurized foods used and prohibited foods not offered shall equal no more than 2 points.
- (18) Violation of Chapter 3 or 7 of the Food Code incorporated by reference at 15A NCAC 18A .2650 as amended by 15A NCAC 18A .2653
- and .2657 related to food additives approved and properly used; toxic substances properly identified, stored, and used shall equal no more than 2 points.
- (19) Violation of Chapters 3 and 4 of the Food Code incorporated by reference at 15A NCAC 18A .2650 as amended by 15A NCAC 18A .2653 and .2654 related to adequate equipment for temperature control; plant food properly cooked for hot holding; approved thawing methods used shall equal no more than 2 points
- (20) Violation of Chapter 4 of the Food Code incorporated by reference at 15A NCAC 18A .2650 as amended by 15A NCAC 18A .2654 related to thermometers provided and accurate shall equal no more than 1 point.
- (21) Violation of Chapter 3 of the Food Code incorporated by reference at 15A NCAC 18A .2650 as amended by 15A NCAC 18A .2653 related to food being properly labeled or in the original container shall equal no more than 1 point.
- (22) Violation of Chapters 2 and 6 of the Food Code incorporated by reference at 15A NCAC 18A .2650 as amended by 15A NCAC 18A .2652 and .2656 related to insects and rodents not present and no unauthorized animals shall equal no more than 1 point.
- (23) Violation of Chapters 2, 3, 4, 6, or 7 of the of the Food Code incorporated by reference at 15A NCAC 18A .2650 as amended by 15A NCAC 18A .2652, 2563, 2654, 2656, and .2657 related to contamination prevented during food preparation, storage, and display, personal cleanliness, wiping cloths properly used and stored, and washing fruits and vegetables shall equal no more than 2 points.
- (24) Violation of Chapters 3 and 4 of the Food Code incorporated by reference at 15A NCAC 18A .2650 as amended by 15A NCAC 18A .2653 and .2654 related to in-use utensils properly stored; utensils, equipment, and linens properly stored, dried and handled; single-use and single-service articles properly stored and used; gloves used properly shall equal no more than 2 points.
- (25) Violation of Chapters 3 and 4 of the Food Code incorporated by reference at 15A NCAC 18A .2650 as amended by 15A NCAC 18A .2653 and .2654 related to equipment, food and non-food contact surfaces approved, cleanable, properly designed, constructed and used; warewashing facilities installed, maintained, used, and test strips shall equal no more than 1 point.
- (26) Violation of Chapter 4 of the Food Code incorporated by reference at 15A NCAC 18A .2650 as amended by 15A NCAC 18A .2654

related to non-food contact surfaces clean shall equal no more than 1 point.

(27) Violation of Chapters 5 and 6 of the Food Code incorporated by reference at 15A NCAC 18A .2650 as amended by 15A NCAC 18A .2655 and .2656 related to hot and cold water available and adequate pressure; plumbing installed and proper backflow devices; sewage and wastewater properly disposed; toilet facilities properly constructed, supplied, and cleaned; garbage and refuse properly disposed and facilities maintained shall equal no more than 2 points.

(28) Violation of .1017(e) or Chapters 4 or 6 of the Food Code incorporated by reference at 15A NCAC 18A .2650 as amended by 15A NCAC 18A .2654 and .2656 related to physical facilities installed, maintained, and clean shall equal no more than 1 point.

(29) Violation of Rule .1017(c) regarding lighting intensity, or Chapters 4 and 6 of the Food Code incorporated by reference at 15A NCAC 18A .2650 as amended by 15A NCAC 18A .2654 and .2656 related to meets ventilation and lighting requirements and designated areas used shall equal no more than 1 point.

(e) The inspection form shall be used to document points assessed for violations of the Rules of this Section as set forth in paragraph (c) and (d) of this Rule.

(f) In filling out the inspection form, points shall be deducted only once for a single occurrence or condition existing within the summer camp. Deductions shall be based on actual violations of the rules of this Section observed during the inspection. The regulatory authority shall take zero, one-half or a full deduction of points depending upon the severity or the recurring nature of the violation.

(g) Water stains on walls or ceilings are not violations unless microbial growth is present.

(h) The posted grade card shall be black on a white background on a form provided by the Department. The alphabetical and numerical rating shall be 1.5 inches in height. No other public displays representing sanitation level of the establishment may be posted by the summer camp unless approved by the regulatory authority.

Authority G.S. 130A-4; 130A-248.

**15A NCAC 18A .1009 STANDARDS**

Authority G.S. 130A-248.

**15A NCAC 18A .1011 WATER SUPPLY**

(a) Water supplies shall meet the requirements in 15A NCAC 18A ~~.1700~~ .1700 or 15A NCAC 18C, as applicable.

(b) For summer camps that use a non-community water supply, a sample of water shall be collected by the Department once a year and submitted to the North Carolina State Laboratory of Public Health or other laboratory certified by the North Carolina State Laboratory of Public Health under 10A NCAC 42C .0102. The

~~water supply used shall be located, constructed, maintained, and operated in accordance with the Commission for Public Health's rules governing water supplies. At least once a year, a sample of water shall be collected by the Department and submitted to the Division of Laboratory Services or other laboratory certified by the Department to perform bacteriological examinations. A sample of water from a private or public non-community water supply serving a summer camp shall be collected by the sanitarian and submitted at least once a year to the laboratory section of the Department or other approved laboratory for bacteriological examination. If the summer camp has been closed for more than 180 consecutive days during any 365-day period, the regulatory authority shall collect these samples at least 30 days and not more than 60 days prior to the camp's scheduled opening date. Failure of the regulatory authority to collect these samples at least 30 days prior to the camps scheduled opening shall not impede the opening of the camp.~~

~~(c) A summer camp's water supply plumbing shall not include cross-connections. Cross connections with unapproved water supplies are prohibited. All plumbing fixtures for potable water shall be provided and installed as required by the North Carolina State Building Code. Copies of the North Carolina State Building Code may be obtained from the North Carolina Department of Insurance, P.O. Box 26387, Raleigh, North Carolina 27611.~~

~~(d) Summer camps shall provide hot ~~Hot~~ water heating facilities. facilities shall be provided. Hot and cold running water under pressure shall be provided to food preparation areas, bathing facilities, and any other areas in which water is required for cleaning.~~

Authority G.S. 130A-4; 130A-248.

**15A NCAC 18A .1012 RECREATIONAL WATERS**

When public swimming pools are provided by a summer camp, they shall meet the requirements of Section .2500 of this Subchapter.

~~(a) A natural or artificial body of water may be approved by the Department for the recreational purposes based upon the results of inspections, bacteriological examinations of the water, and sanitary surveys.~~

~~(b) Swimming Pools shall meet the requirements in 15A NCAC 18A .2500.~~

Authority G.S. 130A-4; 130A-248.

**15A NCAC 18A .1014 TOILET: HANDWASHING: LAUNDRY: AND BATHING FACILITIES**

(a) All summer camps shall be provided with toilet, handwashing, and bathing facilities which are ~~adequate, conveniently located and readily accessible.~~ available for use by employees and campers during all hours the camp is open. Toilets for campers shall be located so that the campers do not pass through a camp food service kitchen to enter the toilet rooms. Toilet facilities shall be provided at a rate of not more than 25 campers and staff per toilet seat. Toilet facilities shall be provided within 500 feet of permanent sleeping quarters and within 500 feet of every camp kitchen facility. Urinals may substitute for no more than two-thirds of toilets. The toilet facility ratio and distance requirements of this Paragraph do not apply to any structure used in the operation of the summer camp before the effective date of this

~~Rule. These facilities, and laundry facilities when provided, shall comply with the North Carolina State Building Code, Volume II. (b) A sufficient number of water closets or privies approved by the Department shall be provided.~~

~~(b)(c) Adequate lavatories supplied~~ Handwashing facilities with running water potable water, soap, and individual towels or hand-drying devices shall be provided and located convenient in or immediately adjacent to all flush toilet facilities. At least one lavatory supplied with hot and cold running water through mixing faucets and with soap and towels shall be provided in the kitchen and any other food preparation areas All camp kitchen facilities at basecamp shall contain at least one sink that can be used for handwashing supplied with hot and cold running water through mixing faucets, soap, and individual towels or hand-drying devices.

~~(c)(d) Bathing facilities shall be provided with hot and cold potable water, and located convenient to sleeping quarters. Bathing facilities shall not be required for day camps where neither campers nor staff stay at the camp overnight.~~

~~(d) All toilet, handwashing, and bathing fixtures shall be kept clean and in good repair.~~

~~(e) Laundry facilities, areas and equipment, if provided, shall be kept clean and in good repair. Soiled laundry shall be handled and stored separately from clean laundry.~~

Authority G.S. 130A-4; 130A-248.

**15A NCAC 18A .1017 FOOD SERVICE FACILITIES**

~~(a) Food service facilities Summer camps that prepare or serve food for pay shall include a at least one camp food service kitchen of adequate size and of completely enclosed, permanent construction, and a covered dining hall, hall providing protection from the elements. A camp food service kitchen shall comply with the Food Code incorporated by reference at 15A NCAC 18A .2650 as amended by 15A NCAC 18A .2651-.2658 with the following exceptions:~~

- (1) Any TCS food required to be maintained at or below 41 degrees Fahrenheit by the provisions set forth in Part 3-501 of the Food Code incorporated by reference at 15A NCAC 18A .2650 as amended by 15A NCAC 18A .2653 may also be maintained between 41 degrees Fahrenheit and 45 degrees Fahrenheit in refrigeration equipment that is not capable of maintaining the food at 41 degrees Fahrenheit or less if:
  - (A) The equipment is in place and in use in the camp food service kitchen on or before the effective date of this Rule;
  - (B) On or before April 1, 2026, the equipment is upgraded or replaced to maintain food at a temperature of 5 degrees Celsius or 41 degrees Fahrenheit or less; and
  - (C) Any food required to be datemarked in accordance with Part 3-501.17 of the Food Code incorporated by reference at 15A NCAC 18A .2650 as amended by 15A NCAC 18A .2653 is clearly

marked to indicate the date or day by which the food shall be consumed on the premises, sold, or discarded when held at a temperature between 41 degrees Fahrenheit and 45 degrees Fahrenheit for a maximum of 4 days. The day of preparation shall be counted as Day 1;

- (2) The provisions of Part 8-405 the Food Code incorporated by reference at 15A NCAC 18A .2650 as amended by 15A NCAC 18A .2658 shall not apply to camp food service kitchens;
- (3) The lighting intensity requirements set forth in Part 6-303.11 of the Food Code incorporated by reference at 15A NCAC 18A .2650 as amended by 15A NCAC 18A .2656 shall not apply;
- (4) Nothing in these Rules shall prohibit family style service where patrons elect to participate in the family dining-table type of service;
- (5) For all equipment, except warewashing equipment, non-commercial equipment in good repair shall be allowed in a camp food service kitchen;
- (6) When only single-service eating and drinking utensils are used, a sink with at least two-compartments meeting the requirements set forth in Chapter 4 of the Food Code incorporated by reference at 15A NCAC 18A .2650 as amended by 15A NCAC 18A .2654 shall be acceptable as the camp food service kitchen warewashing sink;
- (7) The provisions of Part 2-102 of the Food Code incorporated by reference at 15A NCAC 18A .2650 as amended by 15A NCAC 18A .2652 shall not apply; and
- (8) The following provisions of the Food Code incorporated by reference at 15A NCAC 18A .2650 as amended by 15A NCAC 18A .2651 - .2658 shall be effective for summer camps beginning April 1, 2025:
  - (A) Part 2-103.11 Person In Charge;
  - (B) Part 2-201 Responsibilities of Permit Holder, Person in Charge, Food Employees, and Conditional Employees;
  - (C) Part 4-302.13(B) Temperature Measuring Devices, Mechanical Warewashing; and
  - (D) Part 2-501.11 Clean-up of Vomiting and Diarrheal Events.

(b) After April 1, 2026, all TCS food in camp food service kitchens shall be held in accordance with the provisions of Part 3-501 of the Food Code incorporated by reference at 15A NCAC 18A .2650 as amended by 15A NCAC 18A .2653 with no allowance for cold holding above 41 degrees Fahrenheit.

(c) Camp food service kitchens shall be illuminated by natural or artificial means.

(d) If camp food service is provided by contract with an outside person or operated by an outside company, the responsibility for compliance with food service sanitation requirements remains with the permit holder. The permit holder shall confirm that all food provided by an outside person or company complies with the requirements of Part 3-201.11 of the Food Code incorporated by reference at 15A NCAC 18A .2650 as amended by 15A NCAC 18A .2653.

(e) Supplemental cooking rooms shall be allowed in summer camps. Supplemental cooking rooms shall comply with the standards set forth in 15A NCAC 18A .2664 except that the lighting intensity requirements in item (7) of that Rule shall not apply.

(f) Educational kitchens may be operated with non-commercial utensils and equipment. Notwithstanding the provisions set forth in this Section, field sanitation standards set forth in 15A NCAC 18A .3619 shall be met in educational kitchens.

(g) The lighting in any educational kitchen, food preparation area, or food storage area shall comply with Part 6-202.11 of the Food Code incorporated by reference at 15A NCAC 18A .2650 as amended by 15A NCAC 18A .2656.

Authority G.S. 130A-4; 130A-248.

**15A NCAC 18A .1018 FOOD SERVICE UTENSILS AND EQUIPMENT**

Authority G.S. 130A-248.

**15A NCAC 18A .1019 FOOD SUPPLIES**

Authority G.S. 130A-248.

**15A NCAC 18A .1020 SHELLFISH**

Authority G.S. 130A-248.

**15A NCAC 18A .1021 MILK AND MILK PRODUCTS**

Authority G.S. 130A-248.

**15A NCAC 18A .1022 FOOD PROTECTION**

Authority G.S. 130A-248.

**15A NCAC 18A .1027 FOOD SERVICE EMPLOYEES**

Authority G.S. 130A-248.

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Notice is hereby given in accordance with G.S. 150B-21.3A(c)(2)g. that the Commission for Public Health intends to readopt with substantive changes the rules cited as 15A NCAC 18A .1601, .1603, .1604, .1606-.1611, .1613-.1621 and repeal through readoption the rules cited as 15A NCAC 18A .1602, .1605, and .1612.

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://cph.dph.ncdhhs.gov/>

**Proposed Effective Date:** April 1, 2024

**Public Hearing:**

**Date:** January 12, 2024

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

**Location:** This public hearing will be held by teleconference at (919) 715-0769 (no access code required).

**Reason for Proposed Action:** Pursuant to G.S. 150B-21.3A, Periodic Review and Expiration of Existing Rules, the Commission for Public Health is proposing to readopt 15A NCAC 18A .1601-.1621, regarding the administration and enforcement of sanitation standards in residential care facilities, to update these rules to clarify existing language and align with current practices.

**Comments may be submitted to:** Virginia Niehaus, CPH Rulemaking Coordinator, 1931 Mail Service Center, Raleigh, NC 27699-1931; email [cphcomment@lists.ncmail.net](mailto:cphcomment@lists.ncmail.net)

**Comment period ends:** January 30, 2024

**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 a written objection to the Rules Review Commission. 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 letters via U.S. Mail, private courier service, or hand delivery to 1711 New Hope Church Road, Raleigh, North Carolina, or via email to [oah.rules@oah.nc.gov](mailto:oah.rules@oah.nc.gov). If you have any further questions concerning the submission of objections to the Commission, please review 26 NCAC 05 .0110 or call a Commission staff attorney at 984-236-1850.

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

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

**CHAPTER 18 - ENVIRONMENTAL HEALTH**

**SUBCHAPTER 18A - SANITATION**

SECTION .1600 - SANITATION OF RESIDENTIAL CARE FACILITIES

15A NCAC 18A .1601 DEFINITIONS

The following definitions shall apply throughout this Section:

- (1) "Administrator" means the person designated by the licensee to be responsible for the daily operation of the residential care facility.
- (2) "Bed linens" means bed sheets, pillowcases, mattress covers, blankets, and duvet covers.
- (3) "Clean" means that an object or surface has been made free of garbage, solid waste, soil, dust, hair, dander, food, bodily fluids and secretions, and feces.
- ~~(4)~~(4) "Department of Environment and Natural Resources" "Department" means the Secretary, or his authorized representative. North Carolina Department of Health and Human Services.
- (2) "Director" means the State Health Director.
- (3) "Foster Care" means the care of individuals as defined in G.S. 131D-10.2(9).
- (4) "Family foster home" means a facility as defined in G.S. 131D-10.2(8).
- (5) "Manager" means the person in responsible charge of a residential care facility.
- (6) "Potentially hazardous food" means any food or ingredient, natural or synthetic, in a form capable of supporting the growth of infectious or toxigenic microorganisms, including Clostridium botulinum. This term includes raw or heat treated foods of animal origin, raw seed sprouts, and treated foods of plant origin. The term does not include foods which have a pH level of 4.6 or below or a water activity (Aw) value of 0.85 or less.
- (7) "Residential care facility" means an establishment providing room or board and for which a license or certificate for payment is obtained from the Department of Human Resources. However, the term shall not include a child day care facility or an institution as defined in 15A NCAC 18A .1300.
- (5) "Disinfectant" means a disinfectant as defined at 40 C.F.R. 158.2203 that has been registered with the United States Environmental Protection Agency in accordance with 40 C.F.R. 152, which are hereby incorporated by reference, including any subsequent amendments or editions, and are available free of charge at <https://www.ecfr.gov/>.
- (6) "Good repair" means as defined at 15A NCAC 18A .2651(8). Items that are in good repair shall operate in accordance with the manufacturer's instructions.
- (7) "Licensing agency" means the North Carolina Department of Health and Human Services, Division of Health Service Regulation.
- (8) "Linen" means bath towels, hand drying towels, bed linens, and pillows.

- (9) "Non-community water supply" means as defined in G.S. 130A-313(10).
- (10) "Pest" means as defined in G.S. 143-460(26a).
- (11) "Pest harborage" means any condition that provides water or food and shelter for pests.
- (12) "Regulatory authority" means the Department or authorized agent of the Department.
- ~~(8)~~(13) "Resident" means a person, other than the manager, administrator, his or her immediate family, and residential care facility employees staff, who is residing in a residential care facility.
- (14) "Residential care facility" means an establishment providing room or board and for which a license or certificate for payment is obtained from the Department, but does not include a child day care facility or an institution as defined in 15A NCAC 18A .1301.
- (9) "Sanitarian" means a person authorized to represent the Department on the local or state level in making inspections pursuant to state laws and rules.
- (10) "Sanitize" means the approved bactericidal treatment by a process which meets the temperature and chemical concentration levels in 15A NCAC 18A .2619.
- (15) "Solid waste" means as defined in G.S. 130A-290(35).
- (16) "Time/Temperature Control for Safety Food" or "TCS Food" means as defined in Part 1-2 of the Food Code incorporated by reference at 15A NCAC 18A .2650 as amended by 15A NCAC 18A .2651.

Authority G.S. 130A-4; 130A-235.

15A NCAC 18A .1602 APPROVAL OF PLANS

Authority G.S. 130A-235.

15A NCAC 18A .1603 INSPECTIONS

(a) The regulatory authority shall inspect ~~Inspections of residential care facilities shall be made by the Department~~ at least once a year prior to the expiration of the residential care facility's ~~license~~ license issued by the licensing agency. The Department shall provide a ~~Inspections are required for family foster homes only for those homes served by individual or non community water supplies or on site sewage systems.~~ A copy of the inspection form shall be provided to the person in charge administrator of the facility. If conditions found at the time of the inspection are dangerous to the health of the residents, the agency supervising the family foster home shall be notified immediately by telephone or other direct means by the sanitarian.

(b) The inspection of institutions shall be documented on inspection form provided by the Department. The form shall include at least the following information:

- (1) name and address of residential care facility;
- (2) name of licensee;

- (3) an explanation for all demerits incurred during the inspection and scoring;
- (4) classification in accordance with Rule .1606 of this Section;
- (5) the date on which the inspection is conducted; and
- (6) the signature of the regulatory authority.

- (2) Violation of Rule .1608 of this Section regarding the cleanliness of walls, ceilings, and attachments shall equal 2 demerits and repair of walls, ceilings, and attachments shall equal 1 demerit.
- (3) Violation of Rule .1609(a) of this Section regarding the illumination of required spaces shall equal 2 demerits.
- (4) Violation of Rule .1609(b) of this Section regarding the cleanliness and state of repair of windows, fixtures, and ventilation equipment shall equal 2 demerits.
- (5) Violation of Rule .1610(a) of this Section regarding the availability of toileting, handwashing, and bathing facilities shall equal 5 demerits.
- (6) Violation of Rule .1610(a) of this Section regarding the cleanliness and state of repair of toileting, handwashing, and bathing facilities shall equal 4 demerits.
- (7) Violation of Rule .1610(b) of this Section regarding the handwashing sink design shall equal 4 demerits.
- (8) Violation of Rule .1610(b) of this Section regarding the supply and storage provisions in bathrooms shall equal 4 demerits.
- (9) Violation of Rule .1611(a) of this Section regarding the water supply shall equal 6 demerits.
- (10) Violation of Rule .1611(c) of this Section regarding cross-connections shall equal 5 demerits.
- (11) Violation of Rule .1611(d) of this Section regarding the pressure availability and temperature of water at fixtures shall equal 4 demerits.
- (12) Violation of Rule .1613 of this Section regarding liquid waste disposal shall equal 6 demerits.
- (13) Violation of Rule .1614(a) of this Section regarding the locations of storage waste disposal shall equal 2 demerits.
- (14) Violation of Rule .1614(b) of this Section regarding the covering, cleanliness, and state of repair of solid waste containers shall equal 2 demerits.
- (15) Violation of Rule .1614(c) of this Section regarding solid waste disposal frequency shall equal 2 demerits.
- (16) Violation of Rule .1615(a) of this Section regarding pest presence shall equal 3 demerits.
- (17) Violation of Rule .1615(a) of this Section regarding the prevention of harborage conditions shall equal 2 demerits.
- (18) Violation of Rule .1615(a) of this Section regarding the state of repair of outdoor furniture shall equal 2 demerits.

Authority G.S. 130A-4; 130A-235.

**15A NCAC 18A .1604 REINSPECTIONS: VISITS**

The ~~sanitarian~~ regulatory authority may reinspect or visit residential care facilities at any time to ~~ensure~~ insure compliance with these Rules. When the administrator requests an inspection of their facility to improve a classification requested by the manager to inspect for the purpose of improving a classification, the ~~sanitarian~~ regulatory authority shall make ~~at least one~~ an unannounced inspection within 30 days. ~~The sanitarian shall give assistance in the explanation and interpretation of these Rules.~~

Authority G.S. 130A-4; 130A-235.

**15A NCAC 18A .1605 INSPECTION FORMS**

Authority G.S. 130A-235.

**15A NCAC 18A .1606 GRADING SCORING SYSTEM**

~~(a) The grading of residential care facilities~~ Residential care facility sanitation scores shall be based upon the standards of construction and operation set out in Rules .1607 ~~through~~ – .1621 of this Section; ~~however, family foster homes are required to comply only with Rule .1611(a) and (b) and Rule .1613 of this Section.~~

(b) The grade score of the facility shall be classified as follows:

- (1) ~~as approved "Approved" if the demerit score is less than 40~~ 20 or less and no six-demerit six demerit point item is violated; and
- (2) ~~as provisional if any six demerit point item is violated, or if the demerit score is more than 20 but not more than 40; The duration of such classification shall not exceed seven days; provided, that a longer period may be established if construction or renovation is involved;~~
- (3)(2) ~~as disapproved "Disapproved" if the demerit score is 40 or greater, or if any six-demerit item is violated, more than 40, if the conditions found are dangerous to the health of the residents, or if the conditions resulting in the provisional classification have not been corrected within the specified time.~~

(c) The sanitation score is the total amount determined by adding demerits for each item found not to be in compliance with the Rules of this Section. The demerit value of each item is determined as follows:

- (1) Violation of Rule .1607 of this Section regarding the cleanliness of floors and carpet shall equal 2 demerits and repair of floors and carpet shall equal 1 demerit.

- (19) Violation of Rule .1616 of this Section regarding the storage of substances shall equal 4 demerits.
- (20) Violation of Rule .1617(a) of this Section regarding the cleanliness of furnishings shall equal 2 demerits.
- (21) Violation of Rule .1617(a) of this Section regarding the state of repair of furnishings shall equal 2 demerits.
- (22) Violation of Rule .1617(b) of this Section regarding the provisions and state of repair of bed linens shall equal 4 demerits.
- (23) Violation of Rule .1617(b) of this Section regarding the cleanliness and cleaning frequency of bed linens shall equal 4 demerits.
- (24) Violation of Rule .1617(c) of this Section regarding the storage of clean linen shall equal 3 demerits.
- (25) Violation of Rule .1617(d) of this Section regarding the cleanliness and state of repair of laundry areas and equipment shall equal 3 demerits.
- (26) Violation of Rule .1618(a) of this Section regarding the state of repair of food utensils and equipment, except temperature holding equipment, shall equal 3 demerits.
- (27) Violation of Rule .1618(b) of this Section regarding the cleanliness of food utensils and equipment shall equal 4 demerits.
- (28) Violation of Rule .1618(b) of this Section regarding the cleanliness of the non-food contact sides of equipment shall equal 2 demerits.
- (29) Violation of Rule .1618(c) of this Section regarding the storage of equipment and utensils shall equal 2 demerits.
- (30) Violation of Rule .1618(d) of this Section regarding the provisions for ware washing shall equal 5 demerits.
- (31) Violation of Rule .1618(e) of this Section regarding the cleanliness of food storage areas shall equal 3 demerits.
- (32) Violation of Rule .1619 of this Section regarding the safety and approved sources of foods shall equal 5 demerits.
- (33) Violation of Rule .1620(a) of this Section regarding the time and temperature control of food shall equal 5 demerits.
- (34) Violation of Rule .1620(b) of this Section regarding the prohibitions of live pets shall equal no more than 3 demerits.
- (35) Violation of Rule .1620(c) of this Section regarding the provisions and state of repair of temperature holding equipment shall equal 5 demerits.
- (36) Violation of Rule .1620(c) of this Section regarding the availability of accurate temperature indicating devices shall equal no more than 2 demerits.

- (37) Violation of Rule .1620(d) of this Section regarding the storage of food shall equal 4 demerits.
- (38) Violation of Rule .1621(a) of this Section regarding handwashing methods shall equal 4 demerits.
- (39) Violation of Rule .1621(b) of this Section regarding when to wash hands shall equal 4 demerits.
- (40) Violation of Rule .1621(c) of this Section regarding restricting or excluding employees shall equal 5 demerits.
- (41) Violation of Rule .1621(d) of this Section regarding cleaning supplies and written procedures for responding to vomiting or diarrheal events shall equal 2 demerits.

Authority G.S. 130A-4; 130A-235.

**15A NCAC 18A .1607 FLOORS**

All floors shall be ~~easily cleanable and shall be~~ kept clean and in good repair.

Authority G.S. 130A-4; 130A-235.

**15A NCAC 18A .1608 WALLS AND CEILINGS**

(a) The interior walls and ~~ceilings~~ ceilings, including doors, window, and window trim, of all rooms and areas shall be kept clean and in good repair.

(b) Wall and ceiling attachments, such as light fixtures, fans, and vent covers, shall be kept clean and in good repair.

Authority G.S. 130A-4; 130A-235.

**15A NCAC 18A .1609 LIGHTING AND VENTILATION**

(a) All rooms shall be ~~well lighted~~ illuminated by natural or artificial means.

(b) Ventilation equipment shall be kept clean and in good repair.

Authority G.S. 130A-4; 130A-235.

**15A NCAC 18A .1610 TOILET: HANDWASHING: ~~LAUNDRY AND BATHING FACILITIES~~**

(a) All residential care facilities shall ~~be provided with approved sanitary~~ provide toilet, handwashing, handwashing and bathing facilities that are available for use by residents and employees. ~~complying with state licensure requirements. These facilities, and laundry facilities when provided,~~ shall be kept clean and in good repair.

(b) All ~~lavatories~~ hand sinks and baths shall be supplied with hot and cold running water through mixing devices. The residential care facility shall provide each ~~Each~~ resident with ~~will be provided~~ soap and individual hand-drying towels. These hand-drying towels will be stored separately after being used.

Authority G.S. 130A-4; 130A-235.



**15A NCAC 18A .1611 WATER SUPPLY**

(a) Water supplies at residential care facilities shall meet the requirements in 15A NCAC 18C or 15A NCAC 18A .1700, as applicable. ~~1700; however wells shall be approved without meeting the setback to building foundation requirements found in 15A NCAC 18A .1720, if water sampling in accordance with Paragraph (b) of this Rule does not indicate a health threat. For facilities licensed by the licensing agency before this Rule's effective date, a well that does not meet the setback to building foundation requirements found in 15A NCAC 18A .1720 shall be approved if water sampling in accordance with Paragraph (b) of this Rule indicates the water is safe for human consumption.~~

(b) ~~At least once a year, samples of water shall be collected in residential care facilities that use a non-community water supply, a sample of water shall be collected by the Department once a year and submitted to the North Carolina State Laboratory of Public Health or other laboratory certified by the North Carolina State Laboratory of Public Health under 10A NCAC 41C .0102 to perform bacteriological examinations. Department to perform examinations for Nitrates and Coliform bacteria. If the well is located less than 25 feet from a building foundation, the well shall also be sampled for pesticides upon application for licensure or approval. After the initial pesticide sample is collected and analyzed, the well shall be sampled again for pesticides following any treatment for structural pests.~~

(c) ~~No backflow connections or cross connections with unapproved supplies shall exist. A residential care facility's water supply plumbing shall not include cross-connections as set out in 15A NCAC 18C .0102(c)(8).~~

(d) ~~Adequate hot water heating facilities shall be provided. Residential care facilities shall provide water heating facilities. Hot and cold running water under pressure shall be provided to carry out all operations. Hot water shall be provided at temperatures between 105 degrees Fahrenheit and 116 degrees Fahrenheit at handwashing and bathing facilities, food preparation areas and any other areas in which water is required for cleaning.~~

Authority G.S. 95-225; 130A-4; 130A-5(3); 130A-230; 130A-235; 130A-236; 130A-248; 130A-257.

**15A NCAC 18A .1612 DRINKING WATER FACILITIES: ICE HANDLING**

Authority G.S. 130A-235.

**15A NCAC 18A .1613 LIQUID WASTES**

All sewage originating from the residential care facility and other liquid wastes shall be disposed by using ~~of in~~ a public publicly operated sewage treatment plant or in a sewage disposal sewer system that meets the requirements of Section .1900 of this Subchapter, or, in the absence of a public sewer system, by an approved, properly operating sanitary sewage system.

Authority G.S. 130A-4; 130A-235.

**15A NCAC 18A .1614 SOLID WASTES**

(a) All solid wastes shall be kept in durable, rust resistant, nonabsorbent, watertight, rodent proof standard waste containers

~~which shall be kept covered when filled or stored or not in continuous use. leak-proof, non-absorbent containers.~~

(b) ~~Outdoor Outside waste containers shall be kept covered with tight-fitting lids when not in use, stored on a rack to prevent overturning. Waste containers shall be kept clean, clean and in good repair.~~

(c) All solid wastes shall be disposed of with sufficient removed from the premises at a frequency that and in such a manner as to prevent prevents pest harborages, insect breeding and public health nuisances.

Authority G.S. 130A-4; 130A-235.

**15A NCAC 18A .1615 VERMIN PEST CONTROL: CONTROL AND OUTDOOR PREMISES**

(a) Effective measures Pests shall not be taken to keep insects, rodents, and other vermin out of the present in a residential care facility, facility and to prevent their breeding, harborage, or presence on the premises. Openings to the outside of a residential care facility building or buildings shall be equipped with doors that are flush with the door frame when closed, closed windows, window screening on windows that can be opened, or controlled air currents to prevent pests from entering the building or buildings. The external premises of a residential care facility shall be kept neat, clean, adequately drained, and free of litter and pest vermin harborage. Outdoor furniture and playgrounds shall be kept in good repair. All openings to the outer air shall be effectively protected against the entrance of flying insects by screens, closed doors, closed windows, or other effective means.

(b) Only those pesticides that are registered in accordance with 40 C.F.R. 152 and G.S. 143-442 shall be used at a residential care facility, which have been approved for a specific use and properly registered with the Environmental Protection Agency and with the North Carolina Department of Agriculture. Such pesticides shall be used as directed on the label and shall be so handled and stored as to avoid health hazards.

Authority G.S. 130A-4; 130A-235.

**15A NCAC 18A .1616 STORAGE: MISCELLANEOUS CHEMICAL AND MEDICATION STORAGE**

(a) Rooms or spaces which are provided and used for the storage of clothing, personal effects, luggage, necessary equipment and supplies and for items not in routine use, shall be kept clean.

(b) Pesticides, herbicides and other substances which may be hazardous if ingested, inhaled, or handled, shall be stored in a closet, cabinet or box not accessible to young children unless otherwise required in the rules of the licensing agency.

(c) Household cleaning agents such as bleaches, detergents and polishes shall be stored out of the reach of young children unless otherwise required in the rules of the licensing agency.

(d) Chemicals used for cleaning, bleaches, pesticides, and all Medications medications shall be stored and used in accordance with the manufacturer's instructions, in a separate cabinet, closet or box not accessible to young children unless otherwise required in the rules of the licensing agency

Authority G.S. 130A-4; 130A-235.

**15A NCAC 18A .1617 BEDS: LINEN: LAUNDRY: FURNITURE**

- (a) ~~All furniture, Furnishings, including furniture, mattresses, curtains, draperies, and other furnishings blinds, shall be kept clean and in good repair. Mattresses shall be kept clean, dry, and in good repair.~~
- (b) Clean bed linen in good repair shall be provided for each resident and shall be changed when no longer clean, soiled.
- (c) Clean linen shall be stored and handled in a sanitary manner to protect from contamination and separate from linen that is not clean, soiled linen.
- (d) Laundry areas and equipment shall be kept clean and in good repair.

Authority G.S. 130A-4; 130A-235.

**15A NCAC 18A .1618 FOOD SERVICE UTENSILS AND EQUIPMENT**

- (a) ~~All food service equipment and utensils shall be so constructed as to be easily cleaned kept clean and shall be kept in good repair. All surfaces with which food or drink comes in contact shall, in addition, be easily accessible for cleaning, nontoxic, corrosion resistant, nonabsorbent, and free of open crevices. Disposable articles shall be made from nontoxic materials.~~
- (b) ~~All multi-use eating and drinking utensils shall be thoroughly cleaned after each usage, and the facilities needed for the operations of washing and rinsing shall be provided. food contact surfaces of utensils and equipment shall be cleaned after each use.~~
- (c) ~~All pots, pans and other utensils used in the preparation or serving of food or drink, and all food storage utensils, shall be thoroughly cleaned after each use. Cooking surfaces of equipment, if any, shall be cleaned at least once each day. Non food contact surfaces of equipment shall be cleaned at such intervals as to keep them in a clean and sanitary condition. Utensils and equipment shall be handled and stored in a manner as to protect from contamination.~~
- (d) ~~No polish or other substance containing cyanide or other poisonous material shall be used for the cleaning or polishing of eating or cooking utensils. Residential care facilities shall provide a kitchen sink for cleaning food service equipment and utensils.~~
- (e) ~~All cloths used in the kitchen shall be clean. Disposable items shall be used only once. Food storage areas shall be kept clean and free of pests.~~
- (f) ~~All containers and clean utensils shall be stored in a clean place. Containers and clean utensils shall be covered, inverted, stored in tight, clean cabinets, or otherwise stored in such a manner as to prevent contamination. After cleaning and until use, food contact surfaces of equipment shall be protected from contamination. Utensils shall be handled in such a manner as to prevent contamination.~~
- (g) ~~Disposable utensils shall be purchased only in sanitary containers, shall be stored therein in a clean, dry place until used, and shall be handled in a sanitary manner.~~
- (h) ~~Acceptable facilities for washing multi use eating and drinking utensils, and pots, pans and other cooking utensils, include 2 section residential sinks, in counters. It is not necessary that such sinks be deep enough to permit immersion of large utensils.~~

- (i) ~~Acceptable storage facilities include residential kitchen cabinets, which should be kept clean and free of vermin.~~

Authority G.S. 130A-4; 130A-235.

**15A NCAC 18A .1619 FOOD SUPPLIES**

- (a) ~~All food, including milk and milk products, shall be clean, wholesome, free from spoilage, free from adulteration and misbranding, and safe for human consumption. food provided by a residential care facility for consumption by residents shall comply with Parts 3-1 and 3-2 of the Food Code incorporated by reference at 15A NCAC 18A .2650 as amended by 15A NCAC 18A .2653.~~
- (b) ~~If non acid or low acid home canned foods are used, they shall be boiled for ten minutes in order to destroy any toxin that may have been produced by bacteria surviving the canning process.~~

Authority G.S. 130A-4; 130A-235.

**15A NCAC 18A .1620 FOOD PROTECTION**

- (a) ~~All TCS food foods, while being stored, prepared, served, and during transportation, shall be protected from contamination. All perishable foods shall be stored at such maintained at temperatures required by Part 3-501.16 of the Food Code, incorporated by reference at 15A NCAC 18A .2650 as amended by 15A NCAC 18A .2653, during storage, preparation, transportation, display, and service of the TCS food. Time as a public health control as set forth in Part 3-501.19 of the Food Code incorporated by reference at 15A NCAC 18A .2650 as amended by 15A NCAC 18A .2653, may be used, except that written procedures shall not be required, as will protect against spoilage. All potentially hazardous food shall be maintained at safe temperatures (45° F. or below, or 140° F. or above) except during necessary periods of preparation and serving. Frozen food shall be kept at such temperatures as to remain frozen, except when being thawed for preparation or use. Potentially hazardous frozen food shall be thawed at refrigerator temperatures of 45° F. or below; or quick thawed as part of the cooking process; or by a method approved by the sanitarian. An indicating thermometer shall be located in each refrigerator. Raw fruits and vegetables shall be washed thoroughly before use. Ground beef and foods containing ground beef shall be cooked to an internal temperature of at least 155° F (68° C). Potentially hazardous foods that have been cooked and then refrigerated shall be reheated rapidly to 165° F (74° C) or higher throughout before being served or before being placed in a hot food storage facility, except that food in intact packages from regulated food manufacturing plants may initially be reheated to 140° F (60° C). Stuffings, poultry, stuffed meats and poultry, and pork and pork products, shall be thoroughly cooked before being served. Salads made of meat, poultry, potatoes, fish, shellfish, or eggs, and other potentially hazardous prepared food shall be prepared, preferably from chilled products, with a minimum of manual contact, and on surfaces and with utensils which are clean. Portions of food once served to an individual shall not be served again.~~
- (b) ~~Live pets animals shall not be allowed in any room or area in which food is prepared or stored. Live pets, unless caged and restricted from the immediate eating area, shall not be allowed in~~

~~any room or area in which food is served. Live animals shall be permitted in a residential care facility's dining areas if the live animal does not come into physical contact with residential care facility employees engaged in the preparation or handling of food, serving dishes, utensils, tableware, linens, unwrapped single service and single use articles, or food contact surfaces.~~

~~(c) Refrigeration facilities, hot food storage facilities, and effective insulated facilities, Equipment shall be provided and maintained to keep as needed to assure the maintenance of all food at required temperatures during storage, preparation, and serving, storage and transport. Cold holding equipment shall be provided with an indicating thermometer that is accurate to ±3 degrees Fahrenheit or ±1.5 degrees Celsius.~~

~~(d) Containers of food All food shall be stored as required by Parts 3-302.11, 3-302.12, 3-305.11, and 3-305.12 of the Food Code, incorporated by reference at 15A NCAC 18A .2650 as amended by 15A NCAC 18A .2653, above the floor, on clean racks, shelves, or other clean surfaces, in such a manner as to be protected from splash and other contamination.~~

Authority G.S. 130A-4; 130A-235.

**15A NCAC 18A .1621 FOOD SERVICE PERSONS EMPLOYEES**

~~(a) All persons, while preparing or serving food or washing equipment or utensils, shall wear clean outer garments, and conform to proper hygienic practices. They shall wash their hands thoroughly before starting work and as often as necessary to remove soil and contamination. After visiting a toilet room, such persons shall wash their hands thoroughly in a lavatory and in no case in the kitchen sink. They shall not use tobacco in any form while preparing or serving food. Residential care facility employees shall wash their hands as required by Paragraph (b) of this Rule using the handwashing method required for food employees in Part 2-301.12 of the Food Code incorporated by reference at 15A NCAC 18A .2650 as amended by 15A NCAC 18A .2652.~~

~~(b) No person who has a communicable or infectious disease that can be transmitted by foods, or who is a carrier of organisms that cause such a disease, or who has a boil, infected wound, or an acute respiratory infection with cough and nasal discharge, shall work in food service in any capacity in which there is a likelihood of such person contaminating food or food contact surfaces, with disease causing organisms or transmitting the illness to other persons. Residential care facility employees shall wash their hands immediately:~~

- ~~(1) before beginning work;~~
- ~~(2) before preparing food;~~
- ~~(3) after each visit to the toilet;~~
- ~~(4) before and after resident contact;~~
- ~~(5) after coughing, sneezing, or using a handkerchief or disposable tissue; and~~
- ~~(6) after using tobacco, eating, or drinking.~~

~~(c) Residential care facility employees shall comply with the requirements for exclusion from work and restriction due to communicable disease or illness required for food employees as set forth in Parts 2-201.12 and 2-201.13 of the Food Code incorporated by reference at 15A NCAC 18A .2650 as amended by 15A NCAC 18A .2652.~~

(d) The residential care facility shall have gloves, personal protective equipment, disinfectant, individual disposable towels, and a coagulating agent on-site for employees to use and a written procedure for employees to follow when responding to vomitus or fecal matter on facility surfaces. The procedure shall specify the actions that employees shall take to minimize the exposure of employees, residents, guests, food, and additional surfaces to vomitus or fecal matter.

Authority G.S. 130A-4; 130A-235.

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*Notice is hereby given in accordance with G.S. 150B-21.2 and G.S. 150B-21.3A(c)(2)g, that the Commission for Public Health intends to amend the rule cited as 15A NCAC 18A .2539 and readopt with substantive changes the rule cited as 15A NCAC 18A .2518.*

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

**Proposed Effective Date:** November 1, 2024

**Public Hearing:**

**Date:** January 9, 2024

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

**Location:** *This public hearing will be held by teleconference at (919) 715-0769 (no access code required).*

**Reason for Proposed Action:** *The Commission for Public Health is proposing to update rules 15A NCAC 18A .2518 and .2539, concerning the regulation of water circulation systems and suction hazards in public swimming pools, to clarify existing language and align with current practices. In addition, 15A NCAC 18A .2518 is being readopted in accordance with G.S. 150B-21.3A, Periodic Review and Expiration of Existing Rules.*

**Comments may be submitted to:** *Virginia Niehaus, CPH Rulemaking Coordinator, 1931 Mail Service Center, Raleigh, NC 27699-1931; email [cphcomment@lists.ncmail.net](mailto:cphcomment@lists.ncmail.net)*

**Comment period ends:** January 30, 2024

**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 a written objection to the Rules Review Commission. 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 letters via U.S. Mail, private courier service, or hand delivery to 1711 New Hope Church Road, Raleigh, North Carolina, or via email to [oah.rules@oah.nc.gov](mailto:oah.rules@oah.nc.gov). If you have any further questions concerning the submission of objections to the Commission,

please review 26 NCAC 05 .0110 or 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 18 - ENVIRONMENTAL HEALTH

SUBCHAPTER 18A - SANITATION

SECTION .2500 - PUBLIC SWIMMING POOLS

15A NCAC 18A .2518 CIRCULATION SYSTEM

- (a) Public swimming pools Pools shall be equipped with a water circulation system.
- (b) The water capacity of the circulation system shall be sufficient to clarify and disinfect circulate and filter the entire volume of public swimming pool water four times or more in 24 hours. The water circulation system shall be operated 24 hours per day during the operating dates set out in the permit, season.
- (c) The water circulation system piping shall be designed and installed with the necessary valves and pipes so that the flow from the public swimming pool shall ~~can~~ be from main drains or the surface overflow system. If both main drains and a surface overflow system are used, the ~~The~~ water circulation system piping shall be designed such that the flow of water from the public swimming pool is ~~can~~ be simultaneous from the surface overflow system and the main drains. Skimmer piping constructed after May 1, 2010 shall be sized to handle the maximum flow rate for the required number of skimmers, but in no case less than 100 percent of the design flow rate, rate determined by the Registered Design Professional in the pool design. Perimeter overflow system piping constructed after May 1, 2010 shall be sized to handle 100 percent of the design flow rate, rate determined by the Registered Design Professional in the pool design. The main Main drain piping constructed after May 1, 2010 shall be sized to handle 100 percent of the design flow rate, rate determined by the Registered Design Professional in the pool design.
- (d) Piping shall be designed to reduce friction losses to a minimum and to carry the required quantity of water at a maximum velocity not to exceed six feet per second for suction piping and not to exceed 10 feet per second for discharge piping, except for copper pipe where the velocity shall not exceed eight feet per second for discharge piping, second. Piping shall be of non-toxic material material, resistant to corrosion, and free of water leaks, able to withstand operating pressures. If plastic Public swimming pools constructed after the effective date of this Rule shall use plastic pipe made of is used, a minimum of Schedule 40 PVC. PVC is required. Flexible pipe shall not be used used, except that flexible PVC hoses that meet the requirements of NSF/ANSI/CAN NSF Standard 50 Equipment and Chemicals for Swimming Pools, Spas, Hot Tubs, and Other Recreational Water Facilities, incorporated by reference, including any subsequent amendments or editions, and available at

http://webstore.ansi.org/ at a cost of five hundred eighty dollars (\$580.00) (hereinafter referred to as "NSF Standard 50"), may be used when affixed to spa shells and where rigid pipes do not provide the necessary angles to connect circulation components. Exposed pipes and valves shall be identified by a color code with a legend or labels.

(e) The water circulation system shall have include a strainer with a basket to prevent hair, lint, and other debris from reaching the pump. A The owner of the public swimming pool shall keep a spare strainer basket onsite at the public swimming pool, shall be provided. Strainers shall be designed for use in pools corrosion-resistant with openings not more than 1/4 inch (6.4 mm) in size that provide a free flow area at least four times the cross-section area of the pump suction line and are accessible for daily cleaning.

(f) A swimming pool shall have a vacuum cleaning system shall be provided to remove debris and foreign material that settles to the bottom of the swimming pool. Where provided, integral Integral vacuum ports shall be located on the pool wall at least six inches and no greater than 18 inches below the water level. Skimmer vacuums may be used in pools with when connected to two or fewer skimmers that are isolated from the remaining circulation system piping, provided the skimmer basket remains in place while the vacuum is in operation. Integral vacuum cleaning systems shall have be provided with valves and protective caps. Integral vacuum ports constructed after May 1, 2010 shall have self-closing caps designed to be opened with a tool. Portable vacuum equipment may be used to meet the requirements of this Rule.

(g) A flow meter, rate of flow indicator, reading in liters or gallons per minute, shall be installed on the filtered water line. line and located so that the rate of circulation is indicated. The flow meter indicator shall measure be capable of measuring flows that are at least 1 1/2 times the design flow rate, rate determined by the Registered Design Professional in the pool design and shall be accurate within 10 percent per cent of true flow. flow, and shall be easy to read. The flow meter indicator shall be installed in accordance with manufacturers' specifications.

(h) A public swimming pool shall have a pump or pumps shall be provided with capacity to recirculate the public swimming pool water four times or more in 24 hours, hours. The pump or pumps shall not need to be primed or and shall be so located as to eliminate the need for priming. If the pump or pumps, or suction piping is located above the overflow level of the pool, the pump or pumps shall be self-priming. The pump or pumps shall be capable of providing a flow adequate for the backwashing of filters. Unless headloss calculations are provided by the designing engineer, Any single speed pump design shall be capable of maintaining required water turnover based on headloss calculations provided by a professional engineer licensed under G.S. Chapter 89C or an assumed total dynamic head of 65 feet of water. Any variable speed pump shall be capable of maintaining water turnover as required by Paragraph (b) of this Rule based on a pump performance curve provided by the manufacturer and shall maintain the flow rate determined by the Registered Designed Professional in the pool design. Pumps three horsepower or smaller shall be certified by NSF International as meeting NSF Standard 50 (NSF) listed or verified by an independent third-party testing laboratory to meet all applicable provisions of NSF NSF/ANSI Standard 50 applicable to pumps.

which is incorporated by reference including any subsequent amendments or editions. Copies may be obtained from NSF International, P.O. Box 130140, Ann Arbor, MI 48113-0140 at a cost of one hundred fifty five dollars (\$155.00). Verification conducted by an independent third-party testing laboratory shall include testing and in plant quality control inspections. Larger pumps for which NSF listing is not available shall be approved by the Department on a case by case basis.

(i) Inlets. All public swimming pools shall be equipped with water return inlets. The water return inlets shall meet the following requirements:

- (1) ~~Inlets shall be provided and arranged to~~ The water return inlets shall produce a uniform circulation of water and maintain a uniform disinfectant residual throughout the ~~pool.~~ pool;
- (2) ~~The number of inlets for any swimming pool shall be determined based on return water flow.~~ There shall be at least one water return inlet per 20 gallons per minute of return water flow with flow. ~~There shall be a minimum of four water return inlets for any swimming pool.~~ pool; and
- (3) ~~Inlets~~ Water return inlets shall be located so that no part of the swimming pool is more ~~than~~ than 25 feet of horizontal distance from the nearest water return inlet.
- (4) ~~Provision shall be made to permit adjustment of the flow through each inlet, either with an adjustable orifice or provided with replaceable orifices to permit adjustments of the flows.~~

(j) Drains. Drains shall not be required in public swimming pools when an alternate method to drain the pool is provided. Public swimming pools constructed without main drains shall be designed with water return inlets positioned to return water uniformly throughout the public swimming pool. Public swimming pools constructed with main drains shall meet the following requirements:

- (1) Public ~~Swimming~~ swimming pools with ~~suction~~ main drains shall be provided with at least one or more unblockable drains or two or more main drain outlets ~~drains~~ which are located at the deepest section of the pool on a horizontal plane and connected by symmetrical "T" piping. ~~Except when unblockable drains are used, Connecting piping between main drains shall be sized and configured such that blocking any one drain will not result in flow through the remaining drain~~ covers ~~cover/grates~~ exceeding the ~~cover/grate~~ manufacturer's safe flow rating while handling 100 percent of the maximum pump system flow. ~~The drains shall be capable of permitting the pool to be emptied completely.~~ Drains Dual main drains connected by "T" piping shall be spaced not more than 30 feet apart, and not more than 15 feet away from the side walls of the pool, ~~walls.~~ Main Drains shall be separated by at least three feet measured from the centers of the drain covers or installed with one main drain on a horizontal plane and one main drain on a vertical plane.

~~cover/grates.~~ Main drains with two or more outlets with a common suction line shall not be equipped with valves that allow the outlets to be isolated. This shall not preclude construction of a public swimming pool without main drains where water is introduced at the bottom of the pool and removed through a surface overflow system designed to handle 100 percent of the design flow rate. ~~Provision shall be made to completely drain pools constructed without drains.~~ Public swimming pools constructed prior to May 1, 2010 with a single drain or multiple drains closer than three feet apart shall protect against bather entrapment with an unblockable drain cover or a secondary method of preventing bather entrapment in accordance with Rule .2539 of this Section.

(2) Drain outlets shall comply with the ANSI/APSP/ICC-16 2017 American National Standard ASME/ANSI A112.19.8 2007 for Suction Outlet Fittings Assemblies (SOFA) for Use in Swimming Pools, Wading Pools, Spas, and Hot Tubs, ~~Tubs~~ which is hereby incorporated by ~~reference~~ reference, including any subsequent ~~amendments,~~ amendments or editions, and ~~successor standards under the Virginia Graeme Baker Pool and Spa Safety Act (15 U.S.C. 8001 et seq.).~~ Copies available at <https://webstore.ansi.org/> at a cost of one hundred sixty-five dollars, ~~may be obtained from ASME, P.O. Box 2300, Fairfield, NJ 07007-2300 at a cost of fifty three dollars (\$53.00).~~

(3) Public swimming pools ~~pool drains~~ constructed after May 1, 2010 shall comply with ~~ANSI/APSP 7 2006 American National Standard for~~ ANSI/PHTA/ICC-7 2020 American National Standard for Suction Entrapment Avoidance in Swimming Pools, Wading Pools, Spas, Hot Tubs and Catch Basins, ~~Basins~~ which is hereby incorporated by ~~reference~~ reference, including any subsequent ~~amendments and or editions, and editions.~~ Copies ~~may be obtained~~ available at [https://webstore.ansi.org](https://webstore.ansi.org/) at a cost of one hundred and sixty-five dollars (\$165.00) (hereinafter referred to as "ANSI/PHTA/ICC-7"). ~~from APSP, 2111 Eisenhower Avenue, Alexandria, VA 22314 at a cost of three hundred fifty dollars (\$350.00).~~

(k) Surface Overflow Systems. (1) Swimming ~~Public swimming~~ pools shall ~~be provided with~~ have a surface overflow system that is an integral part of the circulation system and that consists of a built-in-place perimeter overflow system, a pre-fabricated perimeter overflow system, or recessed automatic surface skimmers. The surface overflow system shall comply with the following:

- (2)(1) ~~Whenever~~ When a public swimming pool uses a built-in-place perimeter overflow system or a

pre-fabricated perimeter overflow system, the public swimming pool may be designed with the operating water level, perimeter overflow system, and deck at the same elevation. The perimeter overflow system shall: is provided, it shall be designed and installed as follows:

- (A) ~~The system shall be~~ Be capable of handling 100 percent of the ~~circulation flow rate determined by the Registered Design Professional in the pool design without flooding the overflow troughs; troughs being flooded;~~
- (B) ~~A surge capacity shall be provided either in the system or by use of~~ Be capable of handling a water surge tank; and the total surge capacity shall be at least equal to one gallon per square foot ~~(41L or forty-one liters per square meter meter)~~ of swimming pool water surface ~~area; area.~~ A surge tank may be used to meet this requirement;
- (C) ~~The~~ Be capable of maintaining the water level of the swimming pool ~~shall be maintained~~ above the level of the overflow rim of the perimeter overflow ~~overflows, system,~~ except for the time intervals of no more needed to transfer all of the water that may be in the surge capacity back into the swimming pool after a period of use; provided that this transfer time shall not be greater than 20 ~~minutes;~~ minutes when water is transferred between a surge tank and the public swimming pool;
- (D) ~~When installed the~~ Be constructed so the dimensional tolerance of the overflow rim shall not exceed ¼ inch (6.4 mm) as measured between the highest point and the lowest point of the overflow rim;
- (E) ~~During quiescence, the overflow system shall be~~ Be capable of providing ~~continuously~~ and ~~automatically~~ continuous and automatic a skimming action ~~to of~~ the water during quiescence; ~~at the surface of the swimming pool;~~
- (F) ~~The overflow troughs shall be~~ Be constructed so that the overflow troughs are installed continuously ~~completely~~ around the perimeter of the public swimming pool, except at steps, recessed ~~ladders~~ ladders, and ~~stairs;~~ stairs, or except when used in combination with recessed automatic surface skimmers; and

(G) ~~The~~ Provide a hand-hold on the exposed surfaces of the overflow trough. ~~trough shall be capable of providing a firm and safe hand hold; and~~

(H) ~~The overflow trough shall be cleanable and shall be of such configuration as to minimize accidental injury.~~

(3)(2) ~~Whenever a recessed~~ When a public swimming pool uses recessed automatic surface skimmer ~~or skimmers are installed, they as an overflow system, the recessed automatic surface skimmers~~ shall be designed and constructed in accordance with Section 8 of NSF Standard #50 50 requirements for water circulation system components for swimming pools, spas, or hot tubs. ~~tubs and Recessed automatic surface skimmers shall~~ be installed as follows:

(A) ~~The rate of water flowing flow-through rate~~ through any one recessed automatic surface skimmer shall be ~~between~~ no less than 20 gallons per minute and no more than the maximum flow the skimmer is certified for under NSF Standard ~~Number~~ 50;

(B) There shall be at least one recessed automatic surface skimmer for each 400 square feet of water surface area of the swimming pool or fraction thereof;

(C) When two or more recessed automatic surface skimmers are required, they shall be ~~so located as to minimize interference with each other and as to insure proper and complete~~ to enable skimming of the entire swimming pool ~~pools~~ water surface; ~~and~~

(D) Skimmers shall not protrude into the water of the public swimming pool. Pools using recessed automatic ~~Automatic~~ surface skimmer ~~or skimmers~~ without a perimeter overflow system shall be installed so that the operating water level of the pool is no more than nine inches below the level of the finished deck, ~~deck level so that the deck can be used as a handhold.~~

(I) Where flooded suction on the pump is not possible to prevent cavitation and loss of prime, skimmers shall have a device or other protection to prevent air entrainment in the suction line. Skimmer equalizer lines shall be in compliance with ANSI/PHTA/ICC-7 or disabled. Skimmer ~~The inlet to the equalizer line~~ lines shall be disabled by plugging the line under the skimmer basket and where the equalizer pipe exits the pool shell. ~~provided with a grate.~~

~~(m) Nothing in this Section shall preclude the use of a roll-out or deck-level type of swimming pool. Such designs shall conform to the general provisions relating to surface overflow systems.~~

~~(m) Nothing in this Section shall preclude the use of a surface overflow system that combines both a perimeter overflow system and a recessed automatic surface skimmer or skimmers. skimmers that meet the requirements of this Rule.~~

Authority G.S. 130A-282.

**15A NCAC 18A .2539 SUCTION HAZARD REDUCTION**

(a) At all public wading pools that use a single main drain for circulation of water, signs shall be posted stating, "WARNING: To prevent serious injury do not allow children in wading pool if drain cover is broken or missing." Signs shall be in letters at least one-half inch in height and shall be posted where they are visible to people entering the wading pool. Submerged suction outlets shall be prohibited in wading pools in accordance with ANSI/PHTA/ICC-7 2020 American National Standard for Suction Entrapment Avoidance in Swimming Pools, Wading Pools, Spas, Hot Tubs, and Catch Basins, which is incorporated by reference, including any subsequent amendments or editions, and available at <https://webstore.ansi.org/> at a cost of one hundred and sixty five dollars (\$165.00) (hereinafter referred to as "ANSI/PHTA/ICC-7").

(b) All submerged suction outlets in public swimming pools other than vacuum ports shall be protected by a ~~anti-entrapment cover~~ cover/grates in compliance with ASME/ANSI A112.19.8 2007 ANSI/APSP/ICC-16 2017 (PA 2021) American National Standard for Suction Outlet Fitting Assemblies (SOFA) Fittings for Use in Swimming Pools, Wading Pools, Spas, and Hot Tubs, Tubs, which is hereby incorporated by reference, including any subsequent amendments or editions, and available at <https://webstore.ansi.org/> at a cost of one hundred and sixty five dollars (\$165.00) (hereinafter referred to as "ANSI/APSP/ICC-16"). All submerged suction fittings shall be installed in accordance with the manufacturer's instructions.

(c) ~~Water pumping Pumping~~ systems in public swimming pools that have a single main drain or single submerged suction outlet other than an unblockable drain, or ~~that which~~ have multiple outlets in the same plane separated by less than three feet, measured ~~at~~ from the centers of the ~~covers~~ cover/grates shall have one or more secondary methods of preventing bather entrapment. Secondary methods of preventing bather entrapment include:

- (1) ~~Safety~~ A safety vacuum release system which ceases operation of the water pump, reverses the circulation flow, or otherwise provides a vacuum release at the suction outlet when a blockage has been detected, that has been tested by a third party and found to conform ~~to~~ ASME/ANSI with ANSI/PHTA/ICC-7, standard A112.19.17 which is incorporated by reference including any subsequent amendments or editions. Copies may be obtained from ASME, P.O. Box 2300, Fairfield, NJ 07007 2300 at a cost of forty five dollars (\$45.00); The operator of the public swimming pool shall test an installed safety

vacuum release system using the methodology and at the frequency recommended by the manufacturer, and the test dates and results shall be recorded in the written records required by Rule .2535(11). Safety vacuum release systems installed or replaced after the effective date of this Rule shall have a shut off valve for testing the device, if recommended by the manufacturer;

- (2) A suction-limiting vent system with a ~~tamper-resistant~~ an atmospheric opening; opening inaccessible to the public;
- (3) A gravity drainage system that utilizes a surge collector tank;
- (4) An automatic pump shut-off system;
- (5) ~~Drain disablement; Disabling the submerged suction outlet;~~ or
- (6) Any other system that complies with ANSI/PHTA/ICC-7, determined by the U.S. Consumer Product Safety Commission to be equally effective as, or better than the systems in Subparagraphs (1) through (5) of this Paragraph.

~~(e)(d) Prior to issuance of operation permits, owners~~ Owners of all public swimming pools shall provide documentation to the Department as part of the application for an operation permit under Rule .2510(c) to verify suction outlet safety compliance. This documentation shall include:

- (1) Documentation of the maximum possible flow rate for each pump suction system. This shall be the maximum pump flow shown on the manufacturer's pump performance curve except where flow reductions are justified with total dynamic head measurements or ~~calculations;~~ and calculations. Flow reduction measurement documentation shall include photographs showing the levels of all the gauges used in the public swimming pool. All systems using a flow reduction to comply with this rule shall have a flow meter on the return water line confirming that the water flow does not exceed the gallon per minute flow rating of the drain covers or a sealed statement from a Registered Design Professional showing calculations used to justify the reduction;
- (2) Documentation that ~~cover/grates drain covers are in compliance with meeting ASME/ANSI A112.19.8 2007 ANSI/APSP/ICC-16 and the are installed in compliance with the standard and~~ manufacturer's instructions. This includes documentation that each drain cover cover/grate on a single or ~~double drain~~ dual drain pump suction system is rated to meet or exceed the maximum pump system flow or the measured flow of the pumping system, and that cover/grates Drain covers on a pump submerged suction system with three or more suction outlets shall be together be rated to ~~always~~ meet or exceed the maximum pump

system flow with one drain completely ~~blocked~~ and blocked, unless the combined flow of all unblockable drains meet or exceed the maximum pump system flow or the measured flow of the pumping system; and

- (3) Documentation that drain sumps meet the dimensional requirements specified in the drain cover ~~cover/grate~~ manufacturer's installation instructions.

~~(4)(e)~~ Operators of all public swimming pools shall inspect pools daily to ensure the drain covers are ~~in not missing, broken, or cracked good condition~~ and are securely attached. ~~The operator shall close the public swimming pool until missing, Missing, broken, or cracked suction fittings are shall be replaced and loose suction fittings are resecured, shall be reattached before using the pool.~~

Authority G.S. 130A-282.

TITLE 20 – DEPARTMENT OF STATE TREASURER

Notice is hereby given in accordance with G.S. 150B-21.2 that the Teachers' and State Employees' Retirement System Board of Trustees intends to adopt the rules cited as 20 NCAC 02B .0215; and 02O .0104-.0106.

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: July 1, 2024

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: The General Assembly recently enacted Session Law 2023-105, which, in pertinent part, creates a deadline for reimbursement of short-term disability benefits to the employer, authorizes the Retirement Systems Division (RSD) to review and approve short-term and extended short-term disability benefits, and amends the deadline to apply for extended short-term disability benefits. The Teachers' and State Employees' Retirement System (TSERS) Board of Trustees has proposed rules 20 NCAC 02O .0104, .0105, & .106 to implement the provisions of Parts II, III and IV.

In addition, RSD has a duty to pursue repayment of State funds by all lawful means available under G.S. 143-64.80(b) and may not forgive repayments of an overpayment of State funds. Part VIII of Session Law 2023-105 sets forth less stringent recovery parameters that still allow RSD to satisfy its duty to pursue repayment if the overpayment occurred "entirely due to administrative error on the part of the Retirement Systems Division." Proposed Rule 20 NCAC 02B .0215 seeks to identify specific causes of overpayments which are not considered entirely

due to administrative error and to establish a process for RSD or members to initiate review of an overpayment for instances of overpayments made under the TSERS system.

Comments may be submitted to: Laura Rowe, 3200 Atlantic Avenue, Raleigh, NC 27604; email DST.NCAC@nctreasurer.com

Comment period ends: January 30, 2024

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 a written objection to the Rules Review Commission. 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 letters via U.S. Mail, private courier service, or hand delivery to 1711 New Hope Church Road, Raleigh, North Carolina, or via email to oah.rules@oah.nc.gov. If you have any further questions concerning the submission of objections to the Commission, please review 26 NCAC 05 .0110 or call a Commission staff attorney at 984-236-1850.

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

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

CHAPTER 02 - RETIREMENT SYSTEMS

SUBCHAPTER 02B - TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM

SECTION .0200 - ADMINISTRATION

20 NCAC 02B .0215 TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM OVERPAYMENT SAFE HARBOR

(a) The following causes of overpayments are not entirely due to administrative error on the part of the Retirement Systems Division:

- (1) The beneficiary received, but did not repay to the Retirement System or the Disability Income Plan of North Carolina, a benefit from the Social Security Administration, the U.S. Department of Veterans Affairs, other federal agency payments, Workers' Compensation, or the State's military disability program under G.S. 127A-108, where such benefits are required by law to be offset from benefits paid by the Retirement System or the Disability Income Plan of North Carolina, or where



repayment of such benefits was agreed upon as a condition of approval for benefits from the Retirement System or the Disability Income Plan of North Carolina.

- (2) The beneficiary, the beneficiary's employer, or the beneficiary's authorized agent submitted any information on an official form to the Retirement Systems Division, either on paper or electronically, that differed from the information ultimately used to determine the eligibility for, or amount of, benefits due.
- (3) The Retirement Systems Division requested information necessary to initiate or continue the payment of benefits, by sending a letter to the mailing address that the beneficiary, the beneficiary's employer, or the beneficiary's authorized agent placed on file with the Retirement Systems Division, allowing at least three weeks between the date of the letter and the date for a response to be received, and the Retirement Systems Division did not receive a response by the time requested.
- (4) A State or local government agency reported information to the Retirement Systems Division, including employment status, dates of service, or amounts of compensation, which changed the eligibility for, or amount of, benefits due to the beneficiary.
- (5) The beneficiary experienced a forfeiture of creditable service for having been convicted of a felony under the provisions of G.S. 135-18.10, G.S. 135-18.10A, G.S. 135-75.1, or G.S. 135-75.1A.

(b) The Retirement Systems Division may initiate a review of the facts and circumstances related to the origin of any overpayment from the Retirement System or the Disability Income Plan of North Carolina, with the purpose of determining if the overpayment was entirely due to administrative error on the part of the Retirement Systems Division and therefore eligible for the alternate repayment terms of G.S. 135-9(c1). Additionally, the Director of the Retirement Systems Division shall, upon receipt of a written request by a beneficiary, beneficiary's employer, or the beneficiary's authorized agent, initiate such a review. If the Director determines the overpayment is not entirely due to administrative error on the part of the Retirement Systems Division, the Retirement Systems Division shall issue a letter to the requestor setting forth the reason or reasons for the denial. The Director shall make determinations on such requests pursuant to the authority provided under 20 NCAC 02A .0103.

*Authority G.S. 135-9(c1).*

**SUBCHAPTER 020 – DISABILITY INCOME PLAN OF NORTH CAROLINA**

**20 NCAC 020 .0104 SHORT-TERM DISABILITY AND EXTENDED SHORT-TERM DISABILITY APPROVALS**

(a) Only the Medical Board shall have the authority to deny short-term and extended short-term disability benefits.

(b) The following positions or entities shall have the authority to approve short-term and extended short-term disability benefits on behalf of the Retirement Systems Division:

- (1) Director of the Retirement Systems Division;
- (2) Director of Operations;
- (3) Disability Benefits Processing Manager;
- (4) Disability Benefits Processing Supervisor;
- (5) Clinical Reviewer; or
- (6) Medical Board.

(c) The Director of the Retirement Systems Division may designate additional positions to have the authority to approve, but not deny, short-term and extended short-term disability benefits.

(d) Only the Medical Board may approve applications for short-term or extended-short-term disability benefits from individuals who have been actively employed at the Department of State Treasurer within the 365 days preceding the date of disability indicated on the individual's application for benefits.

*Authority G.S. 135-105(f); 135-105(g).*

**20 NCAC 020 .0105 SHORT-TERM DISABILITY NOTIFICATION DATE**

(a) "Date of submission" means the date indicated on the Retirement Systems Division's hand-stamped postal mark if the submission is by mail or in person, the timestamp if the submission is by email, or the transmission date if the submission is by facsimile transmission.

(b) "Notifications made" pursuant to G.S. 135-105(d) means the submission of a written request for reimbursement by an employer.

(c) "Submission" means the act of presenting a document to the Retirement System Division for processing, consideration, or determination through one of the following methods:

- (1) Mail to the mailing address in Rule 20 NCAC 02B .0101;
- (2) Electronic mail (email);
- (3) Facsimile transmission; or
- (4) In person at the physical address in Rule 20 NCAC 02B .0101.

*Authority G.S. 135-105(d).*

**20 NCAC 020 .0106 EXTENDED SHORT-TERM DISABILITY APPLICATION DATE**

(a) "Date of submission" means the date indicated on the Retirement Systems Division's hand-stamped postal mark if the submission is by mail or in person, the timestamp if the submission is by email, or the transmission date if the submission is by facsimile transmission.

(b) "Makes an application" pursuant to G.S. 135-105(g) means submission of the following information, in a method prescribed by the Retirement Systems Division:

- (1) Full name;

- (2) Mailing address;
- (3) Email address;
- (4) Telephone number;
- (5) Date of birth;
- (6) Member identification number assigned by the Retirement Systems Division;
- (7) Last four digits of Social Security Number;
- (8) Current or most recent employer;
- (9) Employer contact name; and
- (10) Signed and dated acknowledgement that the member has been receiving short-term benefits from the Disability Income Plan of North Carolina; is applying for extended short-term benefits; certifies that the illness did not result from active participation in a riot or actual or attempted commission of a terrorist act, felony, or intentional self-inflicted injury; authorizes health care providers to release to the Retirement Systems Division any medical records or other information about the disability; understands that a copy of such authorization will be as valid as the original; understands that the medical information is to be furnished at no cost; and understands that the member cannot withdraw contributions from the Retirement System while receiving benefits under the Disability Income Plan of North Carolina.

(c) "Submission" means the action of presenting a document to the Retirement System Division for processing, consideration, or determination through one of the following methods:

- (1) Mail to the mailing address in Rule 20 NCAC 02B .0101;
- (2) Electronic mail (email);
- (3) Facsimile transmission; or
- (4) In person at the physical address in Rule 20 NCAC 02B .0101.

Authority G.S. 135-105(g).

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Notice is hereby given in accordance with G.S. 150B-21.2 that the Local Governmental Employees' Retirement System Board of Trustees intends to adopt the rule cited as 20 NCAC 02C .0212.

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: July 1, 2024

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:** *The Retirement System Division (RSD) has a duty to pursue repayment of State funds by all lawful means available under G.S. § 143-64.80(b) and may not forgive repayments of an overpayment of State funds. Part VIII of Session Law 2023-105 sets forth less stringent recovery parameters that still allow RSD to satisfy its duty to pursue repayment if the overpayment occurred "entirely due to administrative error on the part of the Retirement Systems Division." The Local Governmental Employees' Retirement System (LGERS) Board of Trustees is proposing a rule to identify specific causes of overpayments which are not considered entirely due to administrative error and to establish a process for RSD or members to initiate review of an overpayment under the LGERS system.*

**Comments may be submitted to:** *Laura Rowe, 3200 Atlantic Avenue, Raleigh, NC 27604; email DST.NCAC@nctreasurer.com*

**Comment period ends:** *January 30, 2024*

**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 a written objection to the Rules Review Commission. 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 letters via U.S. Mail, private courier service, or hand delivery to 1711 New Hope Church Road, Raleigh, North Carolina, or via email to oah.rules@oah.nc.gov. If you have any further questions concerning the submission of objections to the Commission, please review 26 NCAC 05 .0110 or call a Commission staff attorney at 984-236-1850.

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

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

**CHAPTER 02 - RETIREMENT SYSTEMS**

**SUBCHAPTER 02C - LOCAL GOVERNMENTAL EMPLOYEES' RETIREMENT SYSTEM**

**SECTION .0200 - ADMINISTRATION**

**20 NCAC 02C .0212 LOCAL GOVERNMENTAL EMPLOYEES' RETIREMENT SYSTEM OVERPAYMENT SAFE HARBOR**

(a) The following causes of overpayments are not entirely due to administrative error on the part of the Retirement Systems Division:

- (1) The beneficiary received, but did not repay to the Retirement System, a benefit from the Social Security Administration, the U.S. Department of Veterans Affairs, other federal agency payments, Workers' Compensation, or the State's military disability program under G.S. 127A-108, where such benefits are required by law to be offset from Retirement System benefits, or where repayment of such benefits was agreed upon as a condition of approval for benefits from the Retirement System.
- (2) The beneficiary, the beneficiary's employer, or the beneficiary's authorized agent submitted information on an official form to the Retirement Systems Division, either on paper or electronically, that differed from the information ultimately used to determine the eligibility for, or amount of, benefits due.
- (3) The Retirement Systems Division requested information necessary to initiate or continue the payment of benefits, by sending a letter to the mailing address that the beneficiary, the beneficiary's employer, or the beneficiary's authorized agent on file with the Retirement Systems Division, allowing at least three weeks between the date of the letter and the date for a response to be received, and the Retirement Systems Division did not receive a response by the time requested.
- (4) A State or local government agency reported information to the Retirement Systems Division, including employment status, dates of service, or amounts of compensation, which changed the eligibility for, or amount of, benefits due to the beneficiary.
- (5) The beneficiary experienced a forfeiture of creditable service for having been convicted of a felony under the provisions of G.S. 128-38.4 or G.S. 128-38.4A.

(b) The Retirement Systems Division may initiate a review of the facts and circumstances related to the origin of any overpayment from the Retirement System, with the purpose of determining if the overpayment was entirely due to administrative error on the part of the Retirement Systems Division and therefore eligible for the alternate repayment terms of G.S. 128-31(c1). Additionally, the Director of the Retirement Systems Division shall, upon receipt of a written request by a beneficiary, beneficiary's employer, or the beneficiary's authorized agent, initiate such a review. If the Director determines the overpayment is not entirely due to administrative error on the part of the Retirement Systems Division, the Retirement Systems Division shall issue a letter to the requestor setting forth the reason or reasons for the denial. The Director shall make determinations on such requests pursuant to the authority provided under 20 NCAC 02A .0103.

Authority G.S. 128-31(c1).

**TITLE 21 - OCCUPATIONAL LICENSING BOARDS AND COMMISSIONS**

**CHAPTER 10 – BOARD OF CHIROPRACTIC EXAMINERS**

*Notice is hereby given in accordance with G.S. 150B-21.2 that the Board of Chiropractic Examiners intends to adopt the rule cited as 21 NCAC 10 .0218 and amend the rule cited as 21 NCAC 10 .0208.*

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

**Proposed Effective Date:** April 1, 2024

**Public Hearing:**

**Date:** December 18, 2023

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

**Location:**

[https://teams.microsoft.com/l/meetup-join/19%3ameeting\\_NGI2ZmQ0ZjYtYmY4MS00Mj12LWJhZDEtYTEzYzJkZmMxOWVh%40thread.v2/0?context=%7b%22Tid%22%3a%22ecf1f468-48d3-46cb-9cf9-e8891fc6c41d%22%2c%22Oid%22%3a%22c4985c71-7a55-40ac-97d5-422a9e9506de%22%7d](https://teams.microsoft.com/l/meetup-join/19%3ameeting_NGI2ZmQ0ZjYtYmY4MS00Mj12LWJhZDEtYTEzYzJkZmMxOWVh%40thread.v2/0?context=%7b%22Tid%22%3a%22ecf1f468-48d3-46cb-9cf9-e8891fc6c41d%22%2c%22Oid%22%3a%22c4985c71-7a55-40ac-97d5-422a9e9506de%22%7d)

**Reason for Proposed Action:**

**21 NCAC 10 .0218 – Preceptors – To set out the requirements for licensees serving as preceptors**

**21 NCAC 10 .0208 – Acupuncture – To revise the number of instruction hours required**

**Comments may be submitted to:** Dr. Joe Siragusa, 9121 Anson Way, Suite 200, Raleigh, NC 27615; phone (704) 793-1342; email [dr.joe@ncchiroboard.com](mailto:dr.joe@ncchiroboard.com)

**Comment period ends:** January 30, 2024

**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 a written objection to the Rules Review Commission. 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 letters via U.S. Mail, private courier service, or hand delivery to 1711 New Hope Church Road, Raleigh, North Carolina, or via email to [oah.rules@oah.nc.gov](mailto:oah.rules@oah.nc.gov). If you have any further questions concerning the submission of objections to the Commission, please review 26 NCAC 05 .0110 or call a Commission staff attorney at 984-236-1850.

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

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

- (1) Active license issued by the Board;
- (2) Licensure by the Board for at least five (5) years prior to submission of request to serve as a preceptor; and
- (3) No prior suspension of the preceptor's license, active or stayed; and
- (4) No prior Board discipline of any kind within ten years of commencing the preceptor-student relationship.

**SECTION .0200 - PRACTICE OF CHIROPRACTIC**

**21 NCAC 10 .0208 ACUPUNCTURE**

(a) In order to perform acupuncture, a licentiate or applicant for licensure shall first certify to the Board that he or she has completed a minimum of ~~200~~ 100 hours of instruction in acupuncture sponsored or given by a chiropractic college accredited by the Council on Chiropractic Education or a college or university accredited by an accrediting body recognized by the US Department of Education. The ~~200~~ 100 hours of instruction must contain at least 30 percent practical, hands-on hours. Individual classes can only be taken once for credit. To perform acupuncture, a licentiate shall also take the National Board of Chiropractic Examiners Acupuncture Examination and receive a passing score of 375 or greater.

(b) Prior to performing acupuncture, a licentiate or applicant for licensure must provide the Board with the following:

- (1) An official transcript from an accredited acupuncture program demonstrating completion of the ~~200~~, 100 hours of instruction described in this Rule; and
- (2) Proof of successful completion of the acupuncture examination described in this Rule.

(c) Licentiates holding an active license as of December 31, 2022 and who have received prior approval from the Board to perform acupuncture are not required to meet the requirements of this rule. However, if a licentiate grandfathered under this rule subsequently allows his or her license to lapse or if the license is subsequently subject to active suspension or placed in a status other than active, the licentiate shall be required to comply with this Rule before being permitted to perform acupuncture.

Authority G.S. 90-142; 90-143; 90-151.

**21 NCAC 10 .0218 PRECEPTORS**

(a) Chiropractic physicians who supervise students pursuant to G.S. 90-142.1 ("preceptors") shall provide the Board with the following information prior to commencing student supervision on a form available on the Board's website:

- (1) Full name and license number of the preceptor;
- (2) Full name of student;
- (3) Chiropractic college in which student is enrolled;
- (4) Expected date of graduation;
- (5) Contact phone number and email for student;
- (6) Start and end dates of preceptorship;
- (7) Address where preceptorship will take place; and
- (8) Acknowledgement by the preceptor that he/she has read the statutes, rules and guidelines regarding the preceptor role.

(b) The minimum requirements for a preceptor are as follows:

(c) Preceptors may supervise only one student at a time. Preceptors must obtain verbal consent from every patient who is treated by the student prior to the student commencing treatment. Consent must be documented in the patient's record.

Authority G.S. 90-142.1.

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**CHAPTER 25 - INTERPRETER AND TRANSLITERATOR LICENSING BOARD**

*Notice is hereby given in accordance with G.S. 150B-21.2 that the Interpreter and Transliterator Licensing Board intends to amend the rules cited as 21 NCAC 25 .0501-.0503, and .0505.*

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

**Proposed Effective Date:** April 1, 2024

**Public Hearing:**

**Date:** December 19, 2023

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

**Location:**

<https://us02web.zoom.us/j/83687326900?pwd=RGJjcWU5cklrcU1qaFBleGpyVWRIUT09>

**Reason for Proposed Action:** *The reason for proposed rules, 21 NCAC 25 .0501(a); 21 NCAC 25 .0502 (1), (2), (3), (4); and 21 NCAC 25 .0503(a)(3) is due to COVID-19 restrictions decreasing in-person offering for Continuing Education Units (CEU), licensees reported difficulty obtaining in-person CEU offerings to satisfy annual CEU requirements under current administrative rules. Therefore, the Board having jurisdiction to adopt and amend its administrative rules, is proposed an amendment to remove the requirement of in-person CEUs for licensees.*

*The reason for proposed rule change 21 NCAC 25 .0505(c)(2) is to change what is needed to be submitted to confirm attendance at a workshop for CEU credit. Submitting a copy of an advertisement for a course does not confirm that the licensee attended the course.*

**Comments may be submitted to:** *Caitlin Schwab-Falzone, PO Box 98328, Raleigh, NC 27624; phone (919) 779-5709; email [ncitlb@caphill.com](mailto:ncitlb@caphill.com)*

**Comment period ends:** February 1, 2024

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 a written objection to the Rules Review Commission. 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 letters via U.S. Mail, private courier service, or hand delivery to 1711 New Hope Church Road, Raleigh, North Carolina, or via email to oah.rules@oah.nc.gov. If you have any further questions concerning the submission of objections to the Commission, please review 26 NCAC 05 .0110 or call a Commission staff attorney at 984-236-1850.

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

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

SECTION .0500 – CONTINUING EDUCATION

21 NCAC 25 .0501 CONTINUING EDUCATION REQUIREMENTS

(a) A licensee shall earn at least two continuing education units ("CEUs") each licensure year. At least 1.0 of those CEUs shall be earned in professional studies studies, and at least 1.0 of those CEUs shall be earned in a setting in which three or more persons come together at the same location at the same time as a group to listen to a lecture, to view a demonstration, to participate in group discussions, or to learn through any combination of these or similar activities.
(b) A licensee may carry over up to two surplus CEUs earned in one licensure year to the next licensure year to meet the requirements of Paragraph (a) of this Rule. The licensee shall demonstrate that he or she earned the CEU credits sought to be carried over in the licensee's license renewal application packet submitted for the carry over year in order to receive credit therefore. Surplus CEUs shall only be carried forward from the licensure year in which they were earned to the next subsequent licensure year and not beyond.
(c) A licensee may not earn CEUs while interpreting, whether or not the licensee is compensated for his or her services.
(d) The Board shall waive the continuing education requirements in this Rule for any individual who is currently licensed by and in good standing with the Board if the individual is serving in the armed forces of the United States and if G.S. 105-249.2 grants the individual an extension of time to file a tax return. The waiver shall be in effect for any period that is disregarded under Section 7508 of the Internal Revenue Code in determining the taxpayer's liability for a federal tax.
(e) For the 2020-21, 2021-22, 2022-23, and 2023-24 licensure years only, the Board waives the in-person course requirements

of Paragraph (a) of this Rule and licensees may take all of their CEUs for those licensure years electronically. However, this waiver shall not apply to any surplus CEUs earned during the 2023-24 licensure year and sought by the licensee to be carried over to the 2024-25 licensure year.

Authority G.S. 90D-6; 90D-8; 90D-11; 93B-15.

21 NCAC 25 .0502 PRORATION OF CONTINUING EDUCATION REQUIREMENTS

The CEU requirements specified in Rule .0501 of this Chapter shall be prorated as follows during a licensee's initial licensure year:

- (1) If the licensee receives his or her initial license in the months of October, November or December, the licensee shall be required to earned at least 2.0 CEUs by the following October 1. At least 1.0 of those CEUs shall be earned in professional studies studies, and at least 1.0 of those CEUs shall be earned in a traditional classroom setting;
(2) If the licensee receives his or her initial license in the months of January, February, or March, the licensee shall be required to earned at least 1.5 CEUs by the following October 1. At least 1.0 of those CEUs shall be earned in professional studies studies, and at least 1.0 of those CEUs shall be earned in a traditional classroom setting;
(3) If the licensee receives his or her initial license in the months of April, May, or June, the licensee shall be required to earned at least 1.0 CEUs by the following October 1. At least 0.5 of those CEUs shall be earned in professional studies studies, and at least 0.5 of those CEUs shall be earned in a traditional classroom setting;
(4) If the licensee receives his or her initial license in the months of July, August, or September, the licensee shall be required to earned at least 0.5 CEUs by the following October 1. At least 0.5 of those CEUs shall be earned in professional studies studies, and at least 0.5 of those CEUs shall be earned in a traditional classroom setting.

Authority G.S. 90D-6; 90D-8; 90D-11.

21 NCAC 25 .0503 FAILURE TO MEET CONTINUING EDUCATION REQUIREMENTS

(a) A licensee who has not complied with the continuing education requirements in this Section shall be ineligible for license renewal. Any person whose license renewal application is denied on these grounds may reapply for licensure as soon as the person is able to demonstrate that:

- (1) the person has earned at least two CEUs within the 12 months next preceding the date of reapplication; and

- (2) at least 1.0 of those CEUs was earned in professional studies, ~~and~~
- (3) ~~at least 1.0 of those CEUs was earned in a traditional classroom setting.~~

(b) Notwithstanding the provisions of Paragraph (a) of this Rule, a licensee who has not complied with the continuing education requirements in this Section shall be eligible for license renewal if:

- (1) the licensee makes a timely application for renewal, including the payment of the required license fee; and
- (2) the licensee earns the required CEUs by no later than the 31st day of October in the new licensure year.

(c) CEUs earned in the current licensure year and used to cure a deficiency in the prior licensure year may not be used to meet the CEU requirements of the current year.

*Authority G.S. 90D-6; 90D-8; 90D-11.*

**21 NCAC 25 .0505 CEU CREDIT FOR WORKSHOPS, CONFERENCES, AND INDEPENDENT STUDY RECOGNIZED BY RID**

(a) A licensee may earn CEUs by attending workshops and conferences recognized by The Registry of Interpreters for the Deaf, Inc. ("RID"). In order to receive CEU credit for attendance at a workshop or conference recognized by RID, the licensee must submit to the Board a copy of the licensee's RID CEU transcript. RID shall be the sole judge of the number of CEUs earned by attendance at the workshop or conference.

(b) A licensee who is either a certified member of RID or an associate member of RID participating in the Associate Continuing Education Tracking ("ACET") Program may earn CEUs by independently studying instructional materials in any format -- including, but not limited to, videotapes, audiotapes, web sites, DVDs, CDs, and books and other printed materials -- so long as the materials have been recognized by RID. In order to receive CEU credit for such independent study, the licensee must submit to the Board a copy of the licensee's RID CEU transcript. RID shall be the sole judge of the number of CEUs earned by the completion of any independent study recognized by RID.

(c) If a licensee does not have an RID CEU transcript because the licensee is neither a certified member of RID nor an associate member of RID participating in the ACET Program, the licensee may receive CEU credit for attendance at the workshop or conference by submitting to the Board a certificate of completion signed by the workshop or conference sponsor, provider, or presenter.

- (1) ~~a certificate of completion signed by the workshop or conference sponsor, provider, or presenter; and~~
- (2) ~~a copy of the advertisement or flyer that shows that attendance at the workshop or conference qualifies for RID CEUs.~~

*Authority G.S. 90D-6; 90D-8; 90D-11.*

**Note from the Codifier:** The rules published in this Section of the NC Register are emergency rules reviewed by the Codifier of Rules and entered in the North Carolina Administrative Code. The agency must subsequently publish a proposed temporary rule on the OAH website (www.ncoah.com/rules) and submit that adopted temporary rule to the Rules Review Commission within 60 days from publication of the emergency rule or the emergency rule will expire on the 60<sup>th</sup> day from publication. This section of the Register may also include, from time to time, a listing of emergency rules that have expired. See G.S. 150B-21.1A and 26 NCAC 02C .0600 for adoption and filing requirements.

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

**Rule-making Agency:** Medical Care Commission

**Rule Citation:** 10A NCAC 13S .0101, .0104, .0106, .0107, .0109, .0111, .0112, .0114, .0201, .0202, .0207, .0209-.0212, .0315, .0318-.0331

**Effective Date:** November 14, 2023

Codifier determined rules do not meet the criteria for emergency rulemaking in G.S. 150B-21.1A(a): November 6, 2023

**Reason for Action:** On May 16, 2023, Senate Bill 20 became law as S.L. 2023-14. This new law entitled "An Act to Make Various Changes to Health Care Laws and to Appropriate Funds for Health Care Programs" made revisions to various state laws governing abortions in North Carolina. Effective October 1, 2023, the North Carolina Medical Care Commission was authorized to "adopt, amend, and repeal all rules necessary for the implementation" of Part II of S.L. 2023-14. Current rules governing the certification of abortion clinics are found in Subchapter 14E of Title 10A of the Administrative Code. However, the Rules Review Commission objected to the presence of those rules as adopted by the Department of Health and Human Services, Division of Health Services Regulation on the basis of lack of statutory authority. The consequence of that determination is that the existing rules governing abortion clinics are at imminent risk of being removed from the Administrative Code. The adoption of emergency rules will ensure continuity of care for patients, will resolve any uncertainty about the rules applicable to impacted providers from October 1<sup>st</sup> until the Medical Care Commission is able to promulgate temporary or permanent rules, and will protect the health and safety of people obtaining reproductive health care. Therefore, the Medical Care Commission seeks to adopt Subchapter 13S of Title 10A under emergency procedures.

**CHAPTER 13 - NC MEDICAL CARE COMMISSION**

**SUBCHAPTER 13S - LICENSURE OF SUITABLE FACILITIES FOR THE PERFORMANCE OF SURGICAL ABORTIONS**

**SECTION .0100 – LICENSURE PROCEDURE**

**10A NCAC 13S .0101 DEFINITIONS**

The following definitions will apply throughout this Subchapter:

- (1) "Abortion" means the termination of a pregnancy as defined in G.S 90-21.81(1c).

- (2) "Clinic" means a freestanding facility neither physically attached nor operated by a licensed hospital for the performance of abortions completed during the first 12 weeks of pregnancy.
- (3) "Division" means the Division of Health Service Regulation of the North Carolina Department of Health and Human Services.
- (4) "Gestational age" means the length of pregnancy as indicated by the date of the first day of the last normal monthly menstrual period, if known, or as determined by ultrasound.
- (5) "Governing authority" means the individual, agency, group, or corporation appointed, elected or otherwise designated, in which the ultimate responsibility and authority for the conduct of the abortion clinic is vested pursuant to Rule .0318 of this Subchapter.
- (6) "Health Screening" means an evaluation of an employee or contractual employee, including tuberculosis testing, to identify any underlying conditions that may affect the person's ability to work in the clinic.
- (7) "New clinic" means one that is not certified as an abortion clinic by the Division as of July 1, 2023, and has not been certified or licensed within the previous six months of the application for licensure.
- (8) "Registered Nurse" means a person who holds a valid license issued by the North Carolina Board of Nursing to practice professional nursing in accordance with the Nursing Practice Act, G.S. 90, Article 9A.

**History Note:** Authority G.S. 131E-153; 131E-153.5; 143B-165; Codifier determined that findings of need did not meet criteria for emergency rule on October 30, 2023; Emergency Rule Eff. November 14, 2023.

**10A NCAC 13S .0104 PLANS**

Prior to issuance of a license pursuant to Rule .0107 of this Section, an applicant for a new clinic shall submit two copies of the building plans to the Division. When the clinic requires a review by the Division and the Department of Insurance, according to the North Carolina State Building Code, 2018 edition, including subsequent amendments and editions. Copies of the Code are available from the International Code Council at <https://codes.iccsafe.org/content/NCAPC2018/chapter-1-administrative-code> at no cost. When the local jurisdiction has authority from the North Carolina Building Code Council to

review the plans, the clinic shall submit only one copy of the plans to the Division. In that case, the clinic shall submit an additional set of plans directly to the local jurisdiction.

History Note: Authority G.S. 131E-153; 131E-153.5; 143B-165;

Codifier determined that findings of need did not meet criteria for emergency rule on October 30, 2023;

Emergency Rule Eff. November 14, 2023.

**10A NCAC 13S .0106 APPLICATION**

(a) Prior to the admission of patients, an applicant for a new clinic shall submit an application for licensure and receive approval from the Division.

(b) Application forms may be obtained by contacting the Division at 2712 Mail Service Center Raleigh, NC 27699-2712.

(c) The application form shall set forth:

- (1) Name of applicant;
- (2) Name of facility;
- (3) Ownership disclosure;
- (4) Building owner;
- (5) Building owner;
- (6) Building management;
- (7) Sanitation services;
- (8) Medical director;
- (9) Other medical staff;
- (10) Director of nursing;
- (11) Other nursing staff; and
- (12) Consulting pathologist.

(d) After construction requirements in Section .0200 of this Subchapter have been met and the application for licensure has been received and approved, the Division shall conduct an on-site, licensure survey.

History Note: Authority G.S. 131E-153;131E-153.2; 131E-153.5; 143B-165;

Codifier determined that findings of need did not meet criteria for emergency rule on October 30, 2023;

Emergency Rule Eff. November 14, 2023.

**10A NCAC 13S .0107 ISSUANCE OF LICENSE**

(a) The Division shall issue a license if it finds the facility can:

- (1) Comply with all requirements described in this Subchapter; and
- (2) Have a board certified OB-GYN or board eligible physician by the American Board of Obstetrics and Gynecology shall be available in the event that complications arise from an abortion procedure.

(b) Each license shall be issued only for the premises and persons or organizations named in the application and shall not be transferable.

(c) The governing authority shall notify the Division in writing, within 10 working days, of any change in the name of the facility or change in the name of the administrator.

(d) The facility shall report to the Division all incidents, within 10 working days, of vandalism to the facility such as fires, explosions, or other action that prevents services from providing abortion services.

History Note: Authority G.S. 131E-153; 131E-153.2; 131E-153.5; 143B-165;

Codifier determined that findings of need did not meet criteria for emergency rule on October 30, 2023;

Emergency Rule Eff. November 14, 2023.

**10A NCAC 13S .0109 RENEWAL**

(a) Each license, renewed at the beginning of each calendar year.

(b) The renewal application form shall set forth:

- (1) Name of applicant;
- (2) Name of facility;
- (3) Ownership disclosure;
- (4) Building owner;
- (5) Building owner;
- (6) Building management;
- (7) Sanitation services;
- (8) Medical director;
- (9) Other medical staff;
- (10) Director of nursing;
- (11) Other nursing staff;
- (12) Consulting pathologist;
- (13) The number of procedures performed during the reporting period; and
- (14) The number of patients that were transferred to a hospital during a reporting period.

(c) Upon the filing of a renewal application, the clinic must pay a non-refundable renewal fee as defined in G.S. 131E-153.2.

(d) An application for renewal of licensure must be filed with the Division at least 30 days prior to the date of expiration. Renewal application forms shall be furnished by the Division.

(e) Failure to file a renewal application shall result in expiration of the license to operate.

History Note: Authority G.S. 131E-153; 131E-153.2; 131E-153.5; 143B-165;

Codifier determined that findings of need did not meet criteria for emergency rule on October 30, 2023;

Emergency Rule Eff. November 14, 2023.

**10A NCAC 13S .0111 INSPECTIONS**

(a) Any clinic licensed by the Division to perform abortions shall be inspected by representatives of the Division annually and as it may deem necessary as a condition of holding such license. An inspection may be conducted whenever the Division receives a complaint alleging the clinic is not in compliance with the rules of the Subchapter.

(b) Representatives of the Division shall make their identities known to the clinic staff prior to inspection of the clinic.

(c) Representatives of the Division may review any records in any medium necessary to determine compliance with the rules of this Subchapter. The Department shall maintain the confidentiality of the complainant and the patient, unless otherwise required by law.

(d) The clinic shall allow the Division to have immediate access to its premises and the records necessary to conduct an inspection and determine compliance with the rules of this Subchapter.

(e) A clinic shall file a written plan of correction for cited deficiencies within 10 business days of receipt of the report of the survey. The Division shall review and respond to a written plan



of correction within 10 business days of receipt of the corrective action plan.

History Note: Authority G.S. 131E-153; 131E-153.2; 131E-153.5; 131E-153.6; 143B-165; Codifier determined that findings of need did not meet criteria for emergency rule on October 30, 2023; Emergency Rule Eff. November 14, 2023.

10A NCAC 13S .0112 ALTERATIONS

Any license holder or prospective applicant desiring to make alterations or additions to a clinic or to construct a new clinic, before commencing such alteration, addition or new construction shall submit plans and specifications to the Division for preliminary inspection and approval or recommendations with respect to compliance with this Subchapter.

History Note: Authority G.S. 131E-153; 131E-153.5; 143B-165; Codifier determined rule did not meet criteria for emergency rule on October 30, 2023; Emergency Rule Eff. November 14, 2023.

10A NCAC 13S .0114 APPROVAL

(a) Approval of building plans shall be obtained from the Division of Health Service Regulation, in accordance with the rules in Section .0200 of this Subchapter.

(b) Approval of building plans shall expire one year after the date of approval unless a building permit for the construction has been obtained prior to the expiration date of the approval of building plans.

History Note: Authority G.S. 131E-153; 131E-153.5; 143B-165; Codifier determined that findings of need did not meet criteria for emergency rule on October 30, 2023; Emergency Rule Eff. November 14, 2023.

SECTION .0200 - MINIMUM STANDARDS FOR CONSTRUCTION AND EQUIPMENT

10A NCAC 13S .0201 BUILDING CODE REQUIREMENTS

(a) The physical plant for a clinic shall meet or exceed minimum requirements of the North Carolina State Building Code for Group B occupancy (business office facilities) which is incorporated herein by reference including subsequent amendments and editions. Copies of the Code can be obtained from the International Code Council online at http://shop.iccsafe.org/north-carolina-doi.discounts?ref=NC for a cost of five hundred twenty-seven dollars (\$527.00) or accessed electronically free of charge at https://codes.iccsafe.org/content/NCAPC2018/chapter-1-administrative-code.

(b) The requirements contained in this Section shall apply to new clinics and to any alterations, repairs, rehabilitation work, or additions which are made to a previously licensed facility.

History Note: Authority G.S. 131E-153; 131E-153.5; 143B-165; Codifier determined that findings of need did not meet criteria for emergency rule on October 30, 2023; Emergency Rule Eff. November 14, 2023.

10A NCAC 13S .0202 SANITATION

Clinics that are licensed by the Division to perform abortions shall comply with the Rules governing the sanitation of hospitals, nursing homes, adult care homes, and other institutions, contained in 15A NCAC 18A .1300 which is hereby incorporated by reference including subsequent amendments and editions. Copies of 15A NCAC 18A .1300 may be obtained at no charge from the Division of Public Health, Environmental Health Section, 1632 Mail Service Center, Raleigh, NC 27699-1632, or accessed electronically free of charge from the Office of Administrative Hearings at https://reports.oah.state.nc.us/ncac.asp.

History Note: Authority G.S. 131E-153; 131E-153.5; 143B-165; Codifier determined that findings of need did not meet criteria for emergency rule on October 30, 2023; Emergency Rule Eff. November 14, 2023.

10A NCAC 13S .0207 AREA REQUIREMENTS

The following areas shall comply with Rule .0212 of this Section, and are considered minimum requirements for clinics that are licensed by the Division to perform abortions:

- (1) receiving area;
(2) examining room;
(3) preoperative preparation and holding room;
(4) individual patient locker facilities or equivalent;
(5) procedure room;
(6) recovery room;
(7) clean workroom;
(8) soiled workroom;
(9) a clean area for self-contained secure medication storage complying with security requirements of state and federal laws is provided;
(10) separate and distinct areas for storage and handling of clean and soiled linen;
(11) patient toilet;
(12) personnel lockers and toilet facilities;
(13) laboratory;
(14) nourishment station with storage and preparation area for serving meals or in-between meal snacks;
(15) janitor's closets;
(16) adequate space and equipment for assembling, sterilizing and storing medical and surgical supplies;
(17) storage space for medical records; and
(18) office space for nurses' charting, doctors' charting, communications, counseling, and business functions.

**EMERGENCY RULES**

*History Note:* Authority G.S. 131E-153; 131E-153.5; 143B-165.

*Codifier determined rule did not meet criteria for emergency rule on October 30, 2023;*

*Emergency Rule Eff. November 14, 2023.*

**10A NCAC 13S .0209 ELEVATOR**

(a) In multi-story buildings, the clinic shall provide at least one elevator for patient use.

(b) At least one dimension of the elevator cab shall be six and one-half feet to accommodate stretcher patients.

(c) The elevator door shall have an opening of no less than three feet in width, which is minimum for stretcher use.

*History Note:* Authority G.S. 131E-153; 131E-153.5; 143B-165;

*Codifier determined that findings of need did not meet criteria for emergency rule on October 30, 2023;*

*Emergency Rule Eff. November 14, 2023.*

**10A NCAC 13S .0212 ELEMENTS AND EQUIPMENT**

The physical plant shall provide equipment to carry out the functions of the clinic with the following minimum requirements:

(1) Mechanical requirements.

(a) Temperatures and humidities:

(i) The mechanical systems shall be designed to provide the temperature and humidities shown in this Sub-Item:

Area	Temperature	Relative Humidity
Procedure	70-76 degrees F.	50-60%
Recovery	75-80 degrees F.	30-60%

(b) All air supply and exhaust systems for the procedure suite and recovery area shall be mechanically operated. All fans serving exhaust systems shall be located at the discharge end of the system. The ventilation rates shown herein shall be considered as minimum acceptable rates.

(i) The ventilation system shall be designed and balanced to provide the pressure relationships detailed in Sub-Item (b)(vii) of this Rule.

(ii) All air supplied to procedure rooms shall be delivered at or near the ceiling of the room and all exhaust or return from the area shall be removed near the floor level at not less than three inches above the floor.

(iii) Corridors shall not be used to supply air to or exhaust air from any procedure or recovery room except to maintain required pressure relationships.

(iv) All ventilation or air conditioning systems serving procedure rooms shall have a minimum of one filter bed with a minimum filter efficiency of 80 percent.

(v) Ventilation systems serving the procedure or recovery rooms shall not be tied in with the soiled holding or work rooms, janitors' closets, or locker rooms if the air is to be recirculated in any manner.

(vi) Air handling duct systems shall not have duct linings.

(vii) The following general air pressure relationships to adjacent areas and ventilation rates shall apply:

Area	Pressure Relationship	Minimum Air Changes/Hour
Procedure	P	6
Recovery	P	6
Soiled work, Janitor's closet, Toilets,		
Soiled holding	N	10
Clean work or Clean holding	P	4

(P = positive pressure N = negative pressure)

**10A NCAC 13S .0210 CORRIDORS**

The width of patient use corridors shall be no less than 60 inches.

*History Note:* Authority G.S. 131E-153; 131E-153.5; 143B-165;

*Codifier determined that findings of need did not meet criteria for emergency rule on October 30, 2023;*

*Emergency Rule Eff. November 14, 2023.*

**10A NCAC 13S .0211 DOORS**

Minimum width of doors to all rooms needing access for stretchers shall be three feet. No door shall swing into corridors in a manner that might obstruct traffic flow or reduce the required corridor width except doors to spaces not subject to occupancy.

*History Note:* Authority G.S. 131E-153; 131E-153.5; 143B-165;

*Codifier determined that findings of need did not meet criteria for emergency rule on October 30, 2023;*

*Emergency Rule Eff. November 14, 2023.*

- (2) Plumbing And Other Piping Systems.
  - (a) Medical Gas and Vacuum Systems
    - (i) Piped-in medical gas and vacuum systems, if installed, shall meet the requirements of NFPA-99-2012, category I system, which is hereby incorporated by reference including subsequent amendments and editions. Copies of NFPA-99-2012 may be purchased from the National Fire Protection Association, 1 Batterymarch Park, P.O. Box 9101, Quincy, MA 02269-9101, or accessed electronically free of charge at <http://www.nfpa.org>.
    - (ii) The facility must meet the inhalation anesthesia requirements of NFPA 70-2020 and NFPA 99-2021, which are hereby incorporated by reference including subsequent amendments and editions. Copies of NFPA 70-2011 and NFPA 99-2012 may be purchased from the National Fire Protection Association, 1 Batterymarch Park, P.O. Box 9101, Quincy, MA 02269-9101, or accessed electronically free of charge at <http://www.nfpa.org>.
  - (b) Lavatories and sinks for use by medical personnel shall have the water supply spout mounted so that its discharge point is a minimum distance of five inches above the rim of the fixture with mixing type fixture valves that can be operated without the use of the hands.
  - (c) Hot water distribution systems shall provide hot water at hand washing and bathing facilities at a minimum temperature of 100 degrees F. and a maximum temperature of 116 degrees F.
  - (d) Floor drains shall not be installed in procedure rooms.
  - (e) Building drainage and waste systems shall be designed to avoid installations in the ceiling directly above procedure rooms.
- (3) Electrical Requirements.
  - (a) Procedure and recovery rooms, and paths of egress from these rooms to the

outside shall have at a minimum, listed battery backup lighting units of one and one-half hour capability that will automatically provide at least five foot candles of illumination at the floor in the event needed for a utility or local lighting circuit failure.

- (b) Electrically operated medical equipment necessary for the safety of the patient shall have, at a minimum, battery backup.
- (c) Receptacles located within six feet of sinks or lavatories shall be ground-fault protected.
- (d) At least one wired-in, ionization-type smoke detector shall be within 15 feet of each procedure or recovery room entrance.
- (4) Buildings systems and medical equipment shall have preventative maintenance conducted as recommended by the equipment manufacturers' or installers' literature to assure operation in compliance with manufacturer's instructions.

*History Note: Authority G.S. 131E-153; 131E-153.5; 143B-165; Codifier determined that findings of need did not meet criteria for emergency rule on October 30, 2023; Emergency Rule Eff. November 14, 2023.*

**SECTION .0300 – SERVICES**

**10A NCAC 13S .0315 HOUSEKEEPING**

In addition to the standards set forth in Rule .0202 of this Subchapter, clinics that are licensed by the Division to perform abortions shall meet the following standards:

- (1) the floors, walls, woodwork, and windows must be cleaned at least daily;
- (2) the premises must be kept free from rodents and insect infestation;
- (3) bath and toilet facilities must be maintained in a clean and sanitary condition consistent with 15A NCAC 18A .1312; and
- (4) linen that comes directly in contact with the patient shall be provided for each individual patient. No such linen shall be interchangeable from one patient to another before being cleaned, sterilized, or laundered.

Copies of 15A NCAC 18A .1300 may be obtained at no charge from the Division of Public Health, Environmental Health Section, 1632 Mail Service Center, Raleigh, NC, 27699-1632, or accessed electronically free of charge from the Office of Administrative Hearings at <https://www.oah.nc.gov/>.

*History Note: Authority G.S. 131E-153; 131E-153.5; 143B-165; Codifier determined that findings of need did not meet criteria for emergency rule on October 30, 2023; Emergency Rule Eff. November 14, 2023.*

**10A NCAC 13S .0318 GOVERNING AUTHORITY**

(a) The governing authority, as defined in Rule .0101(6) of this Subchapter, shall appoint a chief executive officer or a designee of the clinic to represent the governing authority and shall define his or her authority and duties in writing. This person shall be responsible for the management of the clinic, implementation of the policies of the governing authority and authorized and empowered to carry out the provisions of these Rules.

(b) The chief executive officer or designee shall designate, in writing, a person to act on his or her behalf during his or her absence. In the absence of the chief executive officer or designee, the person on the grounds of the clinic who is designated by the chief executive officer or designee to be in charge of the clinic shall have access to all areas in the clinic related to patient care and to the operation of the physical plant.

(c) When there is a planned change in ownership or in the chief executive officer, the governing authority of the clinic shall notify the Division in writing of the change.

(d) The clinic's governing authority shall adopt operating policies and procedures that shall:

- (1) specify the individual to whom responsibility for operation and maintenance of the clinic is delegated and methods established by the governing authority for holding such individuals responsible;
- (2) provide for at least annual meetings of the governing authority, for which minutes shall be maintained; and
- (3) maintain a policies and procedures manual designed to ensure safe and adequate care for the patients which shall be reviewed, and revised when necessary, at least annually, and shall include provisions for administration and use of the clinic, compliance, personnel quality assurance, procurement of outside services and consultations, patient care policies, and services offered.

(e) When the clinic contracts with outside vendors to provide services such as laundry or therapy services, the governing authority shall be responsible to assure the supplier meets the same local and State standards the clinic would have to meet if it were providing those services itself using its own staff.

(f) The governing authority shall provide for the selection and appointment of the professional staff and the granting of clinical privileges and shall be responsible for the professional conduct of these persons.

(g) The governing authority shall be responsible for ensuring the availability of supporting personnel to meet patient needs and to provide safe and adequate treatment.

*History Note:* Authority G.S. 131E-153; 131E-153.5; 143B-165;

*Codifier determined that findings of need did not meet criteria for emergency rule on October 30, 2023;*

*Emergency Rule Eff. November 14, 2023.*

**10A NCAC 13S .0319 POLICIES AND PROCEDURES AND ADMINISTRATIVE RECORDS**

(a) The following essential documents and references shall be on file in the administrative office of the clinic:

- (1) documents evidencing control and ownerships, such as deeds, leases, or incorporation or partnership papers;
- (2) policies and procedures of the governing authority, as required by Rule .0318 of this Section;
- (3) minutes of the governing authority meetings;
- (4) minutes of the clinic's professional and administrative staff meetings;
- (5) a current copy of the rules of this Subchapter;
- (6) reports of inspections, reviews, and corrective actions taken related to licensure; and
- (7) contracts and agreements related to care and services provided by the clinic is a party.

(b) All operating licenses, permits, and certificates shall be displayed on the licensed premises.

(c) The governing authority shall prepare a manual of clinic policies and procedures for use by employees, medical staff, and contractual physicians to assist them in understanding their responsibilities within the organizational framework of the clinic. These shall include:

- (1) patient selection and exclusion criteria;
- (2) clinical discharge criteria;
- (3) policy and procedure for validating the full and true name of the patient;
- (4) policy and procedure for abortion procedures performed at the clinic;
- (5) policy and procedure for the provision of patient privacy in the recovery area of the clinic;
- (6) protocol for determining gestational age as defined in Rule .0101(5) of this Subchapter;
- (7) protocol for referral of patients for whom services have been declined; and
- (8) protocol for discharge instructions that informs patients who to contact for post-procedural problems and questions.

*History Note:* Authority G.S. 131E-153; 131E-153.5; 143B-165;

*Codifier determined that findings of need did not meet criteria for emergency rule on October 30, 2023;*

*Emergency Rule Eff. November 14, 2023.*

**10A NCAC 13S .0320 ADMISSION AND DISCHARGE**

(a) There shall be on the premises throughout all hours of operation an employee authorized to receive patients and make administrative decisions regarding patients.

(b) All patients shall be admitted only under the care of a physician who is currently licensed to practice medicine in North Carolina.

(c) Any patient not discharged within 12 hours following the abortion procedure shall be transferred to a hospital licensed pursuant to Chapter 131E, Article 5 of the General Statutes.

(d) Following admission and prior to obtaining the consent for the procedure, representatives of the clinic's management shall provide to each patient the following information:

- (1) a fee schedule and any extra charges routinely applied;
- (2) the name of the attending physician or physicians and hospital admitting privileges, if any. In the absence of admitting privileges a statement to that effect shall be included;
- (3) instructions for post-procedure problems and questions as outlined in Rule .0329(d) of this Section;
- (4) grievance procedures a patient may follow if dissatisfied with the care and services rendered; and
- (5) the telephone number for Complaint Intake of the Division.

*History Note:* Authority G.S. 131E-153; 131E-153.5; 143B-165;

Codifier determined that findings of need did not meet criteria for emergency rule on October 30, 2023;

Emergency Rule Eff. November 14, 2023.

**10A NCAC 13S .0321 MEDICAL RECORDS**

(a) The clinic shall maintain a complete and permanent record for all patients including:

- (1) the date and time of admission and discharge;
- (2) the patient's full and true name;
- (3) the patient's address;
- (4) the patient's date of birth;
- (5) the patient's emergency contact information;
- (6) the patient's diagnoses;
- (7) the patient's duration of pregnancy;
- (8) the patient's condition on admission and discharge;
- (9) a voluntarily-signed consent for each surgery or procedure and signature of the physician performing the procedure witnessed by a family member, other patient representative, or facility staff member;
- (10) the patient's history and physical examination including identification of pre-existing or current illnesses, drug sensitivities or other idiosyncrasies that may impact the procedure or anesthetic to be administered; and
- (11) documentation that indicates all items listed in Rule .0320(d) of this Section were provided to the patient.

(b) The clinic shall record and authenticate by signature, date, and time all other pertinent information such as pre- and post-procedure instructions, laboratory reports, drugs administered, report of abortion procedure, and follow-up instruction, including family planning advice.

(c) If Rh is negative, the clinic shall explain the significance to the patient and shall record the explanation. The patient in writing may reject Rh immunoglobulin. A written record of the patient's decision shall be a permanent part of her medical record.

(d) An ultrasound examination shall be performed by a technician qualified in ultrasonography and the results, including gestational age, placed in the patient's medical record for any patient who is scheduled for an abortion procedure.

(e) The clinic shall maintain a daily procedure log of all patients receiving abortion services. This log shall contain at least the following:

- (1) the patient name;
- (2) the estimated length of gestation;
- (3) the type of procedure;
- (4) the name of the physician;
- (5) the name of the Registered Nurse on duty; and
- (6) the date and time of procedure.

(f) Medical records shall be the property of the clinic and shall be preserved or retained in the State of North Carolina for a period of not less than 10 years from the date of the most recent discharge, unless the client is a minor, in which case the record must be retained until three years after the client's 18th birthday, regardless of change of clinic ownership or administration. Such medical records shall be made available to the Division upon request and shall not be removed from the premises where they are retained except by subpoena or court order.

(g) The clinic shall have a written plan for destruction of medical records to identify information to be retained and the manner of destruction to ensure confidentiality of all material.

(h) Should a clinic cease operation, the clinic shall arrange for preservation of records for at least 10 years. The clinic shall send written notification to the Division of these arrangements.

*History Note:* Authority G.S. 131E-153; 131E-153.5; 143B-165;

Codifier determined that findings of need did not meet criteria for emergency rule on October 30, 2023;

Emergency Rule Eff. November 14, 2023.

**10A NCAC 13S .0322 PERSONNEL RECORDS**

(a) Personnel Records:

- (1) A record of each employee shall be maintained that includes the following:
  - (A) the employee's identification;
  - (B) the application for employment that includes education, training, experience and references;
  - (C) a resume of education and work experience;
  - (D) a copy of a valid license (if required), education, training, and prior employment experience; and
  - (E) a list of references.
- (2) Personnel records shall be confidential.
- (3) Representatives of the Division conducting an inspection of the clinic shall have the right to inspect personnel records.

(b) Job Descriptions:

- (1) The clinic shall have a written description that describes the duties of every position.
- (2) Each job description shall include position title, authority, specific responsibilities, and minimum qualifications. Qualifications shall

include education, training, experience, special abilities, and valid license or certification required.

- (3) The clinic shall review annually and, if needed, update all job descriptions. The clinic shall provide the updated job description to each employee or contractual employee assigned to the position.

(c) All persons having direct responsibility for patient care shall be at least 18 years of age.

(d) The clinic shall provide an orientation program to familiarize each new employee or contractual employee with the clinic, its policies, and the employee's job responsibilities.

(e) The governing authority shall be responsible for implementing health standards for employees, as well as contractual employees, which are consistent with recognized professional practices for the prevention and transmission of communicable diseases.

(f) Employee and contractual employee records for health screening as defined in Rule .0101(7) of this Subchapter, education, training, and verification of professional certification shall be available for review by the Division.

*History Note:* Authority G.S. 131E-153; 131E-153.5; 143B-165;

*Codifier determined that findings of need did not meet criteria for emergency rule on October 30, 2023;*

*Emergency Rule Eff. November 14, 2023.*

**10A NCAC 13S .0323 NURSING SERVICE**

(a) The clinic shall have an organized nursing staff under the supervision of a nursing supervisor who is currently licensed as a Registered Nurse and who has responsibility for all nursing services.

(b) The nursing supervisor shall report to the chief executive officer or designee and shall be responsible for:

- (1) provision of nursing services to patients; and
- (2) developing a nursing policy and procedure manual and written job descriptions for nursing personnel.

(c) The clinic shall have the number of licensed and ancillary nursing personnel on duty to assure that staffing levels meet the total nursing needs of patients based on the number of patients in the clinic and their individual nursing care needs.

(d) There shall be at least one Registered Nurse with experience in post-operative or post-partum care who is currently licensed to practice professional nursing in North Carolina on duty in the clinic at all times patients are in the clinic.

*History Note:* Authority G.S. 131E-153; 131E-153.5; 143B-165;

*Codifier determined that findings of need did not meet criteria for emergency rule on October 30, 2023;*

*Emergency Rule Eff. November 14, 2023.*

**10A NCAC 13S .0324 QUALITY ASSURANCE**

(a) The governing authority shall establish a quality assurance program for the purpose of providing standards of care for the clinic. The program shall include the establishment of a

committee that shall evaluate compliance with clinic procedures and policies.

(b) The committee shall determine corrective action, if necessary to achieve and maintain compliance with clinic procedures and policies.

(c) The committee shall consist of at least one physician who is not an owner, the chief executive officer or designee, and other health professionals. The committee shall meet at least once per quarter.

(d) The functions of the committee shall include development of policies for selection of patients, approval for adoption of policies, review of credentials for staff privileges, peer review, tissue inspection, establishment of infection control procedures, and approval of additional procedures to be performed in the clinic.

(e) Records shall be kept of the activities of the committee for a period not less than 10 years. These records shall include:

- (1) reports made to the governing authority;
- (2) minutes of committee meetings including date, time, persons attending, description and results of cases reviewed, and recommendations made by the committee; and
- (3) information on any corrective action taken.

(f) The clinic shall conduct orientation, training, or education programs to correct deficiencies that are uncovered as a result of the quality assurance program.

*History Note:* Authority G.S. 131E-153; 131E-153.5; 143B-165;

*Codifier determined that findings of need did not meet criteria for emergency rule on October 30, 2023;*

*Emergency Rule Eff. November 14, 2023.*

**10A NCAC 13S .0325 LABORATORY SERVICES**

(a) Each clinic shall have the capability to provide or obtain laboratory tests required in connection with the procedure to be performed.

(b) The governing authority shall establish written policies regarding which surgical specimens require examination by a pathologist.

(c) Each patient shall have the following performed and a record of the results placed in the patient's medical record prior to the abortion:

- (1) pregnancy testing, except when a positive diagnosis of pregnancy has been established by ultrasound;
- (2) anemia testing (hemoglobin or hematocrit); and
- (3) Rh factor testing.

(d) Patients requiring the administration of blood shall be transferred to a local hospital having blood bank facilities.

(e) The clinic shall maintain a manual in a location accessible by employees, that includes the procedures, instructions, and manufacturer's instructions for each test procedure performed, including:

- (1) sources of reagents, standard and calibration procedures, and quality control procedures; and
- (2) information concerning the basis for the listed "normal" ranges.

(f) The clinic shall perform and document, at least quarterly, calibration of equipment and validation of test results.

*History Note:* Authority G.S. 131E-153; 131E-153.5; 143B-165;  
*Codifier determined that findings of need did not meet criteria for emergency rule on October 30, 2023;*  
*Emergency Rule Eff. November 14, 2023.*

**10A NCAC 13S .0326 EMERGENCY BACK-UP SERVICES**

(a) Each clinic shall have a written plan for the transfer of emergency cases from the clinic to the closest hospital when hospitalization becomes necessary. Emergency case is defined as a condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in placing the individual's health in serious jeopardy, serious impairment to bodily functions, or serious dysfunction of bodily organs.

(b) The clinic shall have written protocols, personnel, and equipment to handle medical emergencies as defined above which may arise in connection with services provided by the clinic.

(c) The clinic shall have a written agreement between the clinic and a hospital to facilitate the transfer of patients who are in need of emergency care. A clinic that has documentation of its efforts to establish such a transfer agreement with a hospital that provides emergency services and has been unable to secure such an agreement shall be considered to be in compliance with this Rule.

(d) The clinic shall provide intervention for emergency situations. These provisions shall include:

- (1) basic cardio-pulmonary life support;
- (2) emergency protocols for:
  - (A) administration of intravenous fluids;
  - (B) establishing and maintaining airway support;
  - (C) oxygen administration;
  - (D) utilizing a bag-valve-mask resuscitator with oxygen reservoir;
  - (E) utilizing a suction machine; and
  - (F) utilizing an automated external defibrillator;
- (3) emergency lighting available in the procedure room as set forth in Rule .0212 of this Subchapter; and
- (4) ultrasound equipment.

*History Note:* Authority G.S. 131E-153; 131E-153.5; 143B-165;  
*Codifier determined that findings of need did not meet criteria for emergency rule on October 30, 2023;*  
*Emergency Rule Eff. November 14, 2023.*

**10A NCAC 13S .0327 SURGICAL SERVICES**

(a) The procedure room shall be maintained exclusively for surgical procedures and shall be so designed and maintained to provide an environment free of contamination. The clinic shall establish procedures for infection control and universal precautions.

(b) Tissue Examination:

- (1) The physician performing the abortion is responsible for examination of all products of

conception (P.O.C.) prior to patient discharge. Such examination shall note specifically the presence or absence of chorionic villi and fetal parts, or the amniotic sac. The results of the examination shall be recorded in the patient's medical record.

(2) If adequate tissue is not obtained based on the gestational age, the physician performing the procedure shall evaluate for ectopic pregnancy, or an incomplete procedure.

(3) The clinic shall establish procedures for obtaining, identifying, storing, and transporting specimens.

*History Note:* Authority G.S. 131E-153; 131E-153.5; 143B-165;  
*Codifier determined that findings of need did not meet criteria for emergency rule on October 30, 2023;*  
*Emergency Rule Eff. November 14, 2023.*

**10A NCAC 13S .0328 MEDICATIONS AND ANESTHESIA**

(a) No medication or treatment shall be given except on written order of a physician.

(b) Any medications shall be administered by a physician or Registered Nurse and shall be recorded in the patient's permanent record.

(c) The anesthesia shall be administered only under the direct supervision of a licensed physician. Direct supervision means the physician must be present in the clinic and immediately available to furnish assistance and direction throughout the administration of the anesthesia. It does not mean the physician must be present in the room when the anesthesia is administered.

*History Note:* Authority G.S. 131E-153; 131E-153.5; 143B-165;  
*Codifier determined that findings of need did not meet criteria for emergency rule on October 30, 2023;*  
*Emergency Rule Eff. November 14, 2023.*

**10A NCAC 13S .0329 POST-OPERATIVE CARE**

(a) A patient whose pregnancy is terminated shall be observed in the clinic to ensure that no post-operative complications are present. Thereafter, patients may be discharged according to a physician's order and the clinic's protocols.

(b) Any patient having a complication known or suspected to have occurred during or after the performance of the abortion shall be transferred to a hospital for evaluation or admission.

(c) The following criteria shall be documented prior to discharge:

- (1) the patient shall be able to move independently with a stable blood pressure and pulse; and
- (2) bleeding and pain are assessed to be stable and not a concern for discharge.

(d) Written instructions shall be issued to all patients in accordance with the orders of the physician in charge of the abortion procedure and shall include the following:

- (1) symptoms and complications to be looked for; and

(2) a dedicated telephone number to be used by the patients should any complication occur or question arise. This number shall be answered by a person 24 hours a day, seven days a week.

(e) The clinic shall have a defined protocol for triaging post-operative calls and complications. This protocol shall establish a pathway for physician contact to ensure ongoing care of complications that the operating physician is incapable of managing.

*History Note: Authority G.S. 131E-153; 131E-153.5; 143B-165; Codifier determined that findings of need did not meet criteria for emergency rule on October 30, 2023; Emergency Rule Eff. November 14, 2023.*

**10A NCAC 13S .0330 CLEANING OF MATERIALS AND EQUIPMENT**

(a) All supplies and equipment used in patient care shall be cleaned or sterilized between use for different patients.

(b) Methods of cleaning, handling, and storing all supplies and equipment shall be such as to prevent the transmission of infection through their use as determined by the clinic through their governing authority.

*History Note: Authority G.S. 131E-153; 131E-153.5; 143B-165; Codifier determined that findings of need did not meet criteria for emergency rule on October 30, 2023; Emergency Rule Eff. November 14, 2023.*

**10A NCAC 13S .0331 FOOD SERVICE**

Nourishments, such as crackers and soft drinks, shall be available and offered to all patients.

*History Note: Authority G.S. 131E-153;131E-153.2; 131E-153.5; 143B-165; Codifier determined that findings of need did not meet criteria for emergency rule on October 30, 2023; Emergency Rule Eff. November 14, 2023.*

**TITLE 16 – DEPARTMENT OF PUBLIC INSTRUCTION**

**Rule-making Agency:** *State Board of Education*

**Rule Citation:** *16 NCAC 06D .0510*

**Effective Date:** *November 16, 2023*

*Codifier determined this Rule does not meet the criteria for emergency rulemaking in G.S. 150B-21.1A(a): November 6, 2023*

**Reason for Action:** *S.L. 2023-134, Sections 8A.6.(k)-(r), required the State Board of Education ("SBE") to establish a set of graduation requirements that allow students enrolled in North Carolina public high schools to graduate within 3 years of enrollment in 9<sup>th</sup> Grade. Sections 8A.6.(k) also amends G.S. 115C-12(9d) to prohibit local boards of education from*

*establishing additional requirements beyond those established by the State Board. Section 8A.6.(s) directs the SBE to adopt an emergency rule to implement these requirements by November 1, 2023. S.L. 2023-134 became law on October 3, 2023, and earliest possible meeting at which the SBE could adopt an emergency rule was November 2, 2023. Although this is one day past the deadline, the SBE believes this substantially complies with the deadline established in the rule and is reasonable given the timing of the legislation.*

**CHAPTER 06 - ELEMENTARY AND SECONDARY EDUCATION**

**SUBCHAPTER 06D - INSTRUCTION**

**SECTION .0500 - DEFINITIONS**

**16 NCAC 06D .0510 THREE-YEAR GRADUATION**

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

- (1) "Public school unit" or "PSU" is defined in G.S. 115C-5(7a). This Rule shall not apply to a charter school unless the charter school has elected to offer a three-year sequence of courses under G.S. 115C-218.85, or to a regional school unless the regional school has elected to offer a three-year sequence of courses under G.S. 115C-238.66.
- (2) "Superintendent" means the superintendent of a local school administrative unit or the staff member with the highest decision-making authority for a public school unit, if there is no superintendent.

(b) A student enrolled in a PSU who requests to graduate from high school 3 years after entering Grade 9 shall do so in accordance with this Rule. This Rule shall apply to a student who enters Grade 11 at the beginning of the 2024-2025 school year or thereafter and is at least 16 years of age at the time of graduation.

(c) The student shall complete and sign a 3-year graduation request form provided by the student's PSU. The form must be signed by the student's parent or legal guardian, unless the student is at least 18 years of age or has been emancipated in accordance with Chapter 7B, Article 35 of the General Statutes.

(d) An administrator from the student's high school or the PSU shall meet with the student and, if the student is under 18 years of age and not emancipated, the student's parent or legal guardian, to discuss the implications of graduating after three years. The administrator shall address, at minimum, the following topics:

- (1) Plans for transitioning into higher education, employment, or enlistment in the armed forces;
- (2) Discontinued access to high school services and programming, including extracurricular activities and interscholastic athletics; and
- (3) Support structures available to the student in the high school environment, such as nutrition and school counseling services, which will no longer be available upon graduation.

(e) The PSU shall verify that the student has met the minimum graduation requirements established by the State Board of



Education, as defined in 16 NCAC 06D .0503, and submit the request to the superintendent for approval. The superintendent shall approve the request upon verification of the student's eligibility and compliance with the procedures set forth above, no later than 45 school days after receipt of a request. If the request is approved during the semester after classes have started, the student may elect to graduate immediately or graduate at the end of the semester. However, if the student does not submit the request until after classes have started, the student shall be required to complete the current semester.

History Note: Authority G.S. 115C-12(9d); 115C-218.85; 115C-238.66; Codifier determined rule did not meet criteria for emergency rule on November 6, 2023; Emergency Adoption Eff. November 16, 2023.

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Rule-making Agency: State Board of Education

Rule Citation: 16 NCAC 06G .0701

Effective Date: November 16, 2023

Findings Reviewed and Approved by the Codifier: November 7, 2023

Reason for Action: G.S. 115C-76.60, as enacted by S.L. 2023-106, Section 2.(a), provides parents of children in North Carolina public schools to request a parental concern hearing before the State Board of Education ("SBE") regarding the procedures or practices of a public school unit under Chapter 115C, Article 7B, of the General Statutes. The provision also directs the SBE to establish rules for these hearings. S.L. 2023-134, Section 7.81.(d) directs the SBE to adopt emergency rules for these hearings in order to begin receiving requests by January 30, 2024.

CHAPTER 06 - ELEMENTARY AND SECONDARY EDUCATION

SUBCHAPTER 06G - EDUCATION AGENCY RELATIONS

SECTION .0700 – PUBLIC SCHOOL UNIT OVERSIGHT

16 NCAC 06G .0701 PARENTAL CONCERN HEARINGS

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

- (1) "Child" is defined in G.S. 115C-76.1(2).
(2) "Hearing officer" means an individual who meets the requirements in G.S. 115C-76.60(b)(1)a.
(3) "Parent" is defined in G.S. 115C-76.1(5).
(4) "Principal" is defined in G.S. 115C-76.1(6).
(5) "Public school unit" or "PSU" is defined in G.S. 115C-5(7a).

(6) "Superintendent" is defined in G.S. 115C-76.1(8).

(b) A parent who wishes to request a parental concern hearing before the State Board of Education ("SBE") under G.S. 115C-76.60 shall do so in writing. The written request shall include the following information:

- (1) The specific procedures or practices of the PSU about which the parent is concerned.
(2) The specific concerns that the parent has about the procedures or practices of the PSU.
(3) Documented evidence that the parent has notified the principal of the school at which the parent's child is enrolled about these concerns at least 30 days prior to requesting a hearing before the SBE.
(4) A description of the relevant facts.
(5) An explanation of why the parent believes that the concerns have not been resolved by the PSU.
(6) A proposed resolution to address the parent's concerns.

(c) Upon receipt of a request in accordance with Paragraph (b) of this Rule, the SBE shall appoint a hearing officer to review the request.

(d) Upon appointment, the hearing officer shall hold a hearing, subject to the following requirements:

- (1) The parent and the superintendent of the PSU (or the superintendent's designee) shall attend as parties to the hearing and may be represented by legal counsel, provided that any party intending to be represented notifies the hearing officer at least three business days before the hearing. The hearing officer may delay the hearing if a party requests additional time to secure legal representation.
(2) The hearing officer shall provide the parties with notice of the time and place for the hearing at least five business days in advance. The hearing may be held in person or via teleconference, at the discretion of the hearing officer.
(3) Each party shall provide any documentation or written statements to the hearing officer at least three business days before the hearing.
(4) Each party shall have up to 30 minutes to present the party's case to and answer questions from the hearing officer. The hearing officer may extend time for each party's presentation at the hearing officer's discretion.
(5) The North Carolina Rules of Evidence, codified at Chapter 8C of the General Statutes, shall not apply to the hearing, and the hearing officer may consider any information that is relevant to the proceedings.
(6) The hearing officer shall arrange for audio and video recording of the hearing.

(e) Within 30 days of appointment and after having conducted a hearing in accordance with Paragraph (d) of this Rule, the hearing

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**EMERGENCY RULES**

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officer shall provide a recommendation to the SBE that includes the following:

- (1) Findings of fact.
- (2) Conclusions of law, including citations to any relevant statutes, rules, or policies.
- (3) A proposed resolution to the to the case.

(f) At the next regularly scheduled meeting of the SBE held more than seven days after receipt of the hearing officer's recommendation, the SBE shall vote to either approve, reject, or amend the hearing officer's recommendation. The decision of the SBE shall be final.

(g) The hearing officer shall provide an invoice to the PSU for the cost of the hearing officer's services, at a rate of two hundred dollars (\$200.00) per hour, within 45 days of submitting the hearing officer's recommendation to the SBE. The PSU shall pay the hearing officer within 60 days of receipt of the invoice.

History Note: Authority G.S. 115C-76.60; Emergency Adoption Eff. November 16, 2023.

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**APPROVED RULES**

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

Rules approved by the Rules Review Commission at its meeting on October 19, 2023 Meeting.

**REGISTER CITATION TO THE  
NOTICE OF TEXT**

**SHERIFFS' EDUCATION AND TRAINING STANDARDS COMMISSION**

<u>Trainee Attendance</u>	12 NCAC 10B .0604*	37:02 NCR
<u>Completion of Detention Officer Certification Course</u>	12 NCAC 10B .0605*	37:02 NCR
<u>Comp Written Exam - Detention Officer Certification Course</u>	12 NCAC 10B .0606*	37:02 NCR
<u>Satisfaction of Minimum Training Requirements</u>	12 NCAC 10B .0607*	37:02 NCR
<u>Responsibilities: Schools and Detention Officer Courses</u>	12 NCAC 10B .0704*	37:13 NCR
<u>Pilot Course Presentation/Participation</u>	12 NCAC 10B .0714*	37:02 NCR
<u>Certification Forms</u>	12 NCAC 10B .2201	37:21 NCR

**PRIVATE PROTECTIVE SERVICES BOARD**

<u>Application for License and Trainee Permits</u>	14B NCAC 16 .0201*	37:18 NCR
<u>Company Business License</u>	14B NCAC 16 .0205*	37:19 NCR
<u>Trainee Permit Requirements</u>	14B NCAC 16 .0403*	37:18 NCR
<u>Training Requirements for Armed Licensees and Registrants</u>	14B NCAC 16 .0807*	37:18 NCR
<u>Definitions</u>	14B NCAC 16 .1101*	37:19 NCR
<u>Experience Requirements for a Close Personal Protection L...</u>	14B NCAC 16 .1501*	37:18 NCR
<u>Training Requirements for Close Personal Protection License</u>	14B NCAC 16 .1502*	37:18 NCR
<u>Experience Requirements for a Digital Forensics Examiner ...</u>	14B NCAC 16 .1601*	37:18 NCR
<u>Definitions</u>	14B NCAC 16 .1701*	37:18 NCR
<u>Consideration of Practical Experience</u>	14B NCAC 16 .1706*	37:18 NCR
<u>Enforcement</u>	14B NCAC 16 .1707*	37:18 NCR

**ENVIRONMENTAL MANAGEMENT COMMISSION**

<u>Particulates from Fuel Burning Indirect Heat Exchangers</u>	15A NCAC 02D .0503*	37:17 NCR
<u>Particulates from Hot Mix Asphalt Plants</u>	15A NCAC 02D .0506	37:17 NCR
<u>Sources Contributing to an Ambient Violation</u>	15A NCAC 02D .0532*	37:17 NCR
<u>Compliance Assurance Monitoring</u>	15A NCAC 02D .0614*	37:17 NCR
<u>Can Coating</u>	15A NCAC 02D .0918*	37:17 NCR
<u>Bulk Gasoline Plants</u>	15A NCAC 02D .0926*	37:17 NCR
<u>Bulk Gasoline Terminals</u>	15A NCAC 02D .0927*	37:17 NCR
<u>Gasoline Service Stations Stage 1</u>	15A NCAC 02D .0928*	37:17 NCR
<u>Gasoline Cargo Tanks and Vapor Collection Systems</u>	15A NCAC 02D .0932*	37:17 NCR
<u>Cargo Tank Leak Tester Report</u>	15A NCAC 02D .0960	37:17 NCR
<u>Offset Lithographic Printing and Letterpress Printing</u>	15A NCAC 02D .0961*	37:17 NCR
<u>Miscellaneous Industrial Adhesives</u>	15A NCAC 02D .0964*	37:17 NCR
<u>Compliance Schedules</u>	15A NCAC 02D .1403*	37:17 NCR
<u>Reporting Requirements</u>	15A NCAC 02D .1708*	37:17 NCR
<u>Activities Exempted from Permit Requirements</u>	15A NCAC 02Q .0102*	37:17 NCR
<u>Modifications</u>	15A NCAC 02Q .0706*	37:17 NCR

**WILDLIFE RESOURCES COMMISSION**

<u>Form and Contents of Petition</u>	15A NCAC 10A .0401*	37:22 NCR
<u>Action on Petition</u>	15A NCAC 10A .0402*	37:22 NCR
<u>Waiver</u>	15A NCAC 10A .1101	37:22 NCR
<u>Emergency Powers</u>	15A NCAC 10A .1201*	37:22 NCR

**EDUCATION, STATE BOARD OF**

<u>Remote Academies Hardware and Software Fees</u>	16 NCAC 06G .0601	37:24 NCR
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**REVENUE, DEPARTMENT OF**

<u>Registration and Returns</u>	17 NCAC 07B .0104	n/a G.S. 150B-1(d)(4)
<u>Certificates of Exemption Sales for Resale</u>	17 NCAC 07B .0106	n/a G.S. 150B-1(d)(4)
<u>Trade Discounts and Cash Discounts</u>	17 NCAC 07B .0108	n/a G.S. 150B-1(d)(4)
<u>Occasional and Isolated Sales</u>	17 NCAC 07B .0112	n/a G.S. 150B-1(d)(4)
<u>Property Transfers Between Divisions</u>	17 NCAC 07B .0117	n/a G.S. 150B-1(d)(4)
<u>Bankrupt's Liability</u>	17 NCAC 07B .0121	n/a G.S. 150B-1(d)(4)
<u>Manufacturer's Warranty and Dealer's Warranty; Adjustment...</u>	17 NCAC 07B .0801	n/a G.S. 150B-1(d)(4)
<u>Government Agricultural Offices</u>	17 NCAC 07B .4204	n/a G.S. 150B-1(d)(4)
<u>Typesetting</u>	17 NCAC 07B .4716	n/a G.S. 150B-1(d)(4)
<u>Accrual Basis</u>	17 NCAC 07B .4802	n/a G.S. 150B-1(d)(4)
<u>Cash Basis</u>	17 NCAC 07B .4803	n/a G.S. 150B-1(D)(4)

**OPTOMETRY, BOARD OF EXAMINERS IN**

<u>Beginning Practice; Relocating Practice</u>	21 NCAC 42B .0201*	37:24
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**TITLE 12 - DEPARTMENT OF JUSTICE**

**12 NCAC 10B .0604      TRAINEE ATTENDANCE**

(a) Each trainee enrolled in any accredited Detention Officer Certification Course shall attend all required class sessions pursuant to Rules .0601 and .0603 of this Subchapter.

(b) The school director may recognize valid reasons for class absences and may excuse a trainee from attendance at class sessions. Valid reasons to excuse attendance are instances of illness, accident, or emergency pursuant to .0605(a)(1) of this Subchapter. However, in no case may excused absences exceed 10 percent of the total required class hours for the course offering pursuant to Rules .0601 and .0603 of this Subchapter.

(c) If the school director grants an excused absence from a class session, he shall schedule make-up of the excused class session with a Commission certified instructor pursuant to 12 NCAC 10B .0704 and ensure the satisfactory completion of such class sessions during the current course presentation or in a subsequent course delivery as is permissible under 12 NCAC 10B .0605.

(d) A trainee shall not be eligible for administration of the State Comprehensive Examination pursuant to Rule .0606 of this Subchapter nor certification for successful course completion if the cumulative total of class absences, with accepted make-up class sessions as set out in Paragraph (c) of this Rule, exceeds 10 percent of the total required class hours of the accredited course offering pursuant to Rules .0601 and .0603 of this Subchapter and

shall be terminated from further course participation by the school director at the time of such occurrence.

(e) Where a trainee is enrolled in a program as required in 12 NCAC 10B .0601, attendance shall be 100 percent in order to receive a successful course completion.

*History Note: Authority G.S. 17E-4; 17E-7; Eff. January 1, 1989; Amended Eff. January 1, 1996; January 1, 1992; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6, 2018; Amended Eff. November 1, 2023.*

**12 NCAC 10B .0605      COMPLETION OF DETENTION OFFICER CERTIFICATION COURSE**

(a) Each trainee shall attend and satisfactorily complete a full course during a single scheduled delivery as set forth in Rule .0601 of this Section unless a waiver has been granted as set forth in Rule .0603 or .1901 of this Subchapter. Satisfactory completion is achieved by completion of the required topics, passing the end of block tests and passing the state examination as set out in Rule .0606 of this Section. This Rule does not prevent the instruction on local agency rules or standards; however, such instruction shall not be considered or endorsed by the Commission for purposes of certification. The Director shall issue written authorization for a

specified trainee's limited enrollment in a subsequent delivery of the same course where the school director provides evidence that:

- (1) The trainee attended and satisfactorily completed specified class hours and topics of the applicable Detention Officer Certification Course but through extended absence occasioned by illness, accident, or emergency was absent for more than 10 percent of the total class hours of the course offering;
- (2) The trainee was granted excused absences by the school director that did not exceed 10 percent of the total class hours for the course offering and the school director could not schedule appropriate make-up work during the current course offering as specified in Rule .0604(c) of this Section; or
- (3) The trainee participated in an offering of any Detention Officer Certification Course but had an identified deficiency in essential knowledge or skill in no more than three of the specified topic areas incorporated in the course content as set forth in Rule .0601(b) or .0603 of this Section.

(b) An authorization of limited enrollment in a subsequent course delivery shall not be granted by the Director unless in addition to the evidence required by Paragraph (a) of this Rule:

- (1) The trainee submits a written request to the Director, justifying the limited enrollment and certifying that the trainee's participation shall be accomplished pursuant to Paragraph (c) of this Rule; and
- (2) The school director of the previous school offering submits to the Director a certification of the particular topics and class hours attended and satisfactorily completed by the trainee during the original enrollment.

(c) An authorization of limited enrollment in a subsequent course delivery permits the trainee to attend an offering of any "Detention Officer Certification Course" commencing within 180 calendar days from the last date of trainee participation in prior course delivery, but only if the trainee's enrollment with current course participation can be accomplished within the period of the trainee's probationary certification.

- (1) The trainee need attend and satisfactorily complete only those portions of the course which were missed or identified by the school director as areas of trainee deficiency in the initial course participation.
- (2) Following authorized enrollment in the subsequent course offering, scheduled class attendance and participation with satisfactory achievement in the course as defined in Paragraph (a) of this Rule, the trainee shall be eligible for administration of the State Comprehensive Examination by the Commission.
- (3) A trainee shall be enrolled as a limited enrollee in only one subsequent course offering within the 180 calendar days from the last date of

trainee participation in prior course delivery. A trainee who fails to complete those limited portions of the course after one retest shall enroll in an entire delivery of the Detention Officer Certification Course.

(d) A trainee who is deficient in four or more subject-matter or topical areas at the conclusion of the course delivery shall complete an entire delivery of the Detention Officer Certification Course.

*History Note: Authority G.S. 17E-4; 17E-7; Eff. January 1, 1989; Amended Eff. February 1, 2014; August 1, 1998; January 1, 1996; January 1, 1993; January 1, 1992; January 1, 1991; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6, 2018; Amended Eff. November 1, 2023.*

**12 NCAC 10B .0606 COMP WRITTEN EXAM – DETENTION OFFICER CERTIFICATION COURSE**

(a) At the conclusion of a school's offering of any Detention Officer Certification Course, an authorized representative of the Commission shall administer a comprehensive written examination to each trainee who has satisfactorily completed all of the required course work pursuant to Rule .0605(a) of this Subchapter. A trainee shall not be administered the comprehensive written examination until such time as all required course work is successfully completed pursuant to Rule .0605(a) of this Subchapter.

(b) The examination shall be comprised of four units as specified in 12 NCAC 10B .0601(b).

(c) The Commission's representative shall submit to the school director within 10 days of the administration of the examination a report of the results of the test for each trainee examined.

(d) A trainee shall successfully complete the comprehensive written examination upon achieving a minimum of 70 percent correct answers on each of the four units as prescribed in 12 NCAC 10B .0601(b).

(e) A trainee who has complied with Rule .0604(e) of this Subchapter in a scheduled delivery of any Detention Officer Certification Course and has demonstrated satisfactory competence in each required motor-skill or performance area of the course curriculum but has failed to achieve the minimum score of 70 percent on any of the four units of the Commission's comprehensive written examination may request the Director to authorize a re-examination of the trainee in those units for which he or she has failed to make a passing score of 70 percent as follows:

- (1) A trainee's request for re-examination shall be made in writing on the Commission's form within 30 days after the original examination and shall be received by the Division before the expiration of the trainee's probationary certification as a detention officer.
- (2) The trainee's request for re-examination shall include the favorable recommendation of the school director who administered the trainee's Detention Officer Certification Course.

- (3) A trainee shall have only one opportunity for re-examination and shall satisfactorily complete the subsequent unit examination in its entirety within 90 days after the original examination.
- (4) A trainee shall be assigned in writing by the Division a place, time, and date for re-examination.
- (5) Should the trainee on re-examination not achieve the prescribed minimum score of 70 on the unit re-examination, the trainee must enroll and successfully complete the unit(s) he or she failed upon re-examination in a subsequent course offering within 180 days of the second failure before further examination may be permitted. The trainee's failure to complete the course offering within 180 days shall require the trainee to complete an entire delivery of the Detention Officer Certification Course.

*History Note: Authority G.S. 17E-4; 17E-7; Eff. January 1, 1989; Amended Eff. August 1, 2011; August 1, 2002; January 1, 1996; January 1, 1994; January 1, 1992; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6, 2018; Amended Eff. November 1, 2023.*

**12 NCAC 10B .0607 SATISFACTION OF MINIMUM TRAINING REQUIREMENTS**

In order to satisfy the minimum training requirements for certification as a detention officer, a trainee shall:

- (1) achieve a score of 70 percent correct answers on the Commission-administered comprehensive written examination; and
- (2) demonstrate successful completion of an accredited offering of any Detention Officer Certification Course as shown by the certification of the school director.

*History Note: Authority G.S. 17E-4; 17E-7; Eff. January 1, 1989; Amended Eff. January 1, 1996; January 1, 1992; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6, 2018; Amended Eff. November 1, 2023.*

**12 NCAC 10B .0704 RESPONSIBILITIES: SCHOOLS AND DETENTION OFFICER COURSES**

(a) In planning, developing, coordinating, and delivering any commission-certified Detention Officer Certification Courses, the school shall:

- (1) Formalize and schedule the course curriculum in accordance with the curriculum standards established by the rules in this Chapter.
  - (A) Any Detention Officer Certification Course shall be presented with a minimum of 40 hours of instruction each week during consecutive calendar weeks until course

requirements are completed, with the exception of weeks in which there are regularly scheduled holidays pursuant to G.S. 103-4.

- (B) Upon written request by the school delivering a class, the Director shall grant a waiver of the minimum hours requirement to that particular delivery of the class when illness, adverse weather, staffing shortages at the school or law enforcement agency employing the students or hosting the course, a declared state of emergency, incident requiring an emergency response by law enforcement, or riot prevent students from attending class or the school from staffing instructors for the class for 40 hours of instruction a week.

- (2) Select and schedule instructors who are certified by the Commission under 12 NCAC 10B .0901 through 12 NCAC 10B .0909. The selecting and scheduling of instructors is subject to special requirements as follows:

- (A) No single instructor may be scheduled to instruct more than 35 percent of the total hours of the curriculum during any Detention Officer Certification Course delivery except as set forth in Part (a)(2)(B) of this Rule.
- (B) Where the school submits in writing to the Director of the Division a showing of exceptional or emergency circumstances, the Director of the Division shall grant written approval for the expansion of the individual instructional limitation. Emergencies justifying an instructor to teach more than 35 percent of a Detention Officer Certification Course are situations when illness, accident, or other exceptional circumstances make it unfeasible to staff the class with other certified instructors.
- (C) The appropriate number of instructors for specific topic areas shall be scheduled as required in 12 NCAC 10B .0703.

- (3) Provide each instructor with a Commission-approved course outline.
- (4) Review each instructor's lesson plans and other instructional materials for conformance to the rules in this Subchapter and to minimize repetition and duplication of subject matter.
- (5) Arrange for the availability of audiovisual aids and materials, publications, facilities and equipment for training.
- (6) Not less than 30 days before commencing delivery of the course, submit to the

Commission a Pre-Delivery Report of Training Course Presentation (Form F-7A) that shall contain information on the course delivery location, school director, class schedule, anticipated date of the State Comprehensive Exam, and any planned instructional hours in addition to the minimum requirements along with the following attachments:

- (A) A comprehensive course schedule showing the arrangement of topical presentations and proposed instructional assignments;
  - (B) A copy of any rules, regulations, and requirements for the school and, when appropriate, completed applications for certification of instructors. The Director shall review the submitted Pre-Delivery Report together with all attachments to ensure that the school is in compliance with all Commission rules; if the school's rules are found to be in violation, the Director shall notify the school of any deficiency, and approval shall be withheld until all matters are in compliance with the Commissions' rules.
- (7) Have probationary instructors evaluated by an instructor certified pursuant to 12 NCAC 10B .0905 or certified as a general instructor pursuant to 12 NCAC 09B .0301 using Form F-16. If a Limited Lecturer is evaluated during the practical portion of a block of instruction, the school must designate an instructor certified to instruct the practical portion of the block of instruction to evaluate the instructor using Form F-16. These evaluations on Form F-16 shall be submitted to the Division at the conclusion of each course delivery. Based on the evaluation referenced in 12 NCAC 10B .0905(b)(1), the school shall recommend approval or denial of requests for Detention Officer Instructor Certification, Limited Lecturer Certification, or Professional Lecturer Certification. The observations shall ensure the instructor is using the Instructional Systems Design model, as taught in Criminal Justice Instructor Training set out in 12 NCAC 09B .0209, and that the delivery follows the training objectives in the commission-approved curriculum. For each topic area, the designee's evaluation shall be based on the course delivery observations, the instructor's use of the approved lesson plan, and the results of student evaluations of the instructor.
- (8) Have all other instructors evaluated by an instructor certified pursuant to 12 NCAC 10B .0905 or certified as a general instructor pursuant to 12 NCAC 09B .0301 using Form F-16. If a Limited Lecturer is evaluated during the

practical portion of a block of instruction, the school must designate an instructor certified to instruct the practical portion of the block of instruction to evaluate the instructor using Form F-16. These evaluations on Form F-16 shall be submitted to the Division at the conclusion of each course delivery. The observations shall ensure the instructor is using the Instructional Systems Design model, as taught in Criminal Justice Instructor Training set out in 12 NCAC 09B .0209, and that the delivery follows the training objectives in the commission-approved lesson plan. For each topic area, the designee's evaluation shall be based on the course delivery observations, the instructor's use of the approved lesson plan, and the results of student evaluations of the instructor.

- (9) Ensure that any designated certified instructor who is evaluating the instructional presentation of another, holds certification in the same instructional topic area as that being taught.
- (10) Administer tests at the end of each topic area as specified in 12 NCAC 10B .0601 during the course delivery.
- (11) Maintain supervision, direction, and control over the performance of all persons to whom any portion of the planning, development, presentation, or administration of a course has been assigned.
- (12) Administer all course work pursuant to 12 NCAC 10B .0606.
- (13) Submit to the Commission a Post-Delivery Report of Training Course Presentation (Form 7-B), which shall contain information on the sponsoring agency, course beginning and end date, and deviations from the planned course delivery as specified on Form 7-A, within 10 days of receiving the Commission's Report of Examination Scores.

(b) In addition to the requirements in Paragraph (a) of this Rule, the school shall designate a point of contact who shall be available to students and Division staff at all times during course delivery by telephone or other means. Available means that the point of contact may be contacted at any time of day or night by students, school personnel, or division staff and shall return the call or other means of communication within 12 hours of contact if initial contact is not successful. The means, and applicable numbers, shall be filed with the commission-certified training delivery site pursuant to Rule .0703(c)(3) of this Subchapter and the Division prior to the beginning of a scheduled course delivery.

(c) Forms:

- (1) Form F-7A and F-7A-T, Pre-Delivery Report of Training Course Presentation, is completed by the institution or agency delivering Detention Officer and Telecommunicator Training Courses and consists of information on the course delivery location, school director, class schedule, anticipated date of the State Comprehensive Exam, and any planned

- instructional hours exceeding the minimum requirements. Form F-7A is utilized for Detention Officer courses and Form F-7A-T is utilized for Telecommunicator courses.
- (2) Form F-7B and F-7B-T, Post-Delivery Report of Training Course Presentation, is completed by the institution or agency delivering Detention Officer and Telecommunicator Training Courses and consists of information on any substitutions of instructors as originally reported on the Pre-Delivery Report, any trainees who were not recommended for the state exam due to withdrawal or deficiencies, and the students who participated in and completed the course. Form F-7B is utilized for Detention Officer courses and Form F-7B-T is utilized for Telecommunicator courses.
- (3) Form F-16, Criminal Justice Instructor Evaluation, is completed by the Certified School Director and In-Service Coordinator of the school and consists of a rating of instructional ability, student participation, and presentation of the lesson plan by the Instructor.

- (1) Form F-1, Medical History Statement, is completed by an applicant and consists of the applicant's medical information including medication, allergies, and immunizations, present and past physical conditions, injuries, diseases, or operations.
- (2) Form F-2, Medical Examination Report, is a form provided to the examining physician to record the results of the applicant's medical examination. The form consists of information about the applicant's vision, hearing, cardiovascular and circulatory health, urinalysis, TB skin test, other medical conditions relevant to the applicant's physical fitness to perform the duties of a justice officer, biographical information about the applicant, and the medical professional's recommendation and concerns as to an applicant's physical fitness to perform the duties of a justice officer.
- (3) Form F-3, the Personal History Statement, is completed by the applicant and consists of information regarding the applicant's work, residential, military, and criminal history; financial condition; and references.
- (4) Form F-8, the Mandated Background Investigation Form, is completed by an agency's background investigator and consists of the applicant's biographical data, family data, scholastic data, employment data, criminal history, interviews and references, and a summary of the background investigator's findings.
- (5) Form F-4 and F-4T, Report of Appointment, is completed by the reporting agency for the appointment of justice officers and shall contain a checklist indicating the applicant's progress toward completing the requirements for certification; the applicant's appointment date, position title, and status; the applicant's contact information; and prior certification history. The F-4 form is utilized for appointments as a deputy sheriff or detention officer. The form F-4T is utilized for appointments as a telecommunicator.
- (6) Form F-6 and F-6R, Professional Certificate/Service Award, consists of information regarding the education, training, and experience qualifying the applicant for various levels of professional recognition under the Sheriffs' Education and Training Standards Commission's Professional Certificate Program. The F-6 form is utilized for full-time justice officers and the F-6R form is utilized for reserve justice officers.
- (7) Form F-7 and F-7T, Request for Certification, is completed by institutions and agencies requesting certification to deliver Detention Officer and Telecommunicator Courses. The form consists of information regarding the

*History Note: Authority G.S. 17E-4; Eff. January 1, 1989; Amended Eff. January 1, 2009; January 1, 2006; January 1, 2005; August 1, 1998; January 1, 1996; January 1, 1994; January 1, 1992; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6, 2018; RRC Objection July 21, 2022 and rule returned to agency on September 27, 2022; Eff. November 1, 2023.*

**12 NCAC 10B .0714 PILOT COURSE PRESENTATION/PARTICIPATION**

- (a) When the Commission approves the development of a new course or the development of a new version of an existing course, the Commission shall designate a course developer. The developer shall submit pilot curriculum for Commission approval. The developer shall conduct offerings of the Commission approved pilot course. The schools and instructors utilized in the pilot course offering shall be in compliance with Sections .0800 and .0900 of this Subchapter.
- (b) "Pilot Course" means those courses approved by the Commission to develop new training course curricula.
- (c) Individuals who complete such a Commission approved pilot course offering shall be in compliance with Sections .0600, and .1300 of this Subchapter.

*History Note: Authority G.S. 17E-7; Eff. November 1, 2023.*

**12 NCAC 10B .2201 CERTIFICATION FORMS**

- (a) The following are Commission approved forms to be used by agencies in making reports, applications, or requests for certification of justice officers:



- institution name, institution or agency head, school director, and facilities. Form F-7 is used when requesting certification to deliver Detention Officer courses and Form F-7T is used when requesting certification to deliver Telecommunicator courses.
- (8) Form F-7A and F-7A-T, Pre-Delivery Report of Training Course Presentation, is completed by the institution or agency delivering Detention Officer and Telecommunicator Training Courses and consists of information on the course delivery location, school director, class schedule, anticipated date of the State Comprehensive Exam, and any planned instructional hours exceeding the minimum requirements. Form F-7A is utilized for Detention Officer courses and Form F-7A-T is utilized for Telecommunicator courses.
- (9) Form F-7B and F-7B-T, Post-Delivery Report of Training Course Presentation, is completed by the institution or agency delivering Detention Officer and Telecommunicator Training Courses and consists of information on any substitutions of instructors as originally reported on the Pre-Delivery Report, any trainees who were not recommended for the state exam due to withdrawal or deficiencies, and the students who participated in and completed the course. Form F-7B is utilized for Detention Officer courses and Form F-7B-T is utilized for Telecommunicator courses.
- (10) Form F-9 and F-9T, Change in Status, is completed by the employing agency and consists of any change in status for justice officers including full-time or part-time status, active or inactive status, changes to identifying information, and changes to firearms status. Form F-9 is utilized for any change in status for justice officers appointed as a deputy sheriff or detention officer. Form F-9T is utilized for any change in status for a justice officer appointed as a telecommunicator.
- (11) Form F-9A, Firearms Qualification Record, is completed by the employing agency to record the annual In-Service Firearms Training and Qualifications for justice officers who are authorized by the Sheriff to carry a shotgun, rifle, automatic weapon, or handgun. The form consists of training and qualification scores completed by the officer.
- (12) Form F-16, Criminal Justice Instructor Evaluation, is completed by the Certified School Director and In-Service Coordinator of the school and consists of a rating of instructional ability, student participation, and presentation of the lesson plan by the Instructor.
- (13) Form F-20, School Resource Officer Certification, is completed by an employing agency requesting certification of a justice officer as a School Resource Officer. The form consists of the officer's name, date of birth, name of agency and address, date awarded general certification, completion date of School Resource Officer training, and date assigned as a School Resource Officer.
- (14) Form I-2 and I-2-T, Request for Instructor Certification, is completed by an applicant for certification as an Instructor to deliver Detention Officer and Telecommunicator courses. The form consists of information about the applicant's experience and qualifications. Form I-2 is utilized by an applicant for certification as an Instructor to deliver Detention Officer courses and Form I-2-T is utilized by an applicant for certification as an Instructor to deliver Telecommunicator courses.
- (b) All forms contained in this Rule may be accessed on the agency's website at <http://ncdoj.gov/law-enforcement-training/sheriffs/all-commission-forms-publications/>.

*History Note: Authority G.S. 17E-4; 17E-7; Eff. April 1, 2023; Amended Eff. November 1, 2023.*

**TITLE 14B - DEPARTMENT OF PUBLIC SAFETY**

**14B NCAC 16 .0201 APPLICATION FOR LICENSE AND TRAINEE PERMITS**

- (a) Each applicant for a license or trainee permit shall submit an online application on the website provided by the Board. The online application shall be accompanied by:
- (1) electronic submission of fingerprints from a Live Scan or similar system approved by the State Bureau of Investigations or one set of classifiable fingerprints on an applicant fingerprint card that shall be mailed separately to the Board's office;
  - (2) one head and shoulders digital photograph of the applicant in JPG, JPEG, or PNG format of sufficient quality for identification, taken within six months prior to online application and submitted by uploading the photograph online with the application submission;
  - (3) a statement of the results of a statewide criminal history records search by the reporting service designated by the Board pursuant to G.S. 74C-8.1(a) for each state where the applicant has resided within the preceding 60 months;
  - (4) the applicant's non-refundable application fee, along with a four dollar (\$4.00) convenience fee and a separate credit card transaction fee;
  - (5) the actual cost charged to the Private Protective Services Board by the State Bureau of Investigation to cover the cost of criminal record checks performed by the State Bureau of

Investigation, collected online by the Private Protective Services Board;

- (6) an Equifax credit check run within 30 days of the license application submission date, which will be submitted to the Board's investigator during the application process; and
- (7) five letters attesting to the good character and reputation of the applicant using the online character letter submission process.

(b) Applications for trainee permits shall be accompanied by a notarized statement on a form provided by the Board and signed by the applicant and his or her prospective supervisor, stating that the trainee applicant shall at all times work with and under the direct supervision of that supervisor and the form shall be uploaded as part of the online application process.

(c) Private investigator and digital forensics examination trainees applying for a license shall make available for inspection a log of experience on a form provided by the Board as required by Rule .0403 of this Chapter.

(d) Each applicant must upload evidence of high school graduation either by diploma, G.E.D. certificate, or other proof.

(e) Each applicant for a license shall meet personally with either a Board investigator, the Screening Committee, the Director, or another Board representative designated by the Director prior to being issued a license. The applicant shall discuss the provisions of G.S. 74C and the administrative rules in this Chapter during the personal meeting. The applicant shall sign a form provided by the Board indicating that he or she has reviewed G.S. 74C and the administrative rules in this Chapter with the Board's representative. During a national or State declared state of emergency that restricts or prohibits travel, the personal meeting requirement may be waived if requested by the applicant in favor of alternative means of communication.

*History Note: Authority G.S. 74C-2; 74C-5; 74C-8; 74C-8.1; 74C-12;*

*Eff. June 1, 1984;*

*Amended Eff. May 1, 2012; July 1, 2011; August 1, 1998; December 1, 1995; July 1, 1987; December 1, 1985;*

*Transferred and Recodified from 12 NCAC 07D .0201 Eff. July 1, 2015;*

*Amended Eff. November 1, 2017;*

*Readopted Eff. March 1, 2020;*

*Emergency Amendment Eff. May 6, 2020;*

*Temporary Amendment Eff. July 24, 2020;*

*Temporary Amendment Expired May 14, 2021;*

*Amended Eff. January 1, 2022; July 1, 2021;*

*Temporary Amendment Eff. April 28, 2023;*

*Amended Eff. November 1, 2023.*

**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 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. A management position means a position which manages established divisions or subdivisions of the firm, association or corporation and directs the work of one or more supervisors, has the authority to hire, reward, discipline or discharge employees, and may also provide suggestions for changes in policy to senior executives with policy-making authority. 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 principal 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 if it is determined that the suspension was due to intentional disregard of the law or inaction.

*History Note: Authority G.S. 74C-2(a); 74C-5;*

*Eff. April 1, 1993;*

*Amended Eff. February 1, 1995;*

*Transferred and Recodified from 12 NCAC 07D .0205 Eff. July 1, 2015;*

*Readopted Eff. March 1, 2020;*

*Amended Eff. November 1, 2023.*

**14B NCAC 16 .0403      TRAINEE PERMIT REQUIREMENTS**

- (a) In addition to the requirements of Section .0200 of this Chapter, applicants for a trainee permit in private investigation, electronic countermeasures, or digital forensics examination shall be directly supervised by a licensee and that supervisor shall be responsible for the training and other professional activities of the trainee.
- (b) Trainees who wish to apply for a license must submit an application to the Board in accordance with Rule .0201 of this Chapter.
- (c) Private investigator, electronic countermeasures, or digital forensics examination trainees shall maintain a log on a form provided by the Board on its website as evidence of which sets forth the case number, date, work or training activity and the number of hours. The log shall be signed and dated by both the trainee and the sponsor. This log must be available for inspection by Board staff when applying for a license.
- (d) Any request for renewal of a trainee permit or for issuance of a license shall be accompanied by an evaluation report of the trainee's performance on a form provided by the Board on its website and submitted by the trainee's supervisor.

*History Note: Authority G.S. 74C-2; 74C-5; Eff. June 1, 1984; Amended Eff. December 1, 1985; Transferred and Recodified from 12 NCAC 07D .0403 Eff. July 1, 2015; Readopted Eff. August 1, 2020; Temporary Amendment Eff. April 28, 2023; Amended Eff. November 1, 2023.*

**14B NCAC 16 .0807      TRAINING REQUIREMENTS FOR ARMED LICENSEES AND REGISTRANTS**

- (a) Applicants for an armed security guard firearm registration permit shall first complete the basic unarmed security guard training course set forth in Rule .0707 of this Chapter.
- (b) Private investigator, close personal protection, or any other licensees applying for an armed permit shall first complete a training course consisting of the courses set forth in Rule .0707(a)(1) and (2) of this Chapter.
- (c) Applicants for an armed security guard firearm registration permit shall complete a basic training course for armed security guards which consists of at least 20 hours of classroom instruction including:
  - (1) legal limitations on the use of handguns and on the powers and authority of an armed security guard, including familiarity with rules and regulations relating to armed security guards (minimum of four hours);
  - (2) handgun safety, including range firing procedures (minimum of one hour);
  - (3) handgun operation and maintenance (minimum of three hours);
  - (4) handgun fundamentals (minimum of eight hours); and
  - (5) night firing (minimum of four hours).

Subparagraph (c)(2), "operation" under Subparagraph (c)(3), and Subparagraph (c)(4) of this Rule shall be completed prior to the applicant's participation in range firing.

- (d) Applicants for either an armed licensee permit or an armed security guard firearm registration permit shall attain a score of at least 80 percent accuracy on a firearms range qualification course established by the Board and the Secretary of Public Safety, a copy of which is on file in the Director's office, once in three consecutive attempts. Should a student fail to attain a score of 80 percent accuracy, the student shall be given a second opportunity to qualify once in three consecutive attempts on the course of fire the student did not pass. Failure to qualify after the second series of attempts shall require the student to repeat the entire basic training course for armed security guards. All attempts must take place within 20 days of the completion of the initial 20 hour course. For rifle qualification all shots shall be located on the target.
- (e) All training required by this Rule shall be administered by a certified trainer and the training required by Paragraph (c) of this Rule and the initial training for authorization for a rifle or shotgun shall be completed no more than 90 days prior to the date of application for the licensee permit or armed security guard firearm registration permit.
- (f) All applicants for an armed security guard firearm registration permit shall obtain training under the provisions of this Section using their duty weapon and their duty ammunition or ballistic equivalent ammunition, to include lead-free ammunition that meets the same point of aim, point of impact, and felt recoil of the duty ammunition, for all firearms.
- (g) No more than six new or renewal licensee permit or armed security guard applicants per one instructor shall be placed on the firing line at any one time during firearms range training.
- (h) Applicants for re-certification of an armed licensee permit or an armed security guard firearm registration permit shall complete the basic recertification training course for armed security guards that consists of at least four hours of classroom instruction and is a review of the requirements set forth in Subparagraphs (c)(1) through (c)(5) of this Rule. Subparagraph (c)(2), operation under Subparagraph (c)(3), and Subparagraphs (c)(4) and (5) of this Rule shall be reviewed prior to range firing; and however maintenance under Subparagraph (c)(3) may be reviewed after range firing. The recertification course is valid for 180 days after completion of the course. Applicants for recertification of a licensee permit or an armed security guard firearm registration permit shall also complete the requirements of Paragraph (d) of this Rule.
- (i) An armed guard registered with one company may be registered with a second company. The registration shall be considered "dual." The registration with the second company shall expire at the same time that the registration expires with the first company. An updated application shall be required to be submitted by the applicant, along with the digital photograph, updated criminal records checks, and a forty dollar (\$40.00) registration fee. If the guard's duty firearm for all companies is the same make, model, and caliber, then no additional firearms training shall be required. The licensee shall submit a letter stating the guard will be carrying the same make and model firearm. If the guard will be carrying a firearm of a different make and model, the licensee shall submit a letter to the Board advising of the

make, model, and caliber of the firearm the guard will be carrying and the guard shall be required to qualify at the firing range on both the day and night qualification course. The qualification score is valid for 180 days after completion of the course.

(j) To be authorized to carry a standard 12 gauge shotgun in the performance of his or her duties as an armed security guard, an applicant shall complete, in addition to the requirements of Paragraphs (a), (c), and (d) of this Rule, six hours of classroom training that shall include the following:

- (1) legal limitations on the use of shotgun (minimum of one hour);
- (2) shotgun safety, including range firing procedures (minimum of one hour);
- (3) shotgun operation and maintenance (minimum of one hour);
- (4) shotgun fundamentals (minimum of two hours); and
- (5) night firing (minimum of one hour).

Subparagraph (j)(2), "operation" under Subparagraph (j)(3), and Subparagraph (j)(4) of this Rule shall be completed prior to the applicant's participation in range firing.

(k) An armed security guard applicant may take the additional shotgun training at a time after the initial training in this Rule. If the shotgun training is completed at a later time, the shotgun certification shall run concurrent with the armed registration permit. In addition to the requirements set forth in Paragraph (j) of this Rule, applicants shall attain a score of at least 80 percent accuracy on a shotgun range qualification course established by the Board and the Secretary of Public Safety, a copy of which is on file in the Director's office.

(l) Applicants for shotgun recertification shall complete one hour of classroom training covering the topics set forth in Paragraph (j) of this Rule and shall also complete the requirements of Paragraph (d) of this Rule.

(m) To be authorized to carry a rifle in the performance of his or her duties as an armed security guard, an applicant shall complete, in addition to the requirements of Paragraphs (a), (c), and (d) of this Rule, 16 hours of classroom training which shall include the following:

- (1) legal limitations on the use of rifles (minimum of one hour);
- (2) rifle safety, including range firing procedures (minimum of one hour);
- (3) rifle operation and maintenance (minimum of two hours);
- (4) rifle fundamentals (minimum of ten hours); and
- (5) night firing (minimum two hours).

Subparagraph (m)(2), "operation" under Subparagraph (m)(3), and Subparagraph (m)(4) of this Rule shall be completed prior to the applicant's participation in range firing.

(n) The applicant shall pass a skills course that tests each basic rifle skill and the test of each skill shall be completed within three attempts.

(o) An applicant may take the additional rifle training at a time after the initial training in Subsection (c) of this Rule. If the rifle training is completed at a later time, the rifle certification shall run concurrent with the armed registration permit. In addition to the requirements set forth in Paragraphs (m) and (n) of this Rule, applicants shall attain a score of at least 80 percent accuracy on a

rifle range qualification course established by the Board and the Secretary of Public Safety, a copy of which is on file in the Director's office.

(p) Applicants for rifle recertification shall complete an additional one hour of classroom training covering the topics set forth in Paragraph (m) of this Rule and shall also complete the requirements of Paragraph (d) of this Rule.

(q) Upon written request, an applicant for an armed licensee permit or an armed security guard firearm registration permit who possesses a current firearms trainer certificate shall be given a licensee permit or registration permit that will run concurrent with the trainer certificate upon completion of an annual qualification with the applicant's duty firearms as set forth in Paragraph (d) of this Rule.

(r) An armed licensee or security guard is required to qualify annually both for day and night firing with his or her duty handgun, shotgun, and rifle, if applicable. If the licensee or security guard fails to qualify on any course of fire, the licensee or security guard shall not carry the firearm until such time as he or she meets the qualification requirements. Upon failure to qualify, the firearm instructor shall notify the licensee or security guard verbally that he or she is no longer authorized to carry the firearm and the firearm instructor shall notify the employer and the Private Protective Services Board staff in writing on the next business day.

(s) A firearm training certificate of an armed security guard remains valid even if the guard leaves the employment of one company for the employment of another. The range qualifications shall remain valid if the guard will be carrying a firearm of the same make, model, and caliber and no additional firearms training shall be required. The licensee shall submit a letter stating the guard will be carrying the same make and model firearm. If the guard will be carrying a firearm of a different make and model, the licensee shall submit a letter to the Board advising of the make, model, and caliber of the firearm the guard will be carrying and the guard shall be required to qualify at the firing range on both the day and night qualification course. The qualification score is valid for 180 days after completion of the course. However, nothing herein shall extend the period of time the qualification is valid.

*History Note: Authority G.S. 74C-5; 74C-9; 74C-13; Eff. June 1, 1984; Amended Eff. November 1, 1991; February 1, 1990; July 1, 1987; Temporary Amendment Eff. January 14, 2002; Amended Eff. October 1, 2013; October 1, 2010; June 1, 2009; February 1, 2006; August 1, 2002; Transferred and Recodified from 12 NCAC 07D .0807 Eff. July 1, 2015; Amended Eff. January 1, 2018; February 1, 2016; October 1, 2015; Readopted Eff. November 1, 2019; Amended Eff. January 1, 2023; February 1, 2022; Temporary Amendment Eff. April 28, 2023; Amended Eff. November 1, 2023.*

**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.
- (3) "Training Checklist" means the documents that shall state all areas of training and work that the Associate has performed. The sponsoring 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 sponsoring 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 upon request.
- (4) "Associate Log" means the documents maintained by the Associate which shall list each case the Associate has worked, the number

of hours spent on the case, and the type of work performed.

*History Note: Authority G.S. 74C-2(c); 74C-5(2); Eff. July 1, 1994; Transferred and Recodified from 12 NCAC 07D .1101 Eff. July 1, 2015; Readopted Eff. July 1, 2020; Amended Eff. November 1, 2023.*

**14B NCAC 16 .1501 EXPERIENCE REQUIREMENTS FOR A CLOSE PERSONAL PROTECTION LICENSE**

(a) In addition to the requirements of G.S. 74C-8 and Section .0200 of this Chapter, applicants for a close personal protection license shall:

- (1) establish three years of verifiable experience while conducting close personal protection services as set forth in G.S. 74C-3(a)(3a) with a private person, firm, association, or corporation within the last 10 years;
- (2) establish three years of verifiable experience while conducting close personal protection services as set forth in G.S. 74C-3(a)(3a) with any federal, state, county or municipal law enforcement agency, or other governmental agency within the last 10 years;
- (3) establish a military occupational specialty and two years of verifiable experience within the past five years in the U.S. Armed Forces while conducting close personal protection services as set forth in G.S. 74C-3(a)(3a) while serving in an official capacity; or
- (4) have completed a course in close personal protection approved by the Board given by a school specializing in close personal protection (or "executive protection") that consists of a minimum of 40 hours of actual classroom and practical instruction within the last two years as required by Rule .1502 of this Chapter.

(b) In addition to the requirements of Section .0200 of this Chapter, an applicant for a close personal protection license that is the spouse of an active duty member of the U.S. Armed Forces shall establish to the Board's satisfaction:

- (1) the spouse holds a current license, certification, or registration from another jurisdiction and the other jurisdiction's requirements are substantially equivalent to or exceed the Board's requirements; and
- (2) the spouse has two years verifiable experience within the past five years while conducting close personal protection as set forth in in G.S. 74C-3(a)(3a) while serving in an official capacity with any entity described in Paragraph (a) of this Rule.

*History Note: Authority G.S. 74C-5(2); 93B-15.1; Temporary Adoption Eff. April 28, 2023; Eff. November 1, 2023.*

**14B NCAC 16 .1502 TRAINING REQUIREMENTS FOR CLOSE PERSONAL PROTECTION LICENSE**

(a) Applicants for a close personal protection license who do not have the experience set forth in Rule .1501(a)(1) through (3) or (b)(1) and (2) shall complete a basic close personal protection (or "executive protection") training course approved by the Board within the previous 24 months. The course shall consist of a minimum of 40 hours of classroom and practical instruction including as a minimum:

- (1) Fundamentals of personal protection, including as a minimum mission planning, performing site surveys, route selection (primary, secondary, etc.), medical evacuation, walking formations (single, multiple, etc.), communications with protectees, and transitional movements (arrivals, departures, plan changes, hasty movements, etc.) – (minimum of 26 hours);
- (2) Practical exercises – (minimum of 12 hours); and
- (3) Legal Issues, including the rules applicable to each of the below blocks of instruction and this Section and North Carolina's laws on use of force, and the federal and State firearms law. The three hour unarmed guard block of instruction, set forth in 14B NCAC 16 .0707 if performing services unarmed, or the four hour armed guard block of instruction set forth in 14B NCAC 16 .0807(c)(1) if performing services armed taught by a certified instructor shall fulfill this requirement – (minimum of two hours).

(b) In addition to the minimum classroom and practical instruction required by Paragraph (a) of this Rule, the applicant must possess a basic first aid certificate from the American Red Cross and a valid CPR and AED certification from the American Red Cross, American Heart Association, American Safety and Health Institute, or National Safety Council.

(c) Subparagraph (a)(3) of this Rule may be conducted remotely as provided for by 14B NCAC 16 .0707(c).

*History Note: Authority G.S. 74C-5; Temporary Adoption Eff. April 28, 2023; Eff. November 1, 2023.*

**14B NCAC 16 .1601 EXPERIENCE REQUIREMENTS FOR A DIGITAL FORENSICS EXAMINER LICENSE**

(a) In addition to the requirements of Section .0200 of this Chapter, applicants for a Digital Forensic Examiner (D.F.E.) license shall:

- (1) establish three years of verifiable experience within the past five years conducting digital forensic examinations as defined by G.S. 74C-3(a)(5a) individually, or with any private company or federal, state, county or municipal agency;
- (2) hold a North Carolina private investigator license, or private investigator license from a state reciprocal with North Carolina, and have

completed a course of instruction consisting of not less than 40 hours of live classroom and practical instruction in digital forensics, and obtained certification from a certifying entity approved by the Board within the previous two years;

- (3) establish that the applicant has been qualified as an expert witness in an area of digital forensics in a court of law using the standard set forth by the United States Supreme Court in *Daubert v. Merrell Dow Pharmaceuticals, Inc.*, 509 U.S. 579 (1993), and its progeny cases, within the previous three years; or
- (4) establish a military occupational specialty and two years of verifiable experience conducting digital forensics examinations within the past five years in the U.S. Armed Forces.

(b) In addition to the requirements of Section .0200 of this Chapter, an applicant for a D.F.E. license that is the spouse of an active duty member of the U.S. Armed Forces shall establish to the Board's satisfaction:

- (1) the spouse holds a current license, certification, or registration from another jurisdiction and the other jurisdiction's requirements are substantially equivalent to or exceed the Board's requirements; and
- (2) the spouse has two years of verifiable experience conducting digital forensics examinations within the past five years.

(c) Using the formula in Rule .0204(d) of this Chapter, the Board shall give credit toward the experience requirements set forth in Paragraphs (a) and (b) of this Rule as follows:

- (1) An applicant shall receive 400 hours of experience credit for an associate's degree. The Board shall grant up to 100 additional hours if the applicant can demonstrate that further training or course-work related to digital forensics examination was received while obtaining the associate's degree.
- (2) An applicant shall receive 800 hours of experience credit for a bachelor's degree. The Board shall grant up to 200 additional hours if the applicant can demonstrate that further training or course-work related to digital forensics examination was received while obtaining the bachelor's degree.
- (3) An applicant shall receive 1,200 hours of experience credit for a graduate degree. The Board shall grant an additional 300 additional hours if the applicant can demonstrate that further training or course-work related to digital forensics examination was received while obtaining the graduate degree.

*History Note: Authority G.S. 74C-5; 93B-15.1; Temporary Adoption Eff. April 28, 2023; Eff. November 1, 2023.*

**14B NCAC 16 .1701 DEFINITIONS**

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

- (1) "Digital Forensics Examiner Associate" means an individual training to become a digital forensics examiner licensee. A Digital Forensics Examiner Associate may also be referred to as a "trainee" in these Rules. A Digital Forensics Examiner Associate must complete three training levels as set out in this Section.
- (2) "One-on-one Supervision" means person-to-person contact whereby the licensee is personally and directly supervising or training the Associate. The training licensee must be the sponsoring digital forensics examiner licensee. The Digital Forensics Examiner Associate may not subcontract his or her employment to another licensee. However, the sponsoring digital forensics examiner licensee may subcontract the Digital Forensics Examiner Associate if the sponsor obtains prior written approval from the Board's Director by showing that the Digital Forensics Examiner Associate will receive an educational benefit from the subcontract employment and the Associate will receive one-on-one supervision from another licensee.
- (3) "Training Checklist" means the documents that shall state all areas of training and work that the Associate has performed. The sponsor 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 sponsor at the end of each reporting period. In the event the Associate transfers employment to another licensee, the Associate must provide the new sponsor with the training checklist and the new sponsor 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 digital forensics examiner license. The Board shall have immediate access to the training checklist upon request.
- (4) "Associate Log" means the documents maintained by the Associate which shall list each case the Associate has worked, the number of hours spent on the case, and the type of work performed.

*History Note: Authority G.S. 74C-2(c); 74C-5(2); Temporary Adoption Eff. April 28, 2023; Eff. November 1, 2023.*

**14B NCAC 16 .1706 CONSIDERATION OF PRACTICAL EXPERIENCE**

(a) The Board shall consider any practical experience in computer science or digital forensics examination gained by the applicant prior to the application date. The Board shall not consider experience claimed by the applicant if the experience was gained after December 1, 2022:

- (1) by contracting private protective services to another person, firm, association, or corporation while not in possession of a valid private protective services license; or
- (2) when employed by a company contracting private protective services to another person, firm, association, or corporation while the company is not in possession of a valid private protective services license.

(b) The Board shall consider any educational experience referred to in Rule .1705 of this Section.

*History Note: Authority G.S. 74C-5(2); Temporary Adoption Eff. April 28, 2023; Eff. November 1, 2023.*

**14B NCAC 16 .1707 ENFORCEMENT**

A violation of this Chapter or G.S. Chapter 74C by the Associate may be deemed by the Board to be a violation by the sponsor if the violation is found to be the result of a failure to supervise which resulted in the violation and may subject the sponsor to an enforcement action pursuant to G.S. 74C-12(a) or G.S. 74C-17(c).

*History Note: Authority G.S. 74C-2(c); 74C-5(2); 74C-12; Temporary Adoption Eff. April 28, 2023; Eff. November 1, 2023.*

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**TITLE 15A - DEPARTMENT OF ENVIRONMENTAL QUALITY**

**15A NCAC 02D .0503 PARTICULATES FROM FUEL BURNING INDIRECT HEAT EXCHANGERS**

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

- (1) "Functionally dependent" means that structures, buildings, or equipment are interconnected through common process streams, supply lines, flues, or stacks.
- (2) "Indirect heat exchanger" means any equipment used for the alteration of the temperature of one fluid by the use of another fluid in which the two fluids are separated by an impervious surface such that there is no mixing of the two fluids.
- (3) "Plant site" means any single or collection of structures, buildings, facilities, equipment, installations, or operations that:

- (A) are located on one or more adjacent properties;
- (B) are under common legal control; and
- (C) are functionally dependent in their operations.

- (b) The definition contained in Subparagraph (a)(3) of this Rule does not affect the calculation of the allowable emission rate of any indirect heat exchanger permitted prior to April 1, 1999.
- (c) The emissions of particulate matter from the combustion of a fuel that are discharged from any indirect heat exchanger through a stack or chimney into the atmosphere shall not exceed:

Maximum Heat Input In Million Btu/Hour	Allowable Emission Limit For Particulate Matter In lb/Million Btu
Up to and Including 10	0.60
100	0.33
1,000	0.18
10,000 and Greater	0.10

For a heat input between any two consecutive heat inputs stated in the table set forth in this Paragraph, the allowable emissions of particulate matter shall be calculated by the equation  $E = 1.090 * Q^{0.2594}$ . "E" equals the allowable emission limit for particulate matter in lb/million Btu. "Q" equals the maximum heat input in million Btu/hour.

(d) This Rule applies to installations in which fuel is burned for the purpose of producing heat or power by indirect heat transfer. For the purpose of this Rule, the term "fuels" includes all fuels that generate particulate matter emissions from indirect heat exchangers excluding wood and refuse not burned as a fuel. When any refuse, products, or by-products of a manufacturing process are burned as a fuel rather than refuse, or in conjunction with any fuel, this allowable emission limit shall apply.

(e) For the purpose of this Rule, the maximum heat input shall be the total heat content of all fuels which are burned in a fuel burning indirect heat exchanger, of which the combustion products are emitted through a stack or stacks. The sum of maximum heat input of all fuel burning indirect heat exchangers at a plant site which are in operation, under construction, or permitted pursuant to 15A NCAC 02Q, shall be considered as the total heat input for the purpose of determining the allowable emission limit for particulate matter for each fuel burning indirect heat exchanger. Fuel burning indirect heat exchangers constructed or permitted after February 1, 1983, shall not change the allowable emission limit of any other fuel burning indirect heat exchanger whose allowable emission limit has previously been set. The removal of a fuel burning indirect heat exchanger shall not change the allowable emission limit of any other fuel burning indirect heat exchanger whose allowable emission limit has previously been established. However, for any fuel burning indirect heat exchanger constructed after, or in conjunction with, the removal of another fuel burning indirect heat exchanger at the plant site, the maximum heat input of the removed fuel burning indirect heat exchanger shall no longer be considered in the determination of the allowable emission limit of any fuel burning indirect heat exchanger constructed after or in conjunction with the removal. For the purposes of this Paragraph, refuse not burned as a fuel and wood shall not be considered a fuel. For residential facilities or institutions, such as military and educational, whose primary fuel burning capacity is for comfort heat, only those fuel burning indirect heat exchangers located in the same power plant or building or otherwise physically interconnected, such as common

flues, steam, or power distribution line, shall be used to determine the total heat input.

(f) The emission limit for fuel burning equipment that burns both wood and other fuels in combination, or for wood and other fuel burning equipment that is operated such that emissions are measured on a combined basis, shall be calculated by the equation  $E_c = [(EW)(Q_w) + (E_o)(Q_o)] / Q_t$ .

- (1)  $E_c$  = the emission limit for combination or combined emission source(s) in lb/million Btu.
- (2)  $E_w$  = plant site emission limit for wood only as determined pursuant to 15A NCAC 02D .0504 in lb/million Btu.
- (3)  $E_o$  = the plant site emission limit for other fuels only as determined by Paragraphs (a), (b) and (c) of this Rule in lb/million Btu.
- (4)  $Q_w$  = the actual wood heat input to the combination or combined emission source(s) in Btu/hr.
- (5)  $Q_o$  = the actual other fuels heat input to the combination or combined emission source(s) in Btu/hr.
- (6)  $Q_t = Q_w + Q_o$  and is the actual total heat input to combination or combined emission source(s) in Btu/hr.

*History Note: Authority G.S. 143-215.3(a)(1); 143-215.107(a)(5); Eff. February 1, 1976; Temporary Amendment Eff. March 8, 1994 for a period of 180 days or until the permanent rule is effective, whichever is sooner; Amended Eff. April 1, 1999; July 1, 1994; August 1, 1991; June 1, 1985; February 1, 1983; Readopted Eff. November 1, 2020; Amended Eff. November 1, 2023.*

**15A NCAC 02D .0506 PARTICULATES FROM HOT MIX ASPHALT PLANTS**

(a) The allowable emission rate for particulate matter resulting from the operation of a hot mix asphalt plant that are discharged from any stack or chimney into the atmosphere shall not exceed the level calculated with the equation

$$E = 4.9445(P)^{0.4376}$$



calculated to three significant figures, for process rates less than 300 tons per hour, where "E" equals the maximum allowable emission rate for particulate matter in pounds per hour and "P" equals the process rate in tons per hour. The allowable emission rate shall be 60.0 pounds per hour for process rates equal to or greater than 300 tons per hour.

(b) Visible emissions from stacks or vents at a hot mix asphalt plant shall not exceed 20 percent opacity when averaged over a six-minute period.

(c) All hot mix asphalt batch plants shall be equipped with a scavenger process dust control system for the drying, conveying, classifying, and mixing equipment. The scavenger process dust control system shall exhaust through a stack or vent and shall be operated and maintained in such a manner as to comply with Paragraphs (a) and (b) of this Rule.

(d) Fugitive non-process dust emissions shall be controlled by 15A NCAC 02D .0540.

(e) Fugitive emissions for sources at a hot mix asphalt plant not covered by Paragraphs (a) through (d) of this Rule shall not exceed 20 percent opacity averaged over six minutes.

*History Note: Authority G.S. 143-215.3(a)(1); 143-215.107(a)(5); Eff. February 1, 1976; Amended Eff. August 1, 2004; July 1, 1998; January 1, 1985; Readopted Eff. November 1, 2020; Amended Eff. November 1, 2023.*

**15A NCAC 02D .0532 SOURCES CONTRIBUTING TO AN AMBIENT VIOLATION**

(a) This Rule applies to new major stationary sources and major modifications to which 15A NCAC 02D .0531 does not apply and which would contribute to a violation of a national ambient air quality standard, but which would not cause a new violation.

(b) For the purpose of this Rule the definitions contained in Section II.A. of Appendix S of 40 CFR Part 51 shall apply.

(c) The Rule is not applicable to:

- (1) emission of a pollutant from a new or modified source located in an area designated as nonattainment for that pollutant in 40 CFR 81.334;
- (2) emission of pollutants for which the source or modification is not major;
- (3) emission of pollutants other than sulfur dioxide, PM2.5, nitrogen oxides, carbon monoxide, and PM10;
- (4) a new or modified source whose impact will not increase more than:
  - (A) 1.0 µg/m<sup>3</sup> of SO<sub>2</sub> on an annual basis;
  - (B) 5 µg/m<sup>3</sup> of SO<sub>2</sub> on a 24-hour basis;
  - (C) 25 µg/m<sup>3</sup> of SO<sub>2</sub> on a 3-hour basis;
  - (D) 0.3 µg/m<sup>3</sup> of PM2.5 on an annual basis;
  - (E) 1.2 µg/m<sup>3</sup> of PM2.5 on a 24-hour basis;
  - (F) 1.0 µg/m<sup>3</sup> of NO<sub>2</sub> on an annual basis;
  - (G) 0.5 mg/m<sup>3</sup> of carbon monoxide on an 8-hour basis;

- (H) 2 mg/m<sup>3</sup> of carbon monoxide on a one-hour basis;
- (I) 1.0 µg/m<sup>3</sup> of PM10 on an annual basis; or
- (J) 5 µg/m<sup>3</sup> of PM10 on a 24-hour basis at any locality that does not meet a national ambient air quality standard;

- (5) sources which are not major unless secondary emissions are included in calculating the potential to emit;
- (6) sources which are exempted by the provision in Section II.F. of Appendix S of 40 CFR Part 51;
- (7) temporary emission sources which will be relocated within two years; and
- (8) emissions resulting from the construction phase of the source.

(d) 15A NCAC 02Q .0102 is not applicable to any source to which this Rule applies. The owner or operator of the source shall apply for and receive a permit as required in 15A NCAC 02Q .0300 or .0500.

(e) To issue a permit to a new or modified source to which this Rule applies, the Director shall determine that the source will meet the following conditions:

- (1) The sources will emit the nonattainment pollutant at a rate no more than the lowest achievable emission rate;
- (2) The owner or operator of the proposed new or modified source has demonstrated that all major stationary sources in the State that are owned or operated by this person, or any entity controlling, controlled by, or under common control with this person, are subject to emission limitations and are in compliance, or on a schedule for compliance which is federally enforceable or contained in a court decree, with all applicable emission limitations and standards of this Subchapter which EPA has authority to approve as elements of the North Carolina State Implementation Plan for Air Quality; and
- (3) The source will satisfy one of the following conditions:
  - (A) The source will comply with 15A NCAC 02D .0531(i) when the source is evaluated as if it were in the nonattainment area; or
  - (B) The source will have an air quality offset, i.e., the applicant will have caused an air quality improvement in the locality where the national ambient air quality standard is not met by causing reductions in impacts of other sources greater than any additional impact caused by the source for which the application is being made. The emissions reductions creating the air quality offset shall be placed as a condition in the permit for the source reducing emissions. The requirements

of this Part may be waived for the following sources, as specified in Section IV.B of Appendix S to 40 CFR Part 51, incorporated as specified in Paragraph (g) of this Rule:

- (i) resource recovery facilities burning municipal solid waste; and
- (ii) sources that must switch fuels due to lack of adequate fuel supplies, or sources that are required to be modified as a result of EPA regulations where no exemption from such regulations is available to the source, if the permit applicant demonstrates that it made its best efforts to obtain sufficient air quality offsets to comply with this Part, the applicant has secured all available air quality offsets, and the applicant will continue to seek the necessary air quality offsets and apply them when they become available.

(f) At such time that a particular source or modification becomes a major stationary source or major modification solely by virtue of a relaxation in any enforceable limitation established after August 7, 1980, on the capacity of the source or modification to emit a pollutant, such as a restriction on hours of operation, then the provisions of this Rule shall apply to the source or modification as though construction had not yet begun on the source or modification.

(g) The version of the Code of Federal Regulations incorporated in this Rule is that as of July 1, 2019, at <https://www.govinfo.gov/content/pkg/CFR-2019-title40-vol2/pdf/CFR-2019-title40-vol2-part51-appS.pdf> and does not include any subsequent amendments or editions to the referenced material. The publication may be accessed free of charge.

*History Note: Authority G.S. 143-215.3(a)(1); 143-215.107(a)(5); 143-215.108(b); Eff. June 1, 1981; Temporary Amendment Eff. March 8, 1994 for a period of 180 days or until the permanent rule becomes effective, whichever is sooner; Amended Eff. July 1, 1994; December 1, 1993; December 1, 1992; October 1, 1989; Readopted Eff. November 1, 2020; Amended Eff. November 1, 2023.*

**15A NCAC 02D .0614 COMPLIANCE ASSURANCE MONITORING**

(a) General Applicability. Except as set forth in Paragraph (b) of this Rule, the requirements of this Rule shall apply to a pollutant-specific emissions unit, as defined in 40 CFR 64.1, at a

facility required to obtain a permit pursuant to 15A NCAC 02Q .0500 if the unit:

- (1) is subject to an emission limitation or standard for the applicable regulated air pollutant, or a surrogate thereof, other than an emission limitation or standard that is exempt pursuant to Subparagraph (b)(1) of this Rule;
  - (2) uses a control device to achieve compliance with any such emission limitation or standard; and
  - (3) has potential pre-control device emissions of the applicable regulated air pollutant that are equal to or greater than 100 percent of the amount, in tons per year, required for a source to be classified as a major source. For purposes of this Rule, "potential pre-control device emissions" means the same as "potential to emit" as defined in 40 CFR 64.1, except that emission reductions achieved by the applicable control device shall not be taken into account.
- (b) The following exemptions to this Rule shall apply.
- (1) Exempt emission limitations or standards. The requirements of this Rule shall not apply to any of the following emission limitations or standards:
    - (A) emission limitations or standards proposed by the Administrator of the Environmental Protection Agency after November 15, 1990, pursuant to section 111 or 112 of the federal Clean Air Act;
    - (B) stratospheric ozone protection requirements pursuant to Title VI of the federal Clean Air Act;
    - (C) Acid Rain Program requirements pursuant to sections 404, 405, 406, 407(a), 407(b), or 410 of the federal Clean Air Act;
    - (D) emission limitations or standards or other applicable requirements that apply solely under an emissions trading program approved under the rules of Subchapters 02D and 02Q of this Chapter and that are incorporated in a permit issued pursuant to 15A NCAC 02Q .0500;
    - (E) an emissions cap that is approved pursuant to the rules of Subchapters 02D and 02Q of this Chapter and incorporated in a permit issued pursuant to 15A NCAC 02Q .0500; or
    - (F) emission limitations or standards for which a permit issued pursuant to 15A NCAC 02Q .0500 specifies a continuous compliance determination method, as defined in 40 CFR 64.1. This exemption shall not apply if the applicable compliance method includes an assumed control device

emission reduction factor that could be affected by the actual operation and maintenance of the control device. Note: for example, a surface coating line controlled by an incinerator for which continuous compliance is determined by calculating emissions on the basis of coating records and an assumed control device efficiency factor based on an initial performance test. In this example, 15A NCAC 02D .0614 would apply to the control device and capture system, but not to the remaining elements of the coating line, such as raw material usage.

(2) Exemption for backup utility power emissions units. The requirements of this Rule shall not apply to a utility unit, as defined in 40 CFR 72.2, that is municipally-owned if the owner or operator provides documentation in a permit application submitted pursuant to 15A NCAC 02Q .0500 that:

(A) the utility unit is exempt from all monitoring requirements in 40 CFR Part 75, including the appendices thereto;

(B) the utility unit is operated for the sole purpose of providing electricity during periods of peak electrical demand or emergency situations and will be operated consistent with that purpose throughout the permit term. The owner or operator shall provide historical operating data and relevant contractual obligations to document that this criterion is satisfied; and

(C) the actual emissions from the utility unit, based on the average annual emissions over the last three calendar years of operation, or such shorter time period that is available for units with fewer than three years of operation, are less than 50 tons per year and are expected to remain so.

(c) For the purposes of this Rule, the definitions in 40 CFR 64.1 shall apply with the following exceptions:

- (1) "Applicable requirement" and "regulated air pollutant" shall have the same definition as in 15A NCAC 02Q .0103.
- (2) "Part 70 or 71 permit application" means an application, or any supplement to a previously submitted application, submitted by the owner or operator to obtain a permit under 15A NCAC 02Q .0500.
- (3) "Part 70 or 71 permit" means a permit issued under 15A NCAC 02Q .0500.
- (4) "Permitting authority" means the Division of Air Quality.

(d) The owner or operator subject to the requirements of this rule shall comply with these requirements:

- (1) 40 CFR 64.3, Monitoring Design Criteria;
- (2) 40 CFR 64.4, Submittal Requirements;
- (3) 40 CFR 64.5, Deadlines for Submittals;
- (4) 40 CFR 64.7, Operation of Approved Monitoring; and
- (5) 40 CFR 64.9, Reporting and Recordkeeping Requirements.

(e) The Division shall follow the procedures and requirements in 40 CFR Part 64.6, Approval of Monitoring, in reviewing and approving or disapproving monitoring plans and programs submitted under this Rule.

(f) Based on the result of a determination made pursuant to 40 CFR 64.7(d)(2), the Director may require the owner or operator to develop and implement a quality improvement plan. If a quality improvement plan is required, the quality improvement plan shall be developed and implemented according to the procedures and requirements of 40 CFR 64.8, Quality Improvement Plan (QIP) Requirements.

*History Note: Authority G.S. 143-215.3(a)(3); 143-215.65; 143-215.66; 143-215.107(a)(4); 143-215.107(a)(10); Eff. April 1, 1999; Amended Eff. January 1, 2009; Readopted Eff. November 1, 2019; Amended Eff. November 1, 2023.*

**15A NCAC 02D .0918 CAN COATING**

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

- (1) "End sealing compound" means a synthetic rubber compound that is coated onto can ends and functions as a gasket when the end is assembled on the can.
- (2) "Exterior base coating" means a coating applied to the exterior of a can to provide exterior protection to the metal and to provide background for the lithographic or printing operation.
- (3) "Interior base coating" means a coating applied by roller coater or spray to the interior of a can to provide a protective lining between the can metal and product.
- (4) "Interior body spray" means a coating sprayed on the interior of the can body to provide a protective film between the product and the can.
- (5) "Overvarnish" means a coating applied directly over ink to reduce the coefficient of friction, to provide gloss, and to protect the finish against abrasion and corrosion.
- (6) "Three-piece can side-seam spray" means a coating sprayed on the exterior and interior of a welded, cemented, or soldered seam to protect the exposed metal.
- (7) "Two-piece can exterior end coating" means a coating applied by roller coating or spraying to the exterior end of a can to provide protection to the metal.

(b) This Rule applies to volatile organic compound emissions from coating applicators and ovens of sheet, can, or end coating lines involved in sheet exterior and interior basecoat and overvarnish; two-piece can interior body spray; two-piece spray or roll coat can exterior; and three-piece can side-seam spray and end sealing compound operations.

(c) Unless the exception in Paragraph (d) of this Rule applies, emissions of volatile organic compounds from any can coating line subject to this Rule shall not exceed:

- (1) 4.5 pounds of volatile organic compounds per gallon of solids delivered to the coating applicator from sheet exterior and interior basecoat and overvarnish or two-piece can exterior basecoat and overvarnish operations;
- (2) 9.8 pounds of volatile organic compounds per gallon of solids delivered to the coating applicator from two and three-piece can interior body spray and two-piece spray or roll coat can exterior end operations;
- (3) 21.8 pounds of volatile organic compounds per gallon of solids delivered to the coating applicator from a three-piece can side seam spray operation; or
- (4) 7.4 pounds of volatile organic compounds per gallon of solids delivered to the coating applicator from end sealing compound operations.

(d) Any source that has controlled emissions pursuant to 15A NCAC 02D .0518(e) prior to July 1, 2000 and that has installed air pollution control equipment in accordance with an air quality permit pursuant to 15A NCAC 02Q .0300 or .0500 in order to comply with this Rule before December 1, 1989 may comply with the limits contained in this Paragraph instead of those contained in Paragraph (c) of this Rule. Emissions of volatile organic compounds from any can coating line subject to this Paragraph shall not exceed:

- (1) 2.8 pounds of volatile organic compounds per gallon of coating, excluding water and exempt compounds, delivered to the coating applicator from sheet exterior and interior basecoat and overvarnish or two-piece can exterior basecoat and overvarnish operations;
- (2) 4.2 pounds of volatile organic compounds per gallon of coating, excluding water and exempt compounds, delivered to the coating applicator from two and three-piece can interior body spray and two-piece can spray or roll coat exterior end operations;
- (3) 5.5 pounds of volatile organic compounds per gallon of coating, excluding water and exempt compounds, delivered to the coating applicator from a three-piece can side-seam spray operation; or
- (4) 3.7 pounds of volatile organic compounds per gallon of coating, excluding water and exempt compounds, delivered to the coating applicator from end sealing compound operations.

*History Note: Authority G.S. 143-215.3(a)(1); 143-215.107(a)(5); Eff. July 1, 1979; Amended Eff. July 1, 1996; July 1, 1991; December 1, 1989; January 1, 1985; Readopted Eff. November 1, 2020; Amended Eff. November 1, 2023.*

**15A NCAC 02D .0926 BULK GASOLINE PLANTS**

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

- (1) "Average daily throughput" means annual throughput of gasoline divided by 312 days per year.
- (2) "Bottom filling" means the filling of a cargo tank or stationary storage tank through an opening flush with the tank bottom.
- (3) "Bulk gasoline plant" means a gasoline storage and distribution facility with an average daily throughput of less than 20,000 gallons of gasoline and that typically receives gasoline from bulk terminals by cargo tank transport, stores it in tanks, and subsequently dispenses it via account cargo tanks to farms, businesses, and service stations.
- (4) "Bulk gasoline terminal" means a gasoline storage facility that typically receives gasoline from refineries primarily by pipeline, ship, or barge; delivers gasoline to bulk gasoline plants or to commercial or retail accounts primarily by cargo tank; and has an average daily throughput of greater than or equal to 20,000 gallons of gasoline.
- (5) "Cargo tank" means the storage vessels of freight trucks or trailers used to transport gasoline from sources of supply to stationary storage tanks of bulk gasoline terminals, bulk gasoline plants, gasoline dispensing facilities, and gasoline service stations.
- (6) "Gasoline" means any petroleum distillate having a Reid Vapor Pressure (RVP) of 4.0 psi or greater.
- (7) "Incoming vapor balance system" means a combination of pipes or hoses that create a closed system between the vapor spaces of an unloading cargo tank and a receiving stationary storage tank such that vapors displaced from the receiving stationary storage tank are transferred to the cargo tank being unloaded.
- (8) "Outgoing vapor balance system" means a combination of pipes or hoses that create a closed system between the vapor spaces of an unloading stationary storage tank and a receiving cargo tank such that vapors displaced from the receiving cargo tank are transferred to the stationary storage tank being unloaded.
- (9) "Splash filling" means the filling of a cargo tank or stationary storage tank through a pipe or hose whose discharge opening is above the surface level of the liquid in the tank being filled.

(10) "Submerged filling" means the filling of a cargo tank or stationary tank through a pipe or hose whose discharge opening is entirely submerged when the pipe normally used to withdraw liquid from the tank can no longer withdraw any liquid, or whose discharge opening is entirely submerged when the liquid level is six inches above the bottom of the tank.

(b) This Rule applies to the unloading, loading, and storage facilities of all bulk gasoline plants, and of all cargo tanks delivering or receiving gasoline at bulk gasoline plants except stationary storage tanks with capacities less than 528 gallons.

(c) The owner or operator of a bulk gasoline plant shall not transfer gasoline to a stationary storage tank unless the unloading cargo tank and the receiving stationary storage tank are equipped with an incoming vapor balance system as described in Paragraph (i) of this Rule and the receiving stationary storage tank is equipped with a fill line whose discharge opening is flush with the bottom of the tank such that bottom filling can be achieved.

(d) The owner or operator of a bulk gasoline plant with an average daily gasoline throughput of 4,000 gallons or more shall not load a cargo tank at such plant unless the unloading stationary storage tank and the receiving cargo tank are equipped with an outgoing vapor balance system as described in Paragraph (i) of this Rule and the receiving cargo tank is equipped for bottom filling.

(e) The owner or operator of a bulk gasoline plant with an average daily throughput of more than 2,500 gallons but less than 4,000 gallons located in an area with a housing density exceeding the limits in this Paragraph shall not load any cargo tank at such bulk gasoline plant unless the unloading stationary storage tank and receiving cargo tank are equipped with an outgoing vapor balance system as described in Paragraph (i) of this Rule and the receiving cargo tank is equipped for bottom filling. In the counties of Alamance, Buncombe, Cabarrus, Catawba, Cumberland, Davidson, Durham, Forsyth, Gaston, Guilford, Mecklenburg, New Hanover, Orange, Rowan, and Wake, the specified limit on housing density is 50 residences in a square one mile on a side with the square centered on the loading rack at the bulk gasoline plant and with one side oriented in a true North-South direction. In all other counties the specified limit on housing density is 100 residences per square mile. The housing density shall be determined by counting the number of residences using aerial photographs or other methods approved by the Director to provide equivalent accuracy.

(f) The owner or operator of a bulk gasoline plant not subject to the outgoing vapor balance system requirements of Paragraph (d) or (e) of this Rule shall not load cargo tanks at such plants unless:

- (1) equipment is available and used at the bulk gasoline plant to provide for submerged filling of each cargo tank; or
- (2) each receiving cargo tank is equipped for bottom filling.

(g) For gasoline bulk plants located in a nonattainment area for ozone, the owner or operator shall continue to comply with Paragraph (d) or (e) of this Rule even if the average daily throughput falls below the applicable threshold if ever the facility throughput triggered compliance.

(h) The owner or operator of a bulk gasoline plant shall ensure a cargo tank that is required to be equipped with a vapor balance

system pursuant to Paragraphs (c), (d), or (e) of this Rule shall not transfer gasoline between the cargo tank and the stationary storage tank unless:

- (1) the vapor balance system is connected, operating, and working as designed in accordance with the manufacturer's specifications and the definition of "good operation and maintenance" in 15A NCAC 02D .0602;
- (2) cargo tank hatches are closed at all times during loading and unloading operations; and
- (3) the cargo tank's pressure/vacuum relief valves, hatch covers, and the cargo tank's and storage tank's associated vapor and liquid lines are vapor-tight, as defined in 40 CFR 60.501 and 63.11132, as applicable, during loading or unloading.

(i) Vapor balance systems required under Paragraphs (c), (d), and (e) of this Rule shall consist of the following major components:

- (1) a vapor space connection on the stationary storage tank equipped with fittings that are vapor tight and will be automatically and immediately closed upon disconnection to prevent release of volatile organic material;
- (2) a connecting pipe or hose equipped with fittings that are vapor tight and will be automatically and immediately closed upon disconnection to prevent release of volatile organic material; and
- (3) a vapor space connection on the cargo tank equipped with fittings that are vapor tight and will be automatically and immediately closed upon disconnection to prevent release of volatile organic material.

(j) The owner or operator of a bulk gasoline plant shall paint all tanks used for gasoline storage white or silver.

(k) The pressure relief valves on cargo tanks loading or unloading at bulk gasoline plants shall be set to release at the highest possible pressure in accordance with State or local fire codes or the National Fire Prevention Association Guidelines. The pressure relief valves on stationary storage tanks shall be set at 0.5 psi for storage tanks placed in service on or after November 1, 1992, and 0.25 psi for storage tanks existing before November 1, 1992.

(l) No owner or operator of a bulk gasoline plant may permit gasoline to be spilled, discarded in sewers, stored in open containers, or handled in any other manner that would result in evaporation.

(m) The owner or operator of a bulk gasoline plant shall observe loading and unloading operations and shall discontinue the transfer of gasoline:

- (1) if any liquid leaks are observed; or
- (2) if any vapor leaks are observed where a vapor balance system is required under Paragraphs (c), (d), or (e) of this Rule.

(n) The owner or operator of a bulk gasoline plant shall not load, or allow to be loaded, gasoline into any cargo tank unless the cargo tank has been certified leak tight in accordance with 15A NCAC 02D .0932.

*History Note: Authority G.S. 143-215.3(a)(1); 143-215.107(a)(5); Eff. July 1, 1979; Amended Eff. July 1, 1996; May 1, 1993; March 1, 1991; December 1, 1989; January 1, 1985; Readopted Eff. November 1, 2020; Amended Eff. November 1, 2023.*

**15A NCAC 02D .0927 BULK GASOLINE TERMINALS**

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

- (1) "Bulk gasoline terminal" means:
  - (A) a pipeline breakout station of an interstate oil pipeline facility; or
  - (B) a gasoline storage facility that typically receives gasoline from refineries primarily by pipeline, ship, or barge; delivers gasoline to bulk gasoline plants or to commercial or retail accounts primarily by cargo tank; and has an average daily throughput of more than 20,000 gallons of gasoline.
- (2) "Cargo tank" means the storage vessels of freight trucks or trailers used to transport gasoline from sources of supply to stationary storage tanks of bulk gasoline terminals, bulk gasoline plants, gasoline dispensing facilities, and gasoline service stations.
- (3) "Contact deck" means a deck in an internal floating roof tank that rises and falls with the liquid level and floats in direct contact with the liquid surface.
- (4) "Degassing" means the process by which a tank's interior vapor space is decreased to below the lower explosive limit for the purpose of cleaning, inspection, or repair.
- (5) "Gasoline" means a petroleum distillate having a Reid Vapor Pressure (RVP) of 4.0 psi or greater.
- (6) "Leak" means a crack or hole letting petroleum product vapor or liquid escape that is identifiable through sight, sound, smell, an explosimeter, or the use of a meter that measures volatile organic compounds. When an explosimeter or meter is used to detect a leak, a leak is a measurement that is equal to or greater than 100 percent of the lower explosive limit, as detected by a combustible gas detector using the test procedure described in Appendix B of EPA-450/2-78-051. This test procedure is incorporated by reference, including any subsequent amendments and editions. A copy of this test procedure may be obtained free of charge at <https://nepis.epa.gov/Exe/ZyPDF.cgi/2000M9RD.PDF?Dockey=2000M9RD.PDF>.
- (7) "Liquid balancing" means a process used to degas floating roof gasoline storage tanks with a liquid whose vapor pressure is below 1.52 psi.

This is done by removing as much gasoline as possible without landing the roof on its internal supports, pumping in the replacement fluid, allowing mixing, removing as much mixture as possible without landing the roof, and repeating these steps until the vapor pressure of the mixture is below 1.52 psi.

- (8) "Liquid displacement" means a process by which gasoline vapors remaining in an empty tank are displaced by a liquid with a vapor pressure below 1.52 psi.
- (9) "Pipeline breakout station" means a facility along a pipeline containing storage tanks used to:
  - (A) relieve surges in a hazardous liquid pipeline system; or
  - (B) receive and store hazardous liquids transported by pipeline for reinjection and continued transport by pipeline.

For the purposes of this definition, "hazardous liquid" means the materials listed in 49 CFR 195.2.

- (b) This Rule applies to bulk gasoline terminals and the appurtenant equipment necessary to load the cargo tank compartments.
- (c) Gasoline shall not be loaded into any cargo tank from any bulk gasoline terminal unless:
  - (1) the bulk gasoline terminal is equipped with a vapor control system that prevents the emissions of volatile organic compounds from exceeding 35 milligrams per liter. The owner or operator shall obtain from the manufacturer and maintain in the cargo tank's records a pre-installation certification stating the vapor control efficiency of the system in use;
  - (2) displaced vapors and gases are vented only to the vapor control system or to a flare;
  - (3) a means is provided to prevent liquid drainage from the loading device when it is not in use or to accomplish complete drainage before the loading device is disconnected; and
  - (4) all loading and vapor lines are equipped with fittings that make vapor-tight connections and that are automatically and immediately closed upon disconnection.
- (d) Sources regulated by this Rule shall not:
  - (1) allow gasoline to be discarded in sewers or stored in open containers or handled in any manner that would result in evaporation; or
  - (2) allow the pressure in the vapor collection system to exceed the cargo tank pressure relief settings.
- (e) The owner or operator of a bulk gasoline terminal shall paint all tanks used for gasoline storage white or silver.
- (f) The owner or operator of a bulk gasoline terminal shall install on each external floating roof tank with an inside diameter of 100 feet or less used to store gasoline a self-supporting roof, such as a geodesic dome.

(g) The following equipment shall be required on all tanks storing gasoline at a bulk gasoline terminal:

- (1) rim-mounted secondary seals on all external and internal floating roof tanks;
- (2) gaskets on deck fittings; and
- (3) floats in the slotted guide poles with a gasket around the cover of the poles.

(h) Decks shall be required on all above ground tanks with a capacity greater than 19,800 gallons storing gasoline at a bulk gasoline terminal. All decks installed after June 30, 1998 shall comply with the following requirements:

- (1) deck seams shall be welded, bolted, or riveted; and
- (2) seams on bolted contact decks and on riveted contact decks shall be gasketed.

(i) If, upon facility or operational modification of a bulk gasoline terminal that existed before December 1, 1992, an increase in benzene emissions results such that:

- (1) emissions of volatile organic compounds increase by more than 25 tons cumulative at any time during the five years following modifications; and
- (2) annual emissions of benzene from the cluster, which includes the bulk gasoline terminal, the pipeline, and marketing terminals served by the pipeline, exceed benzene emissions from that cluster based upon calendar year 1991 gasoline throughput and application of the requirements of this Subchapter,

then, the annual increase in benzene emissions due to the modification shall be offset within the cluster by reduction in benzene emissions beyond that otherwise achieved from compliance with this Rule, in the ratio of at least 1.3 to 1.

(j) To qualify for exemption from the requirements under Paragraphs (e) through (i) of this Rule, the owner or operators of a bulk gasoline terminal that received an air quality permit before December 1, 1992 to emit toxic air pollutants under 15A NCAC 02Q .0700 to comply with 15A NCAC 02D .1100 shall continue to follow all terms and conditions of the permit issued under 15A NCAC 02Q .0700 and to bring the terminal into compliance with 15A NCAC 02D .1100 according to the terms and conditions of the permit, and shall maintain this permit to emit toxic air pollutants.

(k) The owner or operator of a bulk gasoline terminal shall not load, or allow to be loaded, gasoline into any cargo tank unless the cargo tank has been certified leak tight according to 15A NCAC 02D .0932.

(l) The owner or operator of a bulk gasoline terminal shall have on file at the terminal a copy of the certification test conducted according to 15A NCAC 02D .0932 for each gasoline cargo tank loaded at the terminal.

(m) Emissions of gasoline from degassing of external or internal floating roof tanks at a bulk gasoline terminal shall be collected and controlled by at least 90 percent by weight. Liquid balancing shall not be used to degas gasoline storage tanks at bulk gasoline terminals. Bulk gasoline storage tanks containing not more than 138 gallons of liquid gasoline or the equivalent of gasoline vapor and gasoline liquid are exempted from the degassing requirements if gasoline vapors are vented for at least 24 hours. Documentation

of degassing external or internal floating roof tanks shall be made according to 15A NCAC 02D .0903.

(n) The owner or operator of a bulk gasoline terminal shall visually inspect the following for leaks each day that the terminal is both manned and open for business:

- (1) the vapor collection system;
- (2) the vapor control system; and
- (3) each lane of the loading rack while a gasoline cargo tank is being loaded.

In accordance with 15A NCAC 02D .1903, the owner or operator shall maintain records of the visual inspections. If no leaks are found, the owner or operator shall record that no leaks were found. If a leak is found, the owner or operator shall record the information specified in Paragraph (p) of this Rule. The owner or operator shall repair all leaks found according to Paragraph (q) of this Rule.

(o) The owner or operator of a bulk gasoline terminal shall inspect weekly for leaks:

- (1) the vapor collection system;
- (2) the vapor control system; and
- (3) each lane of the loading rack while a gasoline cargo tank is being loaded.

The weekly inspection shall be done using sight, sound, or smell; a meter used to measure volatile organic compounds; or an explosimeter. An inspection using either a meter used to measure volatile organic compounds or an explosimeter shall be conducted every month. If no leaks are found, the owner or operator shall record the date that the inspection was done and that no leaks were found. If a leak is found, the owner or operator shall record the information specified in Paragraph (p) of this Rule. The owner or operator shall repair all leaks found according to Paragraph (q) of this Rule.

(p) For each leak found under Paragraph (n) or (o) of this Rule, the owner or operator of a bulk gasoline terminal shall record:

- (1) the date of the inspection;
- (2) the findings detailing the location, nature, and severity of each leak;
- (3) the corrective action taken;
- (4) the date when corrective action was completed; and
- (5) any other information that the terminal deems necessary to demonstrate compliance with this Rule.

(q) The owner or operator of a bulk gasoline terminal shall repair all leaks as follows:

- (1) The vapor collection hose that connects to the cargo tank shall be repaired or replaced before another cargo tank is loaded at that rack after a leak has been detected originating with the terminal's equipment rather than from the gasoline cargo tank.
- (2) All other leaks shall be repaired as expeditiously as possible but no later than 15 days from their detection. If more than 15 days are required to make the repair, the reasons that the repair cannot be made shall be documented, and the leaking equipment shall not be used after the fifteenth day from when the leak detection was found until the repair is made.

*History Note: Authority G.S. 143-215.3(a)(1); 143-215.107(a)(5); Eff. July 1, 1979; Amended Eff. January 1, 2007; April 1, 2003; August 1, 2002; July 1, 1998; July 1, 1996; July 1, 1994; December 1, 1992; December 1, 1989; January 1, 1985; Readopted Eff. November 1, 2020; Amended Eff. November 1, 2023.*

**15A NCAC 02D .0928 GASOLINE SERVICE STATIONS  
STAGE I**

(a) Definitions. For the purpose of this Rule, the following definitions apply:

- (1) "Coaxial vapor recovery system" means the delivery of the gasoline and recovery of vapors occurring through a single coaxial fill tube, which is a tube within a tube. Gasoline is delivered through the inner tube, and vapor is recovered through the annular space between the walls of the inner tube and outer tube.
- (2) "Delivery vessel" means cargo tanks used for the transport of gasoline from sources of supply to stationary storage tanks of gasoline dispensing facilities.
- (3) "Dual point vapor recovery system" means the delivery of the product to the stationary storage tank and the recovery of vapors from the stationary storage tank occurring through two separate openings in the storage tank and two separate hoses between the cargo tank and the stationary storage tank.
- (4) "Gasoline" means a petroleum distillate having a Reid vapor pressure of four psi or greater.
- (5) "Gasoline dispensing facility" means any site where gasoline is dispensed to motor vehicle gasoline tanks from stationary storage tanks.
- (6) "Gasoline service station" means any gasoline dispensing facility where gasoline is sold to the motoring public from stationary storage tanks.
- (7) "Line" means any pipe suitable for transferring gasoline.
- (8) "Motor Vehicle" means every vehicle which is self-propelled and every vehicle designed to run upon the highways which is pulled by a self-propelled vehicle. This term shall not include mopeds or electric assisted bicycles in accordance with G.S. 20-4.01.
- (9) "Operator" means any person who leases, operates, controls, or supervises a facility at which gasoline is dispensed.
- (10) "Owner" means any person who has legal or equitable title to the gasoline storage tank at a facility.
- (11) "Poppeted vapor recovery adaptor" means a vapor recovery adaptor that automatically and immediately closes itself when the vapor return line is disconnected and maintains a tight seal when the vapor return line is not connected.

- (12) "Stationary storage tank" means a gasoline storage container that is a permanent fixture.
- (13) "Submerged fill pipe" means any fill pipe with a discharge opening that is entirely submerged when the pipe normally used to withdraw liquid from the tank can no longer withdraw any liquid, or that is entirely submerged when the level of the liquid is:
  - (A) six inches above the bottom of the tank if the tank does not have a vapor recovery adaptor; or
  - (B) 12 inches above the bottom of the tank if the tank has a vapor recovery adaptor. If the opening of the submerged fill pipe is cut at a slant, the distance is measured from the top of the slanted cut to the bottom of the tank.
- (14) "Throughput" means the amount of gasoline dispensed at a facility during a calendar month after November 15, 1990.

(b) Applicability. This Rule applies to all gasoline dispensing facilities and gasoline service stations, and to delivery vessels delivering gasoline to a gasoline dispensing facility or gasoline service station.

(c) Exemptions. This Rule does not apply to:

- (1) transfers made to storage tanks at gasoline dispensing facilities or gasoline service stations equipped with floating roofs or technology that achieves equivalent or greater emission reductions as a floating roof;
- (2) stationary tanks with a capacity of not more than 2,000 gallons that are in place before July 1, 1979, if the tanks are equipped with a permanent or portable submerged fill pipe;
- (3) stationary storage tanks with a capacity of not more than 550 gallons that are installed after June 30, 1979, if tanks are equipped with a permanent or portable submerged fill pipe;
- (4) stationary storage tanks with a capacity of not more than 2,000 gallons located on a farm or a residence and used to store gasoline for farm equipment or residential use if gasoline is delivered to the tank through a permanent or portable submerged fill pipe. This exemption does not apply in ozone non-attainment areas;
- (5) stationary storage tanks at a gasoline dispensing facility or gasoline service station where the combined annual throughput of gasoline at the facility or station does not exceed 50,000 gallons, if the tanks are permanently equipped with submerged fill pipes; or
- (6) any tanks used exclusively to test the fuel dispensing meters.

(d) With exceptions stated in Paragraph (c) of this Rule, gasoline shall not be transferred from any delivery vessel into any stationary storage tank unless:

- (1) the tank is equipped with a submerged fill pipe, and the vapors displaced from the storage tank



during filling are controlled by a vapor control system as described in Paragraph (e) of this Rule;

- (2) the vapor control system is connected and operating with a vapor tight connection, and working as designed in accordance with the manufacturer's specifications;
- (3) the vapor control system is maintained in accordance with the manufacturer's specifications and the definition of "good operation and maintenance" in 15A NCAC 02D .0602, and all damaged or malfunctioning components or elements of design are repaired, replaced, or modified;
- (4) the gauges, meters, or other specified testing devices are maintained in accordance with the manufacturer's specifications and the definition of "good operation and maintenance" in 15A NCAC 02D .0602;
- (5) the delivery vessel and vapor collection system comply with 15A NCAC 02D .0932; and
- (6) the following records are kept in accordance with 15A NCAC 02D .0903:
  - (A) the scheduled date for maintenance or the date that a malfunction was detected;
  - (B) the date the maintenance was performed or the malfunction corrected; and
  - (C) the component or element of design of the control system repaired, replaced, or modified.

(e) The vapor control system required by Paragraph (d) of this Rule shall include one or more of the following:

- (1) a vapor-tight line from the storage tank to the delivery vessel, and:
  - (A) for a coaxial vapor recovery system, either a poppeted or unpoppeted vapor recovery adaptor;
  - (B) for a dual point vapor recovery system, a poppeted vapor recovery adaptor; or
- (2) a refrigeration-condensation system or equivalent system designed to recover at least 90 percent by weight of the volatile organic compounds in the displaced vapor.

(f) If an unpoppeted vapor recovery adaptor is used pursuant to Part (e)(1)(A) of this Rule, the tank liquid fill connection shall remain covered either with a vapor-tight cap or a vapor return line, except when the vapor return line is being connected or disconnected.

(g) If an unpoppeted vapor recovery adaptor is used pursuant to Part (e)(1)(A) of this Rule, the unpoppeted vapor recovery adaptor shall be replaced with a poppeted vapor recovery adaptor when the tank is replaced or is removed and upgraded.

(h) Where vapor lines from the storage tanks are manifolded, poppeted vapor recovery adapters shall be used. No more than one tank is to be loaded at a time if the manifold vapor lines are size

2.5 inches and smaller. If the manifold vapor lines are 3.0 inches and larger, then two tanks at a time may be loaded.

(i) Vent lines on tanks with Stage I controls shall have pressure release valves or restrictors.

(j) The vapor-laden delivery vessel:

- (1) shall be designed and maintained to be vapor-tight during loading and unloading operations and during transport with the exception of normal pressure/vacuum venting as required by the Department of Transportation; and
- (2) if it is refilled in North Carolina, shall be refilled only at:
  - (A) bulk gasoline plants complying with 15A NCAC 02D .0926; or
  - (B) bulk gasoline terminals complying with 15A NCAC 02D .0927 or .0524.

*History Note: Authority G.S. 143-215.3(a)(1); 143-215.107(a)(5); Eff. July 1, 1979; Amended Eff. July 1, 1996; July 1, 1994; March 1, 1991; December 1, 1989; January 1, 1985; Readopted Eff. November 1, 2020; Amended Eff. November 1, 2023.*

**15A NCAC 02D .0932 GASOLINE CARGO TANKS AND VAPOR COLLECTION SYSTEMS**

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

- (1) "Bottom filling" means the filling of a cargo tank or stationary storage tank through an opening flush with the tank bottom.
- (2) "Bulk gasoline plant" means a gasoline storage and distribution facility with an average daily throughput of less than 20,000 gallons of gasoline and that typically receives gasoline from bulk terminals by cargo tank transport, stores it in tanks, and subsequently dispenses it via account cargo tanks to local farms, businesses, and service stations.
- (3) "Bulk gasoline terminal" means:
  - (A) a pipeline breakout station of an interstate oil pipeline facility; or
  - (B) a gasoline storage facility that typically receives gasoline from refineries primarily by pipeline, ship, or barge; delivers gasoline to bulk gasoline plants or to commercial or retail accounts primarily by cargo tank; and has an average daily throughput of more than 20,000 gallons of gasoline.
- (4) "Cargo tank" means the storage vessels of freight trucks or trailers used to transport gasoline from sources of supply to stationary storage tanks of bulk gasoline terminals, bulk gasoline plants, gasoline dispensing facilities, and gasoline service stations.

- (5) "Cargo tank testing facility" means any facility complying with registration in 49 CFR Part 107, Subpart F.
- (6) "Cargo tank vapor collection equipment" means any piping, hoses, and devices on the cargo tank used to collect and route gasoline vapors in the tank to or from the bulk gasoline terminal, bulk gasoline plant, gasoline dispensing facility, or gasoline service station vapor control system or vapor balance system.
- (7) "Gasoline" means any petroleum distillate having a Reid Vapor Pressure (RVP) of 4.0 psi or greater.
- (8) "Gasoline dispensing facility" means any site where gasoline is dispensed to motor vehicle gasoline tanks from stationary storage tanks. For the purposes of this definition, "motor vehicle" has the meaning defined in 15A NCAC 02D .0928,
- (9) "Gasoline service station" means any gasoline dispensing facility where gasoline is sold to the motoring public from stationary storage tanks.
- (10) "Vapor balance system" means a combination of pipes or hoses that create a closed system between the vapor spaces of an unloading tank and a receiving tank such that vapors displaced from the receiving tank are transferred to the tank being unloaded.
- (11) "Vapor collection system" means a vapor balance system or any other system used to collect and control emissions of volatile organic compounds.

(b) This Rule applies to gasoline cargo tanks that are equipped for vapor collection and to vapor control systems at bulk gasoline terminals, bulk gasoline plants, gasoline dispensing facilities, and gasoline service stations equipped with vapor balance or vapor control systems.

(c) For cargo tanks, the following requirements shall apply:

- (1) Gasoline cargo tanks and their vapor collection systems shall be tested annually by a cargo tank testing facility. The facility shall follow the test procedure as defined by 15A NCAC 02D .2615 to certify the gasoline cargo tank leak tight. The gasoline cargo tank shall not be used unless it is certified leak tight.
- (2) Each gasoline cargo tank that has been certified leak tight according to Subparagraph (c)(1) of this Rule shall display a sticker near the Department of Transportation certification plate required by 49 CFR 180.415.
- (3) There shall be no liquid leaks from any gasoline cargo tank.
- (4) Any cargo tank with a leak equal to or greater than 100 percent of the lower explosive limit, as detected by a combustible gas detector using the test procedure described in 15A NCAC 02D .2615 shall not be used beyond 15 days after the leak has been discovered, unless the leak has been repaired and the cargo tank has been

certified to be leak tight according to Subparagraph (c)(1) of this Rule.

- (5) The owner or operator of a gasoline cargo tank with a vapor collection system shall maintain records of all leak testing and repairs. The records shall identify the gasoline cargo tank, the date of the test or repair, and, if applicable, the type of repair and the date of retest. The records of leak tests shall include:

- (A) the name, address, and telephone number of cargo tank testing facility performing the leak test;
- (B) the name and signature of the individual performing the leak test;
- (C) the name and address of the owner of the tank;
- (D) the identification number of the tank;
- (E) the documentation of tests performed including the date and summary of results;
- (F) the continued qualification statement and returned to service status; and
- (G) a list or description of identified corrective repairs to the tank. If none are performed then the report shall state "no corrective repairs performed."

- (6) A copy of the most recent leak testing report shall be kept with the cargo tank. The owner or operator of the cargo tank shall also file a copy of the most recent leak testing report with each bulk gasoline terminal that loads the cargo tank. The owner or operator shall maintain records for at least two years after the date of the testing or repair and make copies of such records available to the Director upon written request.

(d) For bulk gasoline terminals and bulk gasoline plants equipped with vapor balance or vapor control systems, the following requirements shall apply:

- (1) The vapor collection system and vapor control system shall be designed and operated to prevent gauge pressure in the cargo tank from exceeding 18 inches of water and to prevent a vacuum of greater than six inches of water.
- (2) During loading and unloading operations there shall be:
  - (A) no vapor leakage from the vapor collection system such that a reading equal to or greater than 100 percent of the lower explosive limit at one inch around the perimeter of each potential leak source as detected by a combustible gas detector using the test procedure described in 15A NCAC 02D .2615; and
  - (B) no liquid leaks.
- (3) If a leak is discovered that exceeds the limit in Subparagraph (d)(2) of this Rule:

- (A) For bulk gasoline plants, the vapor collection system or vapor control system shall not be used beyond 15 days after the leak has been discovered, unless the leak has been repaired and the system has been retested and found to comply with Subparagraph (d)(2) of this Rule;
- (B) For bulk gasoline terminals, the vapor collection system or vapor control system shall be repaired following the procedures in 15A NCAC 02D .0927.
- (4) The owner or operator of a vapor collection system at a bulk gasoline plant or a bulk gasoline terminal shall test, according to Rule 15A NCAC 02D .0912, the vapor collection system at least once per year. If after two complete annual checks no more than 10 leaks are found, the Director shall allow less frequent monitoring. If more than 20 leaks are found, the Director shall require the frequency of monitoring be increased.
- (5) The owner or operator of vapor control systems at bulk gasoline terminals, bulk gasoline plants, gasoline dispensing facilities, and gasoline service stations equipped with vapor balance or vapor control systems shall maintain records of all certification testing and repairs. The records shall identify each vapor collection system, or vapor control system; the date of the test or repair; and, if applicable, the type of repair and the date of retest.

*History Note:* Authority G.S. 143-215.3(a)(1), (a)(4); 143-215.107; 143-215.66;  
 Eff. July 1, 1980;  
 Amended Eff. August 1, 2008; June 1, 2008; January 1, 2007;  
 April 1, 2003; August 1, 2002; July 1, 1994; December 1, 1989;  
 January 1, 1985;  
 Readopted Eff. October 1, 2020;  
 Amended Eff. November 1, 2023.

**15A NCAC 02D .0960 CARGO TANK LEAK TESTER REPORT**

*History Note:* Authority G.S. 143-215.3(a)(1); 143-215.107(a)(5), (13);  
 Eff. April 1, 2003;  
 Amended Eff. July 1, 2007;  
 Readopted Eff. October 1, 2020;  
 Repealed Eff. November 1, 2023.

**15A NCAC 02D .0961 OFFSET LITHOGRAPHIC PRINTING AND LETTERPRESS PRINTING**

- (a) For the purposes of this Rule, the definitions listed in this Paragraph and 15A NCAC 02D .0101 and .0902 shall apply.
  - (1) "Composite partial vapor pressure" means the sum of the partial pressure of the compounds defined as volatile organic compounds. Volatile

organic compounds composite partial vapor pressure is calculated as follows:

$$PP_c = \frac{\sum_{i=1}^n \frac{(W_i)(VP_i)/MW_i}{\frac{W_w}{MW_w} + \frac{W_c}{MW_c} + \sum_{i=1}^n \frac{W_i}{MW_i}}$$

Where:

- Wi = Weight of the "i" volatile organic compound, in grams
- Ww = Weight of water, in grams
- Wc = Weight of exempt compound, in grams
- MWi = Molecular weight of the "i" volatile organic compound, in g/g-mole
- MWw = Molecular weight of water, in g/g-mole
- MWc = Molecular weight of exempt compound, in g/g-mole
- PPc = Volatile organic compounds composite partial vapor pressure at 20 degrees Celsius (68 degrees Fahrenheit), in mm Hg
- VPi = Vapor pressure of the "i" volatile organic compound at 20 degrees Celsius (68 degrees Fahrenheit), in mm Hg

- (2) "First installation date" means the actual date when this control device becomes operational. This date does not change if the control device is later redirected to a new press.
- (3) "Fountain solution" means water-based solution that applies to lithographic plate to render the non-image areas unresponsive to the ink.
- (4) "Heatset" means any operation in which heat is required to evaporate ink oils from the printing ink, excluding ultraviolet (UV) curing, electron beam curing, and infrared drying.
- (5) "Letterpress printing" means a printing process in which the image area is raised relative to the non-image area and the paste ink is transferred to the substrate directly from the image surface.
- (6) "Non-heatset," also referred to as "coldset," means a lithographic printing process where the printing inks are set by absorption or oxidation of the ink oil, not by evaporation of the ink oils in a dryer. For the purposes of this Rule, use of an infrared heater or printing conducted using ultraviolet-cured or electron beam-cured inks is considered non-heatset.
- (7) "Offset lithography" means a printing process that uses sheet-fed or web method of press feeding and transfers ink from the lithographic plate to a rubber-covered intermediate "blanket" cylinder and then from the blanket cylinder to the substrate.
- (8) "Press" means a printing production assembly composed of one or more units used to produce a printed substrate including any associated coating, spray powder application, heatset web

dryer, ultraviolet or electron beam curing units, or infrared heating units.

- (9) "Sheet-fed printing" means offset lithographic printing when individual sheets of paper or other substrate are fed to the press.
- (10) "Web printing" means offset lithographic printing when continuous rolls of substrate material are fed to the press and rewound or cut to size after printing.

(b) This Rule applies to any offset lithographic and any letterpress printing operations sources that are not covered by 15A NCAC 02D .0966(c)(1) and whose emissions of volatile organic compounds exceed:

- (1) the threshold established in 15A NCAC 02D .0902(b) and (f); or
- (2) an equivalent level of three tons per 12-consecutive month rolling period.

(c) Volatile organic compounds content in the fountain solution for on-press (as-applied) heatset web offset lithographic printing shall meet one of the following requirements or the owner or operator may demonstrate a different method that achieves an equivalent or greater level of control to those listed in Subparagraphs (1) through (3) of this Paragraph, as determined in permit conditions:

- (1) contain 1.6 percent alcohol or less, by weight, as applied, in the fountain solution;
- (2) contain three percent alcohol or less, by weight, on-press (as-applied) in the fountain solution if the fountain solution is refrigerated to below 60 degrees Fahrenheit; or
- (3) contain five percent alcohol substitute or less, by weight, on-press (as-applied) and no alcohol in the fountain solution.

(d) Volatile organic compounds content in the fountain solution for on-press (as-applied) sheet-fed lithographic printing shall meet one of the following requirements or the owner or operator may demonstrate a different method that achieves an equivalent or greater level of control to those listed in Subparagraphs (1) through (3) of this Paragraph, as determined in permit conditions:

- (1) contain five percent alcohol or less, by weight, on-press (as-applied) in the fountain solution;
- (2) contain 8.5 percent alcohol or less, by weight, on-press (as-applied) in the fountain solution if the fountain solution is refrigerated to below 60 degrees Fahrenheit; or
- (3) contain five percent alcohol substitute or less, by weight, on-press (as-applied) and no alcohol in the fountain solution.

(e) Volatile organic compounds content in emissions from fountain solution from non-heatset web offset lithographic printing shall not exceed five percent alcohol substitute (by weight) on-press (as-applied) and contain no alcohol in the fountain solution.

(f) An owner or operator of an individual web offset lithographic printing press dryer or letterpress-printing heatset press subject to this Rule that has potential emissions of 25 or more tons per year of volatile organic compounds shall:

- (1) use an enforceable limitation on potential emissions to keep individual heatset press

below 25 tons per year potential to emit volatile organic compounds (petroleum ink oil) threshold, which shall be achieved by using inks and coatings that contain less than 31.25 tons per year volatile organic compound (petroleum ink oil) where 20 percent retention factor of petroleum ink oil applies, or by using other methods established by permit conditions; or

(2) use an add-on control system that meets one of the following requirements:

- (A) reduces volatile organic compounds emissions from each dryer by at least 90 percent volatile organic compounds emissions control efficiency established by procedures defined in Paragraph (h) of this Rule for a control device from heatset dryers whose first installation date was prior to July 1, 2010, at facilities with potential to emit 100 tons or more of volatile organic compounds per year;
- (B) reduces volatile organic compounds emissions from each dryer by at least 90 percent volatile organic compounds emissions control efficiency established by procedures defined in Paragraph (h) of this Rule for a control device from heatset dryers whose first installation date was prior to May 1, 2013, at facilities with potential to emit less than 100 tons of volatile organic compounds per year;
- (C) reduces volatile organic compounds emissions from each dryer by at least 95 percent volatile organic compounds emissions control efficiency established by procedures defined in Paragraph (h) of this Rule for a control device from heatset dryers whose first installation date was on or after July 1, 2010, at facilities with potential to emit 100 tons or more of volatile organic compounds per year;
- (D) reduces volatile organic compounds emissions from each dryer by at least 95 percent volatile organic compounds emissions control efficiency established by procedures defined in Paragraph (h) of this Rule for a control device from heatset dryers whose first installation date was on or after May 1, 2013, at facilities with potential to emit less than 100 tons of volatile organic compounds per year; or
- (E) maintains a maximum volatile organic compounds outlet concentration of 20

parts per million by volume (ppmv), as hexane (C<sub>6</sub>H<sub>14</sub>) on a dry basis.

(g) The control limits established in:

- (1) Paragraphs (c), (d), and (e) of this Rule shall not be applied to any press with total fountain solution reservoir of less than one gallon;
- (2) Paragraph (d) of this Rule shall not be applied to sheet-fed presses with maximum sheet size 11x 17 inches or smaller; and
- (3) Subparagraph (f)(2) of this Rule shall not be applied to a heatset press used for book printing, or to a heatset press with maximum web width of 22 inches or less.

(h) If the owner or operator of a printing press is required by permit conditions to determine:

- (1) the volatile organic compounds content, Method 24 of Appendix A to 40 CFR Part 60 or approved alternative methods pursuant to 15A NCAC 02D .2602(h) shall be used; and
- (2) the control efficiency by measuring volatile organic compounds at the control device inlet and outlet, Methods 18, 25, or 25A of Appendix A to 40 CFR Part 60, or approved alternative methods pursuant to 15A NCAC 02D .2602(h) shall be used.

(i) All test methods defined in Paragraph (h) of this Rule shall be conducted at typical operating conditions and flow rates using the same day-to-day production prior to the test to ensure that the test results are representative of routine operations.

(j) The owner or operator of any facility subject to this Rule shall demonstrate compliance with RACT applicability requirements by calculating volatile organic compounds emissions and keep records of the basis of the calculations required by 15A NCAC 02D .0605 and .0903. Volatile organic compounds emissions from offset lithographic printing and letterpress printing shall be determined by permit condition requirements or by using the following retention and capture efficiency factors:

- (1) the retention factors are:
  - (A) 20 percent for heatset petroleum ink oils;
  - (B) 100 percent for heatset vegetable ink oils;
  - (C) 95 percent for sheet-fed and coldset web petroleum ink oils; and
  - (D) 100 percent for sheet-fed and coldset web vegetable ink oils.
- (2) the retention factor is 50 percent for low volatile organic compounds composite vapor pressure cleaning materials in shop towels where:
  - (A) volatile organic compounds composite vapor pressure of the cleaning material is less than 10 mm Hg at 20 degrees Celsius; and
  - (B) cleaning materials and used shop towels are kept in closed containers.
- (3) carryover (capture) factors of volatile organic compounds from automatic blanket wash and fountain solution to offset lithographic heatset dryers are:

(A) 40 percent VOC carryover (capture) factor for automatic blanket washing when the volatile organic compounds composite vapor pressure of the cleaning material is less than 10mm Hg at 20 degrees Celsius.

(B) 70 percent VOC carryover (capture) factor for alcohol substitutes in fountain solution.

(4) capture efficiency for volatile organic compounds (petroleum ink oils) from oil-based paste inks and oil-based paste varnishes (coatings) in heatset web offset lithographic presses and heatset web letterpress presses shall be demonstrated by showing that the dryer is operating at negative pressure relative to the surrounding pressroom. As long as the dryer is operated at negative pressure, the capture efficiency for VOC from the heatset lithographic inks and varnishes (coatings) formulated with low volatility ink oils is 100 percent of the VOC (ink oils) volatilized in the dryer. Capture efficiency test is not required in this situation.

(k) Except as specified in this Paragraph, all cleaning materials used for cleaning a press, press parts, or to remove dried ink from areas around the press shall meet one of the following requirements:

- (1) the volatile organic compounds content shall be less than 70 percent by weight; or
- (2) composite partial vapor pressure of volatile organic compounds shall be less than 10 mm Hg at 20 degrees Celsius.

No more than 110 gallons per year of cleaning materials that do not meet the requirements of Subparagraph (k)(1) or (k)(2) of this Rule shall be used during any 12 consecutive months.

(l) The owner or operator of any facility subject to this Rule shall maintain the following records for a minimum of five years:

- (1) parametric monitoring for processes and control devices as determined and at the frequency specified in the permit or by Paragraph (f) of this Rule;
- (2) the total amount of each individual or class of fountain solution and ink used monthly for the printing operations and the percentage of volatile organic compounds, alcohol, and alcohol substitute as applied in it;
- (3) the total amount of each individual or class of cleaning solutions used monthly with vapor pressure and the percentage of volatile organic compounds as applied in it;
- (4) the total amount of cleaning solutions used monthly with the vapor pressure and the percentage of volatile organic compounds as applied not meeting the vapor pressure or percentage of volatile organic compounds as required in Paragraph (k) of this Rule;

- (5) the temperature of fountain solutions for lithographic printing presses using alcohol at the frequency specified in the permit; and
- (6) any other parameters required by the permit in accordance with 15A NCAC 02D .0605 and .0903.

(m) The owner or operator of any source subject to this Rule shall comply with 15A NCAC 02D .0903 and .0958.

*History Note: Authority G.S. 143-215.3(a)(1), (a)(4); 143-215.66; 143-215.107(a)(5); Eff. September 1, 2010; Amended Eff. May 1, 2013; Readopted Eff. November 1, 2020; Amended Eff. November 1, 2023.*

**15A NCAC 02D .0964 MISCELLANEOUS INDUSTRIAL ADHESIVES**

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

- (1) "Air-assisted airless spray" means a system that consists of an airless spray gun with a compressed air jet at the gun tip to atomize the adhesive.
- (2) "Airless spray" means the application using a pump forcing an adhesive through an atomizing nozzle at high pressure of 1,000 to 6,000 pounds per square inch.
- (3) "Application process" means a process that consists of a series of one or more adhesive applicators and any associated drying area or oven where an adhesive is applied, dried, and cured.
- (4) "Dip coating" means application where substrates are dipped into a tank containing the adhesive. The substrates are then withdrawn from the tank and any excess adhesive is allowed to drain.
- (5) "Electrocoating" means a specialized form of dip coating where opposite electric charges are applied to the waterborne adhesive and the substrate.
- (6) "Electrostatic spray" means application where the adhesive and substrate are oppositely charged.
- (7) "Flow coating" means conveying the substrate over an enclosed sink where the adhesive is applied at low pressure as the item passes under a series of nozzles.
- (8) "HVLP" means a system with specialized nozzles that provides better air and fluid flow than conventional air atomized spray systems at low air pressure, shape spray pattern, and guides high volumes of atomized adhesive particles to the substrate using lower air pressure of 10 pounds per square inch or less at the spray cap.

(9) "Miscellaneous industrial adhesives" means adhesives, including adhesive primers used in conjunction with certain types of adhesives, used at industrial manufacturing and repair facilities for a wide variety of products and equipment that operate adhesives application processes.

(10) "Roll coating," "brush coating," and "hand application" means application of high viscosity adhesives onto small surface areas.

(b) Control of volatile organic compounds emissions from miscellaneous industrial adhesives product categories covered by 15A NCAC 02D .0923, .0935, .0961, .0962, .0963, .0965, .0966, .0967, and .0968 are exempted from the requirements of this Rule.

(c) This Rule applies to miscellaneous industrial adhesive application sources whose volatile organic compounds emissions meet the threshold established in 15A NCAC 02D .0902(b).

(d) With the exception established in Paragraph (b) of this Rule, all volatile organic compounds containing materials applied by each miscellaneous industrial adhesive application processes before control shall:

- (1) not exceed limits established in Tables 1, 2, and 3 of this Rule; and
- (2) be used in one of the following application methods in conjunction with using low volatile organic compounds adhesives or adhesive primers:
  - (A) electrostatic spray;
  - (B) HVLP spray;
  - (C) flow coat;
  - (D) roll coat or hand application, including non-spray application methods similar to hand or mechanically powered caulking gun, brush, or direct hand application;
  - (H) any other adhesive application method capable of achieving a transfer efficiency equivalent to or better than that achieved by HVLP spraying.

(e) Emission limits established in Subparagraph (d)(1) of this Rule shall be:

(f) If an adhesive is used to bond dissimilar substrates together in a general adhesive application process as set forth in Tables 1, 2, or 3, then the applicable substrate category with the highest volatile organic compounds emission limit shall be established as the limit for such application.

- (1) met by calculating the arithmetic mean of the volatile organic compounds content of materials used on a single application unit for each day; and
- (2) calculated as mass of volatile organic compounds per volume of adhesive primer, excluding water and exempt compounds, as applied.

Table 1. Volatile Organic Compounds Emission Limits for General Adhesive Application Processes.

General Adhesive Application Processes	VOC Emission Limit (lb/gal)
Reinforced Plastic Composite	1.7
Flexible vinyl	2.1
Metal	0.3
Porous Material (Except Wood)	1
Rubber	2.1
Wood	0.3
Other Substrates	2.1

Table 2. Volatile Organic Compounds Emission Limits for Specialty Adhesive Application Processes.

Specialty Adhesive Application Processes	VOC Emission Limit (lb/gal)
Ceramic Tile Installation	1.1
Contact Adhesive	2.1
Cove Base Installation	1.3
Floor Covering Installation (Indoor)	1.3
Floor Covering Installation (Outdoor)	2.1
Floor Covering Installation (Perimeter Bonded Sheet Vinyl)	5.5
Metal to Urethane/Rubber Molding or Casting	7.1
Motor Vehicle Adhesive	2.1
Motor Vehicle Weatherstrip Adhesive	6.3
Multipurpose Construction	1.7
Plastic Solvent Welding (ABS)	3.3
Plastic Solvent Welding (Except ABS)	4.2
Sheet Rubber Lining Installation	7.1
Single-Ply Roof Membrane Installation/Repair (Except EPDM)	2.1
Structural Glazing	0.8
Thin Metal Laminating	6.5
Tire Repair	0.8
Waterproof Resorcinol Glue	1.4

Table 3. Volatile Organic Compounds Emission Limits for Adhesive Primer Application Processes.

Adhesive Primer Application Processes	VOC Emission Limit (lb/gal)
Motor Vehicle Glass Bonding Primer	7.5
Plastic Solvent Welding Adhesive Primer	5.4
Single-Ply Roof Membrane Adhesive Primer	2.1
Other Adhesive Primer	2.1

(g) Any miscellaneous industrial adhesive application process subject to this Rule, which chooses to use add-on control for adhesive application processes rather than to comply with the emission limits established in Paragraph (d) of this Rule, shall install control equipment with overall control efficiency of 85 percent or use a combination of adhesives and add-on control equipment on an application process to meet limits established in Paragraph (d) of this Rule.

(h) EPA Method 24 or 25A of Appendix A to 40 CFR Part 60 shall be used to determine the volatile organic compounds content of adhesives, other than reactive adhesives, as defined in 40 CFR 63.3981, and the procedure established in Appendix A of the NESHAP for surface coating of plastic parts (40 CFR Part 63,

Subpart PPPP) shall be used to determine the volatile organic compounds content of reactive adhesives unless the facility maintains records to document the volatile organic compounds content of adhesives from the manufacturer.

(i) The owner or operator of any facility subject to this Rule shall comply with 15A NCAC 02D .0903 and .0958.

*History Note: Authority G.S. 143-215.3(a)(1); 143-215.107(a)(5);*

*Eff. September 1, 2010;*

*Readopted Eff. November 1, 2020;*

*Amended Eff. November 1, 2023.*

15A NCAC 02D .1403 COMPLIANCE SCHEDULES

(a) Applicability. This Rule applies to sources regulated by 15A NCAC 02D .1402(d), (e), (f), or (g).

(b) Maintenance area and Charlotte ozone nonattainment area contingency plan. The owner or operator of a source subject to this Rule because of the applicability of 15A NCAC 02D .1402(d), (e), (f), or (g) shall adhere to the following increments of progress and schedules:

(1) If compliance with this Section is to be achieved through a demonstration to certify compliance without source modification:

(A) The owner or operator shall notify the Director in writing within six months after the Director's notice in the North Carolina Register that the source is in compliance with the applicable limitation or standard;

(B) The owner or operator shall perform any required testing, pursuant to 15A NCAC 02D .1415, within 12 months after the Director's notice in the North Carolina Register to demonstrate compliance with the applicable limitation; and

(C) The owner or operator shall implement any required recordkeeping and reporting requirements pursuant to 15A NCAC 02D .1404, within 12 months after the Director's notice in the North Carolina Register to demonstrate compliance with the applicable limitation.

(2) If compliance with this Section is to be achieved through the installation of combustion modification technology or other source modification:

(A) The owner or operator shall submit a permit application pursuant to 15A NCAC 02Q and a compliance schedule within six months after the Director's notice in the North Carolina Register.

(B) The compliance schedule shall contain the following increments of progress:

(i) a date by which contracts for installation of the modification shall be awarded or orders shall be issued for purchase of component parts;

(ii) a date by which installation of the modification shall begin;

(iii) a date by which installation of the modification shall be completed; and

(iv) if the source is subject to a limitation in a permit, a date

by which compliance testing shall be completed.

(C) Final compliance shall be achieved within three years after the Director's notice in the North Carolina Register unless the owner or operator of the source petitions the Director for an alternative limitation pursuant to 15A NCAC 02D .1412. If a petition has been submitted and approved, final compliance shall be achieved within four years after the Director's notice in the North Carolina Register.

(3) If compliance with this Section is to be achieved through the implementation of an emissions averaging plan pursuant to 15A NCAC 02D .1410;

(A) The owner or operator shall abide by the applicable requirements of Subparagraphs (b)(1) or (b)(2) of this Rule for certification or modification of each source to be included under the averaging plan.

(B) The owner or operator shall submit a plan to implement an emissions averaging plan pursuant to 15A NCAC 02D .1410 within six months after the Director's notice in the North Carolina Register.

(C) Final compliance shall be achieved within one year after the Director's notice in the North Carolina Register unless implementation of the emissions averaging plan requires the modification of one or more of the averaging sources. If modification of one or more of the averaging sources is required, final compliance shall be achieved within three years.

(4) If compliance with this Section is to be achieved through the implementation of a seasonal fuel switching program pursuant to 15A NCAC 02D .1411:

(A) The owner or operator shall make all necessary modifications according to Subparagraph (b)(2) of this Rule.

(B) The owner or operator shall include a plan for complying with the requirements of 15A NCAC 02D .1411 with the permit application required in Part (b)(2)(A) of this Rule.

(C) Final compliance shall be achieved within three years after the Director's notice in the North Carolina Register.

(5) Increments of progress certification. The owner or operator shall certify to the Director, within five days after each increment deadline of progress in this Paragraph, whether the required increment of progress has been met.



(c) Nonattainment areas. The owner or operator of a source subject to this Rule because of the applicability of 15A NCAC 02D .1402(d), shall adhere to the following:

- (1) If compliance with this Section is to be achieved through a demonstration to certify compliance without source modification:
  - (A) The owner or operator shall notify the Director in writing by August 1, 2007;
  - (B) The owner or operator shall perform any required testing, according to 15A NCAC 02D .1415, by January 1, 2008; and
  - (C) The owner or operator shall implement any required recordkeeping and reporting requirements, according to 15A NCAC 02D .1404, by January 1, 2008.
- (2) If compliance with this Section is to be achieved through the installation of combustion modification technology or other source modification:
  - (A) The owner or operator shall submit a permit application and a compliance schedule by August 1, 2007.
  - (B) The compliance schedule shall contain a date by which contracts for installation of the modification shall be awarded or orders shall be issued for purchase of component parts.
  - (C) The compliance schedule shall contain a date by which installation of the modification shall begin.
  - (D) The compliance schedule shall contain a date by which installation of the modification shall be completed.
  - (E) If the source is subject to a limitation, the compliance schedule shall contain, a date by which compliance testing shall be completed.
  - (F) Final compliance shall be achieved no later than April 1, 2009.
- (3) If compliance with this Section is to be achieved through the implementation of an emissions averaging plan as provided for in 15A NCAC 02D .1410:
  - (A) The owner or operator shall abide by the applicable requirements of Subparagraphs (c)(1) or (c)(2) of this Rule for certification or modification of each source to be included under the averaging plan.
  - (B) The owner or operator shall submit a plan to implement an emissions averaging plan according to 15A NCAC 02D .1410 by August 1, 2007.
  - (C) Final compliance shall be achieved within one year no later than January 1, 2008.

(4) If compliance with this Section is to be achieved through the implementation of a seasonal fuel switching program as provided for in 15A NCAC 02D .1411:

- (A) The owner or operator shall make all necessary modifications according to Subparagraph (c)(2) of this Rule.
- (B) The owner or operator shall include a plan for complying with the requirements of 15A NCAC 02D .1411 with the permit application required in Part (c)(2)(A) of this Rule.
- (C) Final compliance shall be achieved no later than April 1, 2009.

(5) Increments of progress certification. The owner or operator shall certify to the Director, within five days after the deadline for each increment of progress in this Paragraph, whether the required increment of progress has been met.

(d) Sources already in compliance.

(1) Maintenance area and Charlotte ozone nonattainment area contingency plan. Paragraph (b) of this Rule shall not apply to sources that:

- (A) are in compliance with the applicable rules of this Section when the Director notices in the North Carolina Register the implementation of rules that resolves a violation of the ambient air quality standard for ozone; and
- (B) have determined and certified compliance to the Director within six months after the Director notices in the North Carolina Register the implementation of rules that resolves a violation of the ambient air quality standard for ozone.

(2) Nonattainment areas. Paragraph (c) of this Rule shall not apply to sources in an area named in 15A NCAC 02D .1402(d) that are in compliance with applicable rules of this Section on March 1, 2007.

(e) New sources.

(1) Maintenance area and Charlotte ozone nonattainment area contingency plan. The owner or operator of any new source of nitrogen oxides not permitted before the date the Director notices in the North Carolina Register according to 15A NCAC 02D .1402(e), (f), or (g) shall comply with all applicable rules in this Section upon start-up of the source. The owner or operator of any new source covered by 15A NCAC 02D .1407, .1408, .1409, .1413, or .1418 shall comply with all applicable rules in this Section upon start-up of the source.

(2) Nonattainment areas. The owner or operator of any new source of nitrogen oxides not permitted before March 1, 2007 in an area identified in 15A NCAC 02D .1402(d) shall

comply with all applicable rules in this Section upon start-up of the source.

*History Note: Authority G.S. 143-215.3(a)(1); 143-215.65; 143.215.107(a)(5); 143.215.107(a)(7); 143.215.107(a)(10); Eff. April 1, 1995; Amended Eff. April 1, 1997; Temporary Amendment Eff. November 1, 2000; Amended Eff. April 1, 2001; Temporary Amendment Eff. August 1, 2001; Amended Eff. July 1, 2007; March 1, 2007; July 18, 2002; Readopted Eff. October 1, 2020; Amended Eff. November 1, 2023.*

**15A NCAC 02D .1708 REPORTING REQUIREMENTS**

(a) The owner or operator of an existing MSW landfill subject to this Rule according to 15A NCAC 02D .1702 shall submit a design capacity report to the Director as follows:

- (1) The initial design capacity report shall be submitted no later than 90 days after the effective date of the EPA approval of the State Plan pursuant to Section 111(d) of the Clean Air Act.
- (2) The initial design capacity report shall contain the information given in 40 CFR 60.38f(a)(1) and 40 CFR 60.38f(a)(2).

(b) The owner or operator of an existing MSW landfill subject to this Section shall submit an amended design capacity report providing notification of an increase in the design capacity of the landfill, within 90 days of an increase in the maximum design capacity of the landfill to meet or exceed 2.5 million megagrams and 2.5 million cubic meters. An increase in design capacity may result from an increase in the permitted volume of the landfill or an increase in the density as documented in the annual recalculation required in 15A NCAC 02D .1709(j).

(c) The owner or operator of an existing MSW landfill subject to this Rule shall submit a NMOC emission rate report to the Director no later than 90 days after the effective date of EPA approval of the State plan pursuant to Section 111(d) of the Clean Air Act and annually thereafter, except as provided for in 40 CFR 60.38f(c). The NMOC emission rate report shall:

- (1) contain an annual or five-year estimate of the NMOC emission rate calculated using the formula and procedures provided in 40 CFR 60.35f(a) or (b), as applicable;
- (2) include all the data, calculations, sample reports, and measurements used to estimate the annual or five-year emissions; and
- (3) if the estimated NMOC emission rate as reported in the annual report is less than 34 megagrams per year in each of the next five consecutive years, the owner or operator may elect to submit an estimate of the NMOC emission rate for the next five-year period in lieu of the annual report. This estimate shall include the current amount of solid waste-in-place and the estimate waste acceptance rate for each year of the five years for which an NMOC emission rate is estimated. All data and

calculations shall be provided. This estimate shall be revised at least once every five years. If the actual waste acceptance rate exceeds the estimated waste acceptance rate in any year reported in the five-year estimate, a revised five-year estimate shall be submitted. The revised estimate shall cover the five-year period beginning with the year in which the actual waste acceptance rate exceeded the estimated waste acceptance rate.

Each owner and operator subject to the requirements of this Rule shall be exempted from the requirements to submit an NMOC emission rate report, after installing a compliant collection and control system, during such time as the collection and control system is in operation and in compliance with 15A NCAC 02D .1705 and .1706.

(d) The owner or operator of an existing MSW landfill subject to 15A NCAC 02D .1703(b) shall submit a collection and control system design plan to the Director within one year of the first NMOC emission rate report, required under Paragraph (c) of this Rule, in which the emission rate equals or exceeds 34 megagrams per year, except as provided for in 40 CFR 60.38f(d)(4)(i), 60.38f(d)(4)(ii), and 60.38f(d)(4)(iii). The collection and control system design plan shall include:

- (1) a description of the collection and control system;
- (2) a description of any alternatives to the operational standards, test methods, procedures, compliance measures, monitoring, recordkeeping, or reporting provisions provided in this Rule; and
- (3) a description indicating how the plan conforms to specifications for active collection systems or a demonstration of sufficient alternative provisions as given in 40 CFR 60.40f.

(e) The owner or operator of an existing MSW landfill who previously submitted a design plan pursuant to Paragraph (d) of this Rule, pursuant to 40 CFR Part 60, Subpart WWW, or a State plan implementing 40 CFR Part 60, Subpart Cc, shall submit a revised design plan that includes the information in Subparagraphs (d)(1) through (d)(3) of this Rule as follows:

- (1) at least 90 days before expanding operations to an area not covered by the previously approved design plan; and
- (2) prior to installing or expanding the gas collection system in a way that is not consistent with the design plan that was submitted to the Director in Paragraph (d) of this Rule.

(f) The owner or operator of a controlled MSW landfill shall submit a closure report meeting the requirements of 40 CFR 258.60 to the Director within 30 days of cessation of waste acceptance. If a closure report has been submitted to the Director, no additional waste shall be placed into the landfill without first filing a notification of modification as described pursuant to 40 CFR 60.7(a)(4). The Director may request such additional information to verify that permanent closure of the MSW landfill has taken place pursuant to the requirements of 40 CFR 258.60.

(g) The owner or operator of a controlled MSW landfill shall submit an equipment removal report 30 days prior to removal or

cessation of operation of the control equipment according to 15A NCAC 02D .1703(f). The report shall contain the items listed in 40 CFR 60.38f(g). The Director may request such additional information to verify that all the conditions for removal in 40 CFR 60.33f(f) have been met.

(h) The owner or operator of a MSW landfill seeking to comply with 15A NCAC 02D .1703(b) using an active collection system designed in accordance with 40 CFR 60.33f(b) shall submit, following the procedures pursuant to 40 CFR 60.38f(j)(2), annual reports of the recorded information in 40 CFR 60.38f(h)(1) through (h)(7). The initial annual report shall be submitted within 180 days of installation and start-up of the collection and control system, and shall include the initial performance test report required under 40 CFR 60.8. The initial performance test report shall be submitted by following the procedures pursuant to 40 CFR 60.38f(j)(1). Each owner or operator that chooses to comply with the operational provisions of 40 CFR 63.1958, 63.1960, and 63.1961, as allowed by 15A NCAC 02D .1705, .1706, and .1707 shall follow the semi-annual reporting requirements in 40 CFR 63.1981(h) in lieu of this Paragraph.

(i) The owner or operator of an existing MSW landfill required to comply with 15A NCAC 02D .1703(b) shall include the information given in 40 CFR 60.38f(i)(1) through (i)(6) with the initial performance test report required pursuant to 40 CFR 60.8.

(j) The owner or operator of an existing MSW landfill shall submit a report within 60 days after the date of completing each performance test pursuant to 40 CFR 60.38f(j).

(k) The owner or operator of an existing MSW landfill required to implement corrective action, shall submit reports to the Director pursuant to 40 CFR 60.38f(k)(1) and (k)(2). Each owner or operator that chooses to comply with the operational provisions of 40 CFR 63.1958, 63.1960, and 63.1961, as allowed by 15A NCAC 02D .1705, .1706, and .1707 shall follow the corrective action and the corresponding timeline reporting requirements in 40 CFR 63.1981(j) in lieu of this Paragraph.

(l) The owner or operator of an affected MSW landfill with a design capacity equal to or greater than 2.5 million megagrams and 2.5 million cubic meters that has employed leachate recirculation or added liquids based on a Research, Development, and Demonstration permit within the last 10 years shall submit an annual report to the Director that includes the information pursuant to 40 CFR 60.38f(l)(1) through (l)(10). The annual report shall be submitted by following the procedures pursuant to 40 CFR 60.38f(j)(2).

(m) The owner or operator of an affected MSW landfill with a design capacity equal to or greater than 2.5 million megagrams and 2.5 million cubic meters that intends to demonstrate site-specific surface methane emissions are below 500 parts per million methane, based on Tier 4 provisions of 40 CFR 60.35f(a)(6), shall provide notifications to the Director in accordance with 40 CFR 60.38f(m)(1) and (m)(2).

(n) Each owner or operator that chooses to comply with the operational provisions of 40 CFR 63.1958, 63.1960, and 63.1961, as allowed by 15A NCAC 02D .1705, .1706, and .1707, shall submit the 24-hour high temperature report according to 40 CFR 63.1981(k).

*History Note:* Authority G.S. 143-215.3(a)(1); 143-215.65; 143-215.66; 143-215.107(a)(5); 143-215.107(a)(10);

*Eff. July 1, 1998;*

*Amended Eff. July 1, 2000;*

*Readopted Eff. October 1, 2020;*

*Amended Eff. July 1, 2021;*

*Amended Eff. November 1, 2023.*

**15A NCAC 02Q .0102 ACTIVITIES EXEMPTED FROM PERMIT REQUIREMENTS**

(a) For the purposes of this Rule, the definitions listed in 15A NCAC 02D .0101 and 15A NCAC 02Q .0103 shall apply.

(b) This Rule shall not apply to:

- (1) facilities whose potential emissions require a permit pursuant to 15A NCAC 02Q .0500 (Title V Procedures); or
- (2) a source emitting a pollutant that is part of the facility's 15A NCAC 02D .1100 (Control of Toxic Air Pollutants) modeling demonstration if that source is not exempted pursuant to 15A NCAC 02Q .0702.

(c) The owner or operator of an activity exempt from permitting pursuant to this Rule shall not be exempt from demonstrating compliance with any other applicable State or federal requirement.

(d) Any facility whose actual emissions of particulate matter (PM10), sulfur dioxide, nitrogen oxides, volatile organic compounds, carbon monoxide, hazardous air pollutants, and toxic air pollutants are each less than five tons per year and whose actual total aggregate emissions are less than 10 tons per year shall not be required to obtain a permit pursuant to 15A NCAC 02Q .0300. This Paragraph shall not apply to synthetic minor facilities that are regulated pursuant to 15A NCAC 02Q .0315.

(e) Any facility that is not exempted from permitting pursuant to Paragraph (d) of this Rule and whose actual total aggregate emissions of particulate matter (PM10), sulfur dioxide, nitrogen oxides, volatile organic compounds, carbon monoxide, hazardous air pollutants, and toxic air pollutants are greater than or equal to five tons per year and less than 25 tons per year may register their facility pursuant to 15A NCAC 02D .0202 instead of obtaining a permit pursuant to 15A NCAC 02Q .0300. This Paragraph shall not apply to:

- (1) synthetic minor facilities that are regulated pursuant to 15A NCAC 02Q .0315;
- (2) facilities with a source subject to maximum achievable control technology pursuant to 40 CFR Part 63;
- (3) facilities with sources of volatile organic compounds or nitrogen oxides that are located in a nonattainment area; or
- (4) facilities with a source regulated pursuant to New Source Performance Standards (NSPS), unless the source is exempted pursuant to Paragraph (g) or (h) of this Rule.

(f) The Director may require the owner or operator of a facility to register such facility pursuant to 15A NCAC 02D .0200 or obtain a permit pursuant to 15A NCAC 02Q .0300, if necessary to obtain compliance with any other applicable State or federal requirement.

(g) The following activities shall not require a permit or permit modification pursuant to 15A NCAC 02Q .0300:

- (1) maintenance, upkeep, and replacement:
  - (A) maintenance, structural changes, or repair activities that do not increase the capacity of such process and do not cause any change in the quality or nature or an increase in quantity of an emission of any regulated air pollutant;
  - (B) housekeeping activities or building maintenance procedures, including painting buildings, paving parking lots, resurfacing floors, repairing roofs, washing, using portable vacuum cleaners, sweeping, using and associated storing of janitorial products, or removing insulation;
  - (C) using office supplies, supplies to maintain copying equipment, or blueprint machines;
  - (D) using firefighting equipment (excluding engines regulated pursuant to 40 CFR 63, Subpart ZZZZ); or
  - (E) replacing existing equipment with equipment of the same size (or smaller), type, and function that does not result in an increase to the actual or potential emission of regulated air pollutants, does not affect the facility's compliance with any other applicable State or federal requirements, and that fits the description of the existing equipment in the permit, including the application, such that the replacement equipment can be lawfully operated pursuant to that permit without modifying the permit;
- (2) air conditioning or ventilation: comfort air conditioning or comfort ventilating systems that do not transport, remove, or exhaust regulated air pollutants to the atmosphere;
- (3) laboratory or classroom activities:
  - (A) bench-scale, on-site equipment used for experimentation, chemical or physical analysis for quality control purposes or for diagnosis of illness, training, or instructional purposes;
  - (B) research and development activities that produce no commercial product or feedstock material; or
  - (C) educational activities, including wood working, welding, and automotive repair;
- (4) storage tanks with no applicable requirements other than Stage I controls pursuant to 15A NCAC 02D .0928, Gasoline Service Stations Stage I;
- (5) combustion and heat transfer equipment:
  - (A) heating units used for human comfort, excluding space heaters burning used oil, that have a heat input of less than 10 million Btu per hour and that do not provide heat for any manufacturing or other industrial process;
  - (B) residential wood stoves, heaters, or fireplaces; or
  - (C) water heaters that are used for domestic purposes only and are not used to heat process water;
- (6) wastewater treatment processes: industrial wastewater treatment processes or municipal wastewater treatment processes for which there are no State or federal air requirements;
- (7) dispensing equipment: equipment used solely to dispense gasoline, diesel fuel, kerosene, lubricants, or cooling oils;
- (8) electric motor burn-out ovens with secondary combustion chambers or afterburners;
- (9) electric motor bake-on ovens;
- (10) burn-off ovens with afterburners for paint-line hangers;
- (11) hosiery knitting machines and associated lint screens, hosiery dryers and associated lint screens, and hosiery dyeing processes that do not use bleach or solvent dyes;
- (12) woodworking operations processing only green wood;
- (13) solid waste landfills: This exemption does not apply to flares and other sources of combustion at solid waste landfills. These flares and other combustion sources shall obtain a permit pursuant to 15A NCAC 02Q .0300 unless they qualify for another exemption pursuant to this Paragraph; or
- (14) miscellaneous:
  - (A) equipment that does not emit any regulated air pollutants;
  - (B) sources for which there are no applicable requirements;
  - (C) motor vehicles, aircraft, marine vessels, locomotives, tractors, or other self-propelled vehicles with internal combustion engines;
  - (D) engines regulated pursuant to Title II of the Federal Clean Air Act (Emission Standards for Moving Sources);
  - (E) equipment used for preparing food for direct on-site human consumption;
  - (F) a source whose emissions are regulated only pursuant to Section 112(r) or Title VI of the Federal Clean Air Act;
  - (G) exit gases from in-line process analyzers;
  - (H) stacks and vents that prevent the escape of sewer gases from domestic waste through plumbing traps;

- (I) refrigeration equipment that complies with the regulations set forth in Sections 601 through 618 of Title VI (Stratospheric Ozone Protection) of the Federal Clean Air Act, 40 CFR Part 82, and any other regulations promulgated by EPA pursuant to Title VI for stratospheric ozone protection, except refrigeration equipment used as or in conjunction with air pollution control equipment. Refrigeration equipment used as or in conjunction with air pollution control equipment shall obtain a permit pursuant to 15A NCAC 02Q .0300 unless it qualifies for another exemption pursuant to this Paragraph;
  - (J) equipment not vented to the outdoor atmosphere, with the exception of equipment that emits volatile organic compounds. Equipment that emits volatile organic compounds shall obtain a permit pursuant to 15A NCAC 02Q .0300 unless it qualifies for another exemption pursuant to this Paragraph;
  - (K) animal operations not required to have control technology pursuant to 15A NCAC 02D .1800. If an animal operation is required to have control technology, it shall obtain a permit pursuant to this Subchapter;
  - (L) any incinerator that meets the requirements set forth in 15A NCAC 02D .1201(c)(4); or
  - (M) dry cleaning operations, regardless of NSPS or NESHAP applicability.
- (h) The following activities shall not require a permit or permit modification pursuant to 15A NCAC 02Q .0300. These activities shall be included in determining applicability of any rule or standard that requires facility-wide aggregation of source emissions, including activities regulated by 15A NCAC 02D .0530, 15A NCAC 02D .0531, 15A NCAC 02Q .0500, and 15A NCAC 02Q .0700:
- (1) combustion and heat transfer equipment (including direct-fired equipment that only emit regulated pollutants from fuel combustion):
    - (A) fuel combustion equipment (excluding internal combustion engines) not regulated pursuant to 40 CFR Part 60, NSPS, firing exclusively unadulterated liquid fossil fuel, wood, or an approved equivalent unadulterated fuel as defined in 15A NCAC 02Q .0103;
    - (B) fuel combustion equipment (excluding internal combustion engines) firing exclusively natural gas or liquefied petroleum gas or a mixture of these fuels; or
    - (C) space heaters burning waste oil if:
      - (i) the heater burns only oil that the owner or operator generates or used oil from do-it-yourself oil changers who generate used oil as household wastes; and
      - (ii) the heater is designed to have a maximum heat input of not more than 500,000 Btu per hour;
  - (2) gasoline distribution: bulk gasoline plants, as defined in 15A NCAC 02D .0926(a)(3), with an average daily throughput of less than 4,000 gallons;
  - (3) paint spray booths or graphic arts operations, coating operations, and solvent cleaning operations, as defined in 15A NCAC 02Q .0803, located at a facility whose facility-wide actual uncontrolled emissions of volatile organic compounds are less than five tons per year, except that such emission sources whose actual uncontrolled emissions of volatile organic compounds are less than 100 pounds per year shall qualify for this exemption regardless of the facility-wide emissions. For the purpose of this exemption, water wash and filters that are an integral part of the paint spray booth shall not be considered air pollution control devices;
  - (4) electrostatic dry powder coating operations with filters or powder recovery systems;
  - (5) miscellaneous: any source whose potential uncontrolled emissions of particulate matter (PM10), sulfur dioxide, nitrogen oxides, volatile organic compounds, and carbon monoxide shall each be no more than five tons per year; or
  - (6) case-by-case exemption: activities that the applicant demonstrates to the Director do not violate any applicable emission control standard.
    - (i) Upon request of the Director, the owner or operator of a facility or source claiming that an activity is exempt under Paragraphs (d), (e), (g) or (h) of this Rule shall submit emissions data, documentation of equipment type, or other supporting documents demonstrating the facility or source is qualified for that exemption.

*History Note: Authority G.S. 143-215.3(a)(1), (4), (5); 143-215.106; 143-215.107(a)(4); 143-215.107D; 143-215.108; Temporary Adoption Eff. March 8, 1994 for a period of 180 days or until the permanent rule becomes effective, whichever is sooner; Eff. July 1, 1994; Amended Eff. April 1, 1999; July 1, 1998; July 1, 1997; November 1, 1996;*

Temporary Amendment Eff. December 1, 1999;  
Amended Eff. June 13, 2016; May 1, 2013; January 1, 2009; July 1, 2007; June 29, 2006; July 18, 2002; July 1, 2000;  
Readopted Eff. April 1, 2018;  
Amended Eff. November 1, 2023.

Amended Eff. May 1, 2014; July 10, 2010; December 1, 2005;  
April 1, 2005;  
Readopted Eff. July 1, 2018;  
Amended Eff. November 1, 2023.

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**15A NCAC 02Q .0706 MODIFICATIONS**

(a) The owner or operator shall comply with Paragraphs (b) and (c) of this Rule for a modification that is subject to a Rule in 15A NCAC 02D other than a Rule in 15A NCAC 02D .1100 and that:

- (1) requires a permit pursuant to 15A NCAC 02Q .0300 or .0500; or
- (2) occurs at a facility with a permit pursuant to 15A NCAC 02Q .0500 and emits a pollutant that is part of the facility's previous modeling demonstration conducted pursuant to 15A NCAC 02D .1104 and 15A NCAC 02Q .0709, if that modification is not exempted pursuant to 15A NCAC 02Q .0702.

This Rule shall not apply to facilities whose emissions of toxic air pollutants result only from insignificant activities, as defined in 15A NCAC 02Q .0103(20), or result only from sources exempted pursuant to 15A NCAC 02Q .0102.

(b) The owner or operator of the facility shall submit a permit application that complies with 15A NCAC 02D .1100 if the modification results in:

- (1) a net increase in emissions or ambient concentration as previously determined pursuant to 15A NCAC 02D .1106 and 15A NCAC 02Q .0709 of any toxic air pollutant that the facility was emitting before the modification; or
- (2) emissions of any toxic air pollutant that the facility was not emitting before the modification if such emissions exceed the levels set forth in 15A NCAC 02Q .0711.

(c) The permit application filed pursuant to this Rule shall include an evaluation for all toxic air pollutants identified pursuant to Paragraph (b) of this Rule.

(d) All sources at the facility, excluding sources exempt pursuant to 15A NCAC 02Q .0702, emitting these toxic air pollutants shall be included in the evaluation of toxic air pollutants required by Paragraph (c) of this Rule. Sources meeting the exemption set forth in 15A NCAC 02Q .0702(a)(27) shall be reviewed by the Division pursuant to G.S. 143-215.107(a)(5)b.

(e) If a source is included in an air toxic evaluation pursuant to Paragraph (c) of this Rule but is not the source that is being added or modified at the facility, and if the emissions from this source must be reduced in order for the facility to comply with the rules in this Section and 15A NCAC 02D .1100, the emissions from this source shall be reduced by the time the new or modified source begins operating such that the facility shall be in compliance with the rules of this Section and 15A NCAC 02D .1100.

History Note: Authority G.S. 143-215.3(a)(1); 143-215.107; 143-215.108; 143B-282;  
Rule originally codified as part of 15A NCAC 2H .0610;  
Eff. July 1, 1998;

**15A NCAC 10A .0401 FORM AND CONTENTS OF PETITION**

(a) A written petition requesting rulemaking shall be sent to the Executive Director of the Wildlife Resources Commission at 1701 Mail Service Center, Raleigh, NC 27699-1700 for U.S. Postal Service delivery or 1751 Varsity Drive, Raleigh, NC 27606-2576 for other delivery services or in person and must contain:

- (1) the name and address of the petitioner;
- (2) the name and address of the person, group, or organization, if any, on behalf of which the petition is made, together with the representative capacity of the petitioner;
- (3) the citation to the rule sought to be amended or repealed;
- (4) suggested language for the rule sought to be adopted or amended and a statement of its desired effect; and
- (5) the signature of the petitioner.

(b) In addition to the information required by Paragraph (a) of this Rule, the petition may contain expression of reasons in support or arguments in favor of the regulatory action proposed, and tables, charts, maps, publications, photographs, or other supporting materials that the petitioner deems pertinent to the proposal by way of exhibits or attachments.

History Note: Authority G.S. 150B-20;  
Eff. February 1, 1976;  
Amended Eff. July 1, 2018; July 1, 1993; April 15, 1979;  
Readopted Eff. November 1, 2023.

**15A NCAC 10A .0402 ACTION ON PETITION**

(a) Upon receipt, the Executive Director, or his or her designee, shall stamp the petition with the date of receipt which shall constitute the date of submission. The petition shall then be referred to the Commission for its consideration.

(b) Within three business days of receipt, the proposed text and statement of effect of the petition shall be forwarded to the Office of Administrative Hearings as required by G.S. 150B-20.

(c) Within 120 days following submission of the petition requesting rulemaking, the Commission shall:

- (1) deny the petition in writing, stating the reason or reasons for such denial; or
- (2) initiate rulemaking proceedings in accordance with G.S. 150B-20.

(d) The Commission shall notify the person who submitted the petition of the action taken. Denial of a petition requesting rulemaking shall be sent to the petitioner at the address therein indicated by registered mail, "return receipt requested."

History Note: Authority G.S. 150B-20;  
Eff. February 1, 1976;

*Amended Eff. July 1, 1993;*  
*Readopted Eff. November 1, 2023.*

**15A NCAC 10A .1101 WAIVER**

*History Note: Authority G.S. 113-134; 113-274; 150B-19(6);*  
*Temporary Adoption Eff. May 21, 2003;*  
*Temporary Adoption Expired March 12, 2004;*  
*Eff. November 1, 2004;*  
*Amended Eff. August 1, 2006;*  
*Repealed Eff. November 1, 2023.*

**15A NCAC 10A .1201 EMERGENCY POWERS**

(a) Upon determination by the Commission that a wildlife disease threatens irreparable injury to wildlife or to the public, the Executive Director shall develop an emergency response plan in consultation with the Commission, Governor's office and the State Veterinarian prescribing one or more of the following actions:

- (1) shorten or lengthen harvest seasons;
- (2) prohibit transport of wildlife resources or parts thereof;
- (3) prohibit possession of wildlife resources;
- (4) confiscate wildlife resources;
- (5) revoke licenses or permits;
- (6) expand or restrict daily bag limits, daily creel limits, and possession limits;
- (7) establish mandatory wildlife check stations;
- (8) restrict public access to game lands;
- (9) require prepayment of outside testing costs by persons who desire disease testing of their harvested wildlife resource when such testing is not essential to the objectives of the plan;
- (10) prohibit supplemental feeding or baiting of wildlife;
- (11) prohibit other activities that aid in the transmission or movement of the disease as determined by the best available science regarding the disease threat;
- (12) implement other activities necessary to reduce infection opportunities; and
- (13) implement other requirements necessary to assist in the detection and isolation of the disease.

(b) The Commission shall inform the public of the implementation of emergency powers and actions in the response plan through press releases, postings on the Wildlife Commission website and social media, emails to representatives of sportsmen's groups or other constituents likely to be directly affected, and employee outreach.

*History Note: Authority G.S. 113-134; 113-306(f);*  
*Eff. March 1, 2011;*  
*Readopted Eff. November 1, 2023.*

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**TITLE 16 – DEPARTMENT OF PUBLIC INSTRUCTION**

**16 NCAC 06G .0601 REMOTE ACADEMIES  
HARDWARE AND SOFTWARE FEES**

(a) Definitions:

- (1) "Damage fee" means "any mandatory payment that a local school administrative unit charges a student enrolled in a remote academy for injury to, abuse of, or loss of hardware or software that the local school administrative unit has provided to the student other than degradation arising from normal use, wear and tear, provided the payments cannot exceed the actual cost of repair or fair market value of the hardware or software, whichever is less."
- (2) "Rental fee" means "any mandatory payment that a local school administrative unit requires students enrolled in remote academies to make before the local school administrative unit will give a student access to or possession of any hardware and software needed to participate in the remote academy."

(b) Local administrative units shall not charge students enrolled in remote academies rental fees for use of hardware or software needed to participate in the remote academy but may charge them damage fees.

*History Note: Authority G.S. 115C-234.10(b)(1);*  
*Eff. November 1, 2023.*

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**TITLE 17 - DEPARTMENT OF REVENUE**

**17 NCAC 07B .0104 REGISTRATION AND RETURNS**

(a) Certificate of Registration:

- (1) Before a person engages in business as a retailer, wholesale merchant, or facilitator liable for sales or use tax, the person shall obtain a Certificate of Registration from the Department. A Certificate of Registration contains the sales and use tax account identification number (Account ID). There is no fee to obtain a Certificate of Registration.
- (2) A person engaged in business that does not pay the required North Carolina sales or use tax on an item, as the term item is defined in G.S. 105-164.3, to a seller or facilitator at the time of purchase shall pay use tax in accordance with G.S. 105-164.6 on the purchase price of the item. A person required to pay use tax on its purchases shall register with the Department to obtain a Certificate of Registration.
- (3) A person may apply for a Certificate of Registration by:
  - (A) Registering through the Department's website at [www.ncdor.gov](http://www.ncdor.gov);
  - (B) Register online through the Streamlined Sales Tax Registration System (SSTRS) at <https://www.streamlinedsalestax.org>;or

(C) Calling the Department at telephone number 1-877-252-3052 to request a registration form, and submitting the completed registration by mail to the Department's mailing address set out in 17 NCAC 01A .0101.

(4) Information needed to obtain a Certificate of Registration includes the following:

- (A) Ownership information, including North Carolina Secretary of State's business identification number, if applicable.
- (B) Federal Employer Identification Number (FEIN) or Social Security Number for proprietorships.
- (C) Legal business name, owner's name, physical and mailing address of the business, all trade names, and daytime telephone number.
- (D) Responsible person demographics, if applicable, including name, title, Social Security Number, and home address.
- (E) Date when sales or purchases will begin.
- (F) Whether sales will be retail, wholesale, or both.
- (G) Description of business.
- (H) The types of items and services that will be sold by the business.
- (I) Estimate of monthly sales tax.
- (J) Type of accounting method that will be used whether cash or accrual.
- (K) Months sales will be made, if seasonal.

(b) Returns:

(1) Returns General. -- G.S. 105-164.16 establishes the filing frequency and the content of sales and use tax returns. All sales and use tax returns may be obtained from the Department's website at [www.ncdor.gov](http://www.ncdor.gov) or by calling the Department at telephone number 1-877-252-3052, and shall contain the information required by 17 NCAC 01C .0622.

(2) Schedules. -- A person who files a paper sales and use tax return, that is liable for local county tax sourced to a taxing jurisdiction in this State other than the county where the business is located or in more than one county, shall attach Form E-536, Schedule of County Sales and Use Taxes, to the return listing the amount of tax due for each taxing jurisdiction.

(c) No Sales or Purchases By Business. -- A person required to file a sales and use tax return that has no sales or purchases during a reporting period shall file a return for that period and enter zero (0.00) as the total tax due on the return.

(d) Seasonal Business. -- A person that engages in business for six or fewer consecutive months in each year may register with the Department as a seasonal filer and indicate the months in which the person engages in business. A person that is registered

as a seasonal filer is not required to file a return for an off-season reporting period in which the retailer did not engage in business.

(e) Wholesale Merchant. -- A person who engages exclusively in the business of making wholesale sales shall register with the Department, but is not required to file a return. A wholesale merchant that makes taxable sales or that makes purchases on which it owes use tax is not engaged exclusively in the business of making wholesale sales and shall file sales and use tax returns and pay the tax due.

(f) Use Tax:

(1) General. -- A business or individual that purchases an item sourced to this State, other than a boat or aircraft, shall accrue and remit the use tax due on the purchase price of the item in accordance with G.S. 105-164.6 when retailers, remote sellers, or facilitators do not collect the applicable tax on taxable transactions.

(2) Business Use Tax. -- A business shall report and remit use tax on a sales and use tax return.

(3) Individual Use Tax. An individual required to file a North Carolina individual income tax return, shall report the use tax liability of taxable items, other than a boat, an aircraft, and food subject to the two percent rate of tax, on the individual's income tax return. An individual not required to file a North Carolina individual income tax return shall report the use tax liability on taxable items, other than a boat or aircraft, on Form E-554, Consumer Use Tax Return. Form E-554 is due annually by the date set in G.S. 105-164.16.

(4) Form E-554 shall include the following information:

- (A) name of filer, spouse's name, if applicable, address, and phone number;
- (B) Social Security Number of filer, and Social Security Number of filer's spouse, if applicable;
- (C) beginning and ending dates for the period the return is filed;
- (D) total amount of purchases subject to use tax at each applicable tax rate, including purchases of food subject to the two percent food rate;
- (E) total tax at each applicable tax rate;
- (F) any credit for sales and use tax paid to another state;
- (G) tax due before any penalty and interest;
- (H) any penalty or interest due;
- (I) total tax due; and
- (J) signature, title, contact telephone number of filer, and date return is signed.

(5) Any individual who purchases food subject to the two percent food rate of sales and use tax shall report the tax on Form E-554, Consumer Use Tax Return.



- (6) Any individual who purchases a boat or aircraft shall report the tax on Form E-555, Boat and Aircraft Use Tax Return.
- (7) Form E-555 shall include the following information:
  - (A) name of filer, address, and telephone number;
  - (B) Social Security Number or Federal Employer Identification Number (FEIN) of filer;
  - (C) beginning and ending dates for the period the return is filed;
  - (D) boat registration or document number and total amount of purchase, if applicable;
  - (E) aircraft serial number and total amount of purchase, if applicable;
  - (F) total tax at each applicable tax rate;
  - (G) any credit for sales and use tax paid to another state;
  - (H) tax due before any penalty and interest;
  - (I) any penalty or interest due;
  - (J) total tax due; and
  - (K) signature, title, contact telephone number of filer, and date return is signed.

*History Note: Authority G.S. 105-164.3; 105-164.4; 105-164.4B; 105-164.6; 105-164.13B; 105-164.16; 105-164.29; 105-164.42C; 105-164.42K; 105-262; 105-264; 105-467; 105-468; 105-469; 105-483; 105-498; 105-507.2; 105-509.1; 105-510.1; 105-511.3; 105-537; 105-538; Eff. February 1, 1976; Amended Eff. April 1, 2006; August 1, 2002; July 1, 2000; July 1, 1999; August 1, 1998; October 1, 1993; October 1, 1991; October 1, 1990; April 1, 1986; Readopted Eff. January 1, 2024.*

**17 NCAC 07B .0106 CERTIFICATES OF EXEMPTION: SALES FOR RESALE**

- (a) For a person to purchase an item, as the term item is defined in G.S. 105-164.3, for resale exempt from sales and use tax pursuant to G.S. 105-164.13(5), the person shall provide each seller the information required by G.S. 105-164.28(a) on a paper certificate or electronically. The information required includes:
- (1) the purchaser's name;
  - (2) the purchaser's address;
  - (3) the purchaser's certificate of registration number which shall be a North Carolina certificate of registration number, another state's sales and use tax registration number, or a Streamlined Sales Tax ID;
  - (4) the reason for the exemption;
  - (5) the type of business; and
  - (6) if submitted by paper, including fax, the purchaser's signature and date signed.

A purchaser shall retain in their records the certificates or electronic information submitted to sellers and an invoice or other statement of the purchase price of any items purchased.

(b) A seller's failure to keep records that establish a sale is exempt from sales and use tax subjects the seller to liability for the tax at the rates applicable to the retail sale of the item. To establish a sale is exempt from tax, sellers shall retain in their records the certificates or electronic information submitted by the purchaser, and records that identify the item purchased, the sales price of the item, and the purchaser of the item.

(c) A person that misuses a certificate of exemption, including information provided electronically for purposes of obtaining an exemption, is subject to penalties set out in G.S. 105-236. The penalty for misuse of an exemption certificate applies to each seller identified by the Department from which the person made a taxable purchase. The misuse of an exemption certificate grounds for the Secretary to revoke a person's certificate of registration for sales and use taxes. Misuse occurs when a person makes a taxable purchase and furnishes the information described in Paragraph (a) of this Rule to a seller and the seller does not charge sales tax on the basis that the sale is a "wholesale sale" as defined in G.S. 105-164.3.

*History Note: Authority G.S. 105-164.3; 105-164.4; 105-164.6; 105-164.22; 105-164.28; 105-164.29; 105-236; 105-262; 105-264; 105-467; 105-468; 105-469; 105-483; 105-498; 105-507.2; 105-509.1; 105-510.1; 105-511.3; 105-537; 105-538; Eff. February 1, 1976; Amended Eff. April 1, 2006; October 1, 1993; February 1, 1988; May 11, 1979; Readopted Eff. January 1, 2024.*

**17 NCAC 07B .0108 TRADE DISCOUNTS AND CASH DISCOUNTS**

(a) Trade and Bargaining Discounts. -- A trade discount is a reduction in the price a seller charges that is extended to a particular purchaser or group of purchasers without reservation at the time the sale is being negotiated. A bargaining discount is a reduction in the price a seller charges that is extended to a purchaser at the time the sale is being negotiated as a result of bargaining between the purchaser and the seller. The sales price of an item, as the term item is defined in G.S. 105-164.3, does not include a trade discount or bargaining discount that is not reimbursed by a third party.

(b) Cash and Terms Discounts. -- A cash or terms discount is a reduction in the price a seller charges that is extended to the purchaser for prompt payment of an invoice. The sales price of an item does not include a cash or terms discount that is not reimbursed by a third party.

(c) Trade-ins and Over-allowance. -- The amount of a trade-in, including an over-allowance, which is the difference between the trade-in amount and the actual cash value of the trade-in, taken by a purchaser as a credit or partial payment on the sale of an item is not a reduction in the sales price of the item. The trade-in is consideration given towards the purchase of the item. Any applicable sales or use tax shall be computed and paid on the sales price of the item without any deduction for a trade-in.

*History Note: Authority G.S. 105-164.3; 105-164.4; 105-164.6; 105-262; 105-264; Eff. February 1, 1976. Amended Eff. August 1, 2002; Readopted Eff. January 1, 2024.*

**17 NCAC 07B .0112 OCCASIONAL AND ISOLATED SALES**

- (a) An occasional and isolated sale occurs when the seller sells an item, as the term item is defined in G.S. 105-164.3, that is not of, or similar to, the type of item that the seller is engaged in the business of selling. For example, a person selling a personally owned bicycle is not making an occasional and isolated sale if the person operates a bicycle store. Occasional and isolated sales do not include sales of items by a facilitator liable for collecting and remitting tax on the sale.
- (b) Household items. -- Owners making occasional and isolated sales of household items, on which the sales or use tax due was paid at the time of the initial purchase by the owner, are not required to collect and remit sales or use tax on the sale. For example, an individual making an occasional and isolated sale of a personally owned boat, is not required to collect and remit sales or use tax on the sale of the boat.
- (c) Business items. -- Businesses making occasional and isolated sales of items owned by the business, upon which the sales or use tax due was paid at the time of the initial purchase by the business, are not required to collect and remit sales or use tax on the sale. For example, a manufacturer's occasional and isolated sale of its worn out, obsolete, or surplus machinery, accessories, and similar items is not subject to sales tax, as long as the manufacturer is not engaged in the business of making retail or wholesale sales of similar property.

*History Note: Authority G.S. 105-164.3; 105-164.4; 105-164.6; 105-262; 105-264; Eff. February 1, 1976; Readopted Eff. January 1, 2024.*

**17 NCAC 07B .0117 PROPERTY TRANSFERS BETWEEN DIVISIONS**

A business entity having divisions, both inside and outside of North Carolina, is liable for remitting the rates of sales and use tax on any purchases of items, as the term item is defined in G.S. 105-164.3, for use in North Carolina, including any property purchased outside North Carolina and imported into North Carolina for use in this State. An item received by the purchaser or on behalf of the purchaser in this State is subject to sales and use tax no matter that the item is designated for ultimate use outside this State. No tax is due on transfers of property by an out-of-state firm to its North Carolina divisions for their use if the property was originally purchased for use outside this State by the out-of-state firm and was, in fact, used by that firm outside this State for a substantial period of time of at least 12 months.

*History Note: Authority G.S. 105-164.4; 105-164.6; 105-262; 105-264; 105-467; 105-468; 105-469; 105-483; 105-498; 105-507.2; 105-509.1; 105-510.1; 105-511.3; 105-537; 105-538; Eff. February 1, 1976; Amended Eff. December 1, 1997; October 1, 1993;*

*Readopted Eff. January 1, 2024.*

**17 NCAC 07B .0121 BANKRUPT'S LIABILITY**

*History Note: Authority G.S. 105-164.4; 105-164.6; 105-262; 105-264; 11 U.S.C. 532; Eff. February 1, 1976; Amended Eff. October 1, 1993; Repealed Eff. January 1, 2024.*

**17 NCAC 07B .0801 MANUFACTURER'S WARRANTY AND DEALER'S WARRANTY; ADJUSTMENTS AND REPLACEMENTS**

- (a) Manufacturer's Warranty:
  - (1) Exempt Purchases. -- Purchases by a manufacturer of a replacement item, a repair part, or repair, maintenance, and installation services to maintain or repair tangible personal property or a motor vehicle pursuant to a manufacturer's warranty, as the term is defined in G.S. 105-164.13(62a), are exempt from sales and use tax if the manufacturer provides the seller a Certificate of Exemption or required data elements in accordance with 17 NCAC 07B .0106. This exemption also applies when the manufacturer contracts with a dealer or another person to make the repairs on behalf of the manufacturer pursuant to a manufacturer's warranty and that dealer or person purchases the replacement item, repair part, or repair, maintenance, and installation services.
  - (2) Tax Due On Repair Charges. -- If the manufacturer does not charge the purchaser of the property being repaired for the replacement item, repair parts, or any repair, maintenance, and installation services, no sales or use tax is due on the cost of the replacement item, parts, or services. If the manufacturer charges the purchaser of the property being repaired for the replacement item, repair parts, or any repair, maintenance, and installation services, sales and use tax is due on the sales price of the item, parts, or services.
- (b) Dealer's Warranty:
  - (1) Exempt Purchases. -- Purchases by a dealer of a replacement item, a repair part, or repair, maintenance, and installation services to maintain or repair tangible personal property or a motor vehicle pursuant to a dealer's warranty, as the term is defined in G.S. 105-164.13(62a), are exempt from sales and use tax if the dealer provides the seller a Certificate of Exemption or required data elements in accordance with 17 NCAC 07B .0106. This exemption also applies when the dealer contracts with another person to make the repairs on behalf of the dealer pursuant to a dealer's warranty and that person purchases the replacement item, repair part, or repair, maintenance, and installation services.

- (2) Tax Due On Repair Charges. -- If the dealer does not charge the purchaser of the property being repaired for the replacement item, repair parts, or any repair, maintenance, and installation services, no sales or use tax is due on the cost of the replacement item, parts, or services. If the dealer charges the purchaser of the property being repaired for the replacement item, repair parts, or any repair, maintenance, and installation services, sales and use tax is due on the sales price of the item, parts, or services.

*History Note:* Authority G.S. 105-164.4; 105-164.6; 105-164.13; 105-262; 105-264; 105-467; 105-468; 105-469; 105-483; 105-498; 105-507.2; 105-509.1; 105-510.1; 105-511.3; 105-537; 105-538;  
*Eff. February 1, 1976;*  
*Amended Eff. April 1, 2006; October 1, 1993; October 1, 1991;*  
*Readopted Eff. January 1, 2024.*

**17 NCAC 07B .4204 GOVERNMENT  
 AGRICULTURAL OFFICES**

*History Note:* Authority G.S. 105-164.13; 105-262;  
*Eff. February 1, 1976;*  
*Repealed Eff. January 1, 2024.*

**17 NCAC 07B .4716 TYPESETTING**

*History Note:* Authority G.S. 105-164.3; 105-164.4; 105-164.6; 105-262; Article 39; Article 40; Article 42; Article 43; Article 44;  
*Eff. February 1, 1976;*  
*Amended Eff. April 1, 2006; October 1, 1993; October 1, 1991;*  
*October 1, 1990;*  
*Repealed Eff. January 1, 2024.*

**17 NCAC 07B .4802 ACCRUAL BASIS**

- (a) A person that elects to report and pay tax on the accrual basis pursuant to 17 NCAC 07B .4801, or is required to report on the accrual basis pursuant to G.S. 105-164.20, shall keep records that disclose a separate accounting of taxable and nontaxable sales.
- (b) The person shall pay tax on the total sales price of all taxable items, as the term item is defined in G.S. 105-164.3, sold during the period covered by the sales and use tax return as required by G.S. 105-164.16, whether or not such sales are cash, credit, installment, or conditional sales, and whether or not the person retains the installment and conditional sales contracts or sells or assigns them to others and without regard to any finance reserve withheld on finance paper sold or assigned to others.
- (c) Interest, financing, and carrying charges from credit extended under conditional sales contracts providing for deferred payment are not subject to tax if the charges are separately stated on the invoice or similar billing document given to the purchaser at the time of sale and maintained in the person's records of sales.
- (d) Bad Debts. Pursuant to G.S. 105-164.13, bad debts that meet the requirements of G.S. 105-164.13(15) may be deducted from gross taxable sales, during corresponding periods, if the person

maintains records disclosing separately the amount of bad debts representing taxable sales and the amount representing nontaxable sales. A person shall make the deduction for sales and use tax purposes within three years of charging off an account for income tax purposes. A person who is not required to file income tax returns may deduct a bad debt on a return filed for the period in which the bad debt is charged off in its books and records as uncollectible and would otherwise be eligible for a bad debt deduction for income tax purposes if the person were required to file income tax returns. In this instance, the person shall make the deduction for sales and use tax purposes within three years of the date the account is recognized and finally expensed as a bad debt in its books and records. A person that does not deduct a bad debt within the time allowed shall not make any deduction for the bad debt. If a deduction is taken for a bad debt and the debt is subsequently collected, in whole or in part, the tax on the amount of debt collected must be paid and reported on the sales and use tax return filed for the period in which the collection occurs. For purposes of reporting collection of the bad debt subsequent to having charged off and deducted such bad debt, any payments on the debt shall be applied first proportionally to the taxable price of the item and sales tax thereon, and secondly to interest, services charges, and any other charges.

*History Note:* Authority G.S. 105-164.3; 105-164.13; 105-164.20; 105-164.22; 105-262; 105-264; 105-467; 105-468; 105-469; 105-483; 105-498; 105-507.2; 105-509.1; 105-510.1; 105-511.3; 105-537; 105-538;  
*Eff. February 1, 1976;*  
*Readopted Eff. January 1, 2024.*

**17 NCAC 07B .4803 CASH BASIS**

- (a) A person making taxable and nontaxable sales that elects to report and pay tax on the cash basis, and is not required to report on the accrual basis pursuant to G.S. 105-164.20, shall keep records that disclose a separate accounting of taxable and nontaxable sales.
- (b) The person shall pay tax on the total sales price of all taxable items, as the term item is defined in G.S. 105-164.3, sold during the period covered by the sales and use tax return as required by G.S. 105-164.16.
- (c) Sales upon which tax is due include cash, credit, installment, or conditional sales, and on any portion of the sales price collected or constructively received during the return period.
- (d) Interest, financing, and carrying charges from credit extended under conditional sales contracts providing for deferred payment of the purchase price are not subject to the tax if such charges are separately stated on the invoice or similar billing document given to the purchaser at the time of sale and maintained in the person's records of sales.
- (e) A person that sells or assigns the finance paper on conditional, installment, or other deferred payment sales is deemed to have received the full balance of consideration for the sale of an item and shall remit tax on the total sales price of the item at the close of the period when the finance paper was assigned or sold including any finance reserve withheld on the finance paper.
- (f) A person filing their sales and use tax returns on the cash basis of accounting that sells their accounts receivable shall remit tax on their taxable accounts receivable balance outstanding at the

time they sell the accounts even though the accounts may be sold at a discount to the purchaser.

*History Note: Authority G.S. 105-164.3; 105-164.20; 105-164.22; 105-262; 105-264; 105-467; 105-468; 105-469; 105-483; 105-498; 105-507.2; 105-509.1; 105-510.1; 105-511.3; 105-537; 105-538; Eff. February 1, 1976; Readopted Eff. January 1, 2024.*

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**TITLE 21 - OCCUPATIONAL LICENSING BOARDS AND COMMISSIONS**

**CHAPTER 42 – BOARD OF EXAMINERS IN OPTOMETRY**

**21 NCAC 42B .0201 BEGINNING PRACTICE; RELOCATING PRACTICE**

Prior to beginning practice, a licensee shall notify the Board in writing as to the full and complete mailing address, including the street address, of his or her office and the telephone number of such office. Prior to relocating an office, the licensee involved shall notify the Board in writing of his or her new office address and telephone number. The address so identified shall constitute his or her primary practice address and the address to which all information pertaining to his or her licensure shall be addressed.

*History Note: Authority G.S. 90-117.5; Eff. February 1, 1976; Readopted Eff. May 30, 1978; Amended Eff. 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. November 1, 2023.*

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**RULES REVIEW COMMISSION**

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*This Section contains information for the meeting of the Rules Review Commission December 14, 2023 at 1711 New Hope Church Road, RRC Commission Room, Raleigh, NC. Anyone wishing to submit written comments on any rule before the Commission should submit those comments to the RRC staff, the agency, and the individual Commissioners. Specific instructions and addresses may be obtained from the Rules Review Commission at 984-236-1850. Anyone wishing to address the Commission should notify the RRC staff and the agency no later than 5:00 p.m. of the 2<sup>nd</sup> business day before the meeting. Please refer to RRC rules codified in 26 NCAC 05.*

**RULES REVIEW COMMISSION MEMBERS**

**Appointed by Senate**

Jeanette Doran (Chair)  
Jay R. Hemphill  
Jeff Hyde  
Brandon Leebrick  
Bill Nelson

**Appointed by House**

Barbara A. Jackson (1<sup>st</sup> Vice-Chair)  
Randy Overton (2<sup>nd</sup> Vice-Chair)  
Wayne R. Boyles, III  
Jake Parker  
Paul Powell

**COMMISSION COUNSEL**

Brian Liebman            984-236-1948  
William W. Peaslee      984-236-1939  
Seth M. Ascher          984-236-1934

**RULES REVIEW COMMISSION MEETING DATES**

December 14, 2023

2024 Meeting Dates to be Determined at December 2023 Meeting

**AGENDA**

**RULES REVIEW COMMISSION**

**Thursday, December 14, 2023, 9:00 A.M.**

**1711 New Hope Church Rd., Raleigh, NC 27609**

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- I. Ethics reminder by the chair as set out in G.S. 138A-15(e)  
Approval of the minutes from the last meeting
  - II. Follow-up matters
    - A. Child Care Commission - 10A NCAC 09 .0102, .0601, .1707, .1725, .2204, .2206, .2209, .2611, .2612, .2613, .2614, .2615, .2616 (Ascher)
    - B. Coastal Resources Commission - 15A NCAC 07H .0208, .0308; 07M .0603 (Liebman)
    - C. Department of Revenue - 17 NCAC 07B .1202, .1303, .1404, .1601, .1605, .1705, .2001, .2002, .2204, .3101, .4109 (Ascher)
    - D. Department of Revenue - 17 NCAC 07B .4201, .4202, .4203, .4206, .4210, .4404, .4415, .4503, .4510, .4609, .4614, .4701, .4707, .4708, .4801, .5001, .5002, .5004 (Peaslee)
    - E. Board of Cosmetic Art Examiners 21 NCAC 14T .0402, .0404 (Peaslee)
    - F. Board of Examiners in Optometry - 21 NCAC 42D .0102 (Peaslee)
    - G. Building Code Council - 2024 North Carolina Existing Building Code, Section 101.2 of the 2024 North Carolina Building Code, Section 101.2 of the 2024 North Carolina Existing Building Code, Section 803.2.1.2 of the 2024 North Carolina Existing Building Code, Section 102.13 of the 2024 North Carolina Fire Code, and Section 5706.5.4.5 of the 2024 North Carolina Fire Code (Liebman)
  - III. Review of Filings (Permanent Rules) for rules filed between October 21, 2023 through November 20, 2023
    - Department of Administration (Peaslee)
    - Medical Care Commission (Peaslee)
    - DHHS - Division of Health Service Regulation (Ascher)
    - Commission For Mental Health/ DD/SAS (Ascher)
    - Criminal Justice Education and Training Standards Commission (Peaslee)
    - Department of Labor (Liebman)
    - Department of Public Safety (Peaslee)
    - Private Protective Services Board (Liebman)
    - Coastal Resources Commission (Liebman)
    - Wildlife Resources Commission (Ascher)

- Department of the Secretary of State 18 NCAC 07B (Liebman)
  - Department of the Secretary of State 18 NCAC 07F (Ascher)
  - Department of the Secretary of State 18 NCAC 07I, 07K (Liebman)
  - Board of Chiropractic Examiners (Peaslee)
  - Board of Nursing (Peaslee)
  - Board of Examiners in Optometry (Peaslee)
  - Building Code Council (Liebman)
- IV. Review of Log of Filings (Temporary Rules) for any rule filed within 15 business days prior to the RRC Meeting
- V. Existing Rules Review
- Review of Reports
    1. 15A NCAC 05A - Mining Commission (Ascher)
    2. 15A NCAC 05B - Mining Commission (Ascher)
    3. 15A NCAC 05F - Mining Commission (Ascher)
    4. 15A NCAC 05G - Mining Commission (Ascher)
- VI. Commission Business
- Review of 2024 RRC meeting dates

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**Commission Review  
Log of Permanent Rule Filings  
October 21, 2023 through November 20, 2023**

**DEPARTMENT OF ADMINISTRATION**

The rules in Chapter 6 are rules dealing with State Property and Construction.

The rules in Subchapter 6B rules relate to real property including general provisions (.0100); acquisition of real property (.0200); disposition of real property (.0300); easements to fill (.0500); other easements over water (.0600); assessments against lands owned by the state (.0700); and relocation and financial assistance (.0800).

Leases at State Fairgrounds and WNC AG Center 01 NCAC 06B .0307  
Adopt\*

**MEDICAL CARE COMMISSION**

The rules in Subchapter 13F concern licensing of homes for the aged and infirm and include definitions (.0100); licensing (.0200); physical plant (.0300); staff qualification (.0400); staff orientation training, competency and continuing education (.0500); staffing (.0600); admission and discharge (.0700); resident assessment and care plan (.0800); resident care and services (.0900); medication (.1000); Resident's funds and refunds (.1100); policies; records and reports (.1200); special care units for alzheimer and related disorders (.1300); special care units for mental health disorders (.1400); use of physical restraints and alternatives (.1500); rated certificates (.1600); administrator certification and renewal (.1700); and infection prevention and control (.1800).

Tuberculosis Test, Medical Examination and Immunizations 10A NCAC 13F .0703  
Readopt with Changes\*

Resident Contract, Information on Facility, and Resident 10A NCAC 13F .0704  
Readopt with Changes\*

Authorized Representative 10A NCAC 13F .1103  
Amend\*

Accounting for Resident's Personal Funds 10A NCAC 13F .1104  
Amend\*

Settlement of Cost of Care 10A NCAC 13F .1106  
Readopt without Changes\*

The rules in Subchapter 13G concern licensing of family care homes including definitions (.0100); licensing (.0200); the building (.0300); staff qualifications (.0400); staffing orientation, training, competency and continuing education (.0500);

staffing of the home (.0600); admission and discharge (.0700); resident assessment and care plan (.0800); resident care and services (.0900); medications (.1000); management and resident's funds and refunds (.1100); policies, records and reports (.1200); use of physical restraints and alternatives (.1300); rated certificates (.1600); and infection prevention and control (.1700)..

<u>Tuberculosis Test and Medical Examination, and Immunizations</u> Readopt with Changes*	10A NCAC 13G .0702
<u>Resident Register</u> Readopt/Repeal*	10A NCAC 13G .0703
<u>Resident Contract, Information on Facility, and Resident R...</u> Readopt with Changes*	10A NCAC 13G .0704
<u>Authorized Representative</u> Readopt with Changes*	10A NCAC 13G .1102
<u>Accounting for Resident's Personal Funds</u> Readopt with Changes*	10A NCAC 13G .1103
<u>Settlement of Cost of Care</u> Readopt without Changes*	10A NCAC 13G .1106

**HHS - HEALTH SERVICE REGULATION, DIVISION OF**

The rules in Chapter 14 concern services provided by the Division of Health Service Regulation.

The rules in Subchapter 14C are Certificate of Need regulations including general provisions (.0100); applications and review process (.0200); exemptions (.0300); appeal process (.0400); enforcement and sanctions (.0500); and criteria and standards for nursing facility or adult care home services (.1100), intensive care services (.1200), pediatric intensive care services (.1300), neonatal services (.1400), hospices, hospice inpatient facilities, and hospice residential care facilities (.1500), cardiac catheterization equipment and cardiac angioplasty equipment (.1600), open heart surgery services and heart-lung bypass machines (.1700), diagnostic centers (.1800), radiation therapy equipment (.1900), home health services (.2000), surgical services and operating rooms (.2100), end stage renal disease services (.2200), computed tomography equipment (.2300), immediate care facility/mentally retarded (ICF/MR) (.2400), substance abuse/chemical dependency treatment beds (.2500), psychiatric beds (.2600), magnetic resonance imaging scanner (.2700), rehabilitation services (.2800), bone marrow transplantation services (.2900), solid organ transplantation services (.3000), major medical equipment (.3100), lithotripter equipment (.3200), air ambulance (.3300), burn intensive care services (.3400), oncology treatment centers (.3500), gamma knife (.3600), positron emission tomography scanner (.3700), acute care beds (.3800), gastrointestinal endoscopy procedure rooms in licensed health service facilities (.3900), and hospice inpatient facilities and hospice residential care facilities (.4000).

<u>Definitions</u> Readopt with Changes*	10A NCAC 14C .1401
<u>Performance Standards</u> Readopt with Changes*	10A NCAC 14C .1403
<u>Performance Standards</u> Amend*	10A NCAC 14C .2703

**MENTAL HEALTH/DD/SAS, COMMISSION FOR**

The rules in Chapter 27 concern mental health community facilities and services.

The rules in Subchapter 27G are from either the department or the Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services including general information (.0100); operation and management rules (.0200); physical plant rules (.0300); facility licensing procedures (.0400); area program requirements (.0500); area authority or county program monitoring of facilities and services (.0600); accreditation of area programs and services (.0700); waivers and appeals (.0800); general rules for infants and toddlers (.0900); partial hospitalization for individuals who are mentally ill (.1100); psychological rehabilitation facilities for individuals with severe and persistent mental illness (.1200); residential treatment for children and adolescents who are emotionally disturbed or who have a mental illness

(.1300); day treatment for children and adolescents with emotional or behavioral disturbances (.1400); intensive residential treatment for children and adolescents who are emotionally disturbed or who have a mental illness (.1500); residential treatment staff secure facilities for children or adolescents (.1700); psychiatric residential treatment facilities for children and adolescents (.1900); specialized community residential centers for individuals with developmental disabilities (.2100); before/after school and summer developmental day services for children with or at risk for developmental delays or disabilities, or atypical development (.2200); adult developmental and vocational programs for individuals with developmental disabilities (.2300); developmental day services for children with or at risk for developmental delays or disabilities, or atypical development (.2400); early childhood intervention services (ECIS) for children with an at risk for developmental delays or disabilities, or atypical development and their families (.2500); nonhospital medical detoxification for individuals who are substance abusers (.3100); social setting detoxification for substance abuse (.3200); outpatient detoxification for substance abuse (.3300); residential treatment/rehabilitation for individuals with substance abuse disorders (.3400); outpatient facilities for individuals with substance abuse disorders (.3500); outpatient opioid treatment (.3600); day treatment facilities for individuals with substance abuse disorders (.3700); substance abuse services for DWI offenders (.3800); drug education schools (DES) (.3900); treatment alternatives to street crimes (TASC) (.4000); substance abuse primary prevention services (.4200); therapeutic community (.4300); facility based crises services for individual of all disability groups (.5000); community respite services for individuals of all disability groups (.5100); residential therapeutic (habilitative) camps for children and adolescents of all disability groups (.5200); day activity for individuals of all disability groups (.5400); sheltered workshops for individuals of all disability groups (.5500); supervised living for individuals of all disability groups (.5600); assertive community treatment service (.5700); supportive employment for individuals of all disability groups (.5800); case management for individuals of all disability groups (.5900); inpatient hospital treatment for individuals who have mental illness or substance abuse disorders (.6000); emergency services for individuals of all disability groups (.6100); outpatient services for individuals of all disability groups (.6200); companion respite services for individuals of all disability groups (.6300); personal assistants for individuals of all disabilities groups (.6400); employment assistance programs (.6500); specialized foster care services (.6600); forensic screening and evaluation services for individuals of all disability groups (.6700); prevention services (.6800); consultation and education services (.6900); local management entity response to complaints (.7000); and target population (.7100).

Staff Definitions

10A NCAC 27G .0104

Amend\*

The rules in Chapter 28 are mental health rules about state operated facilities and services.

The rules in Subchapter 28A are rules about committees and procedures including rules about scope and definitions (.0100); human rights committees (.0200) and informing clients and state facility employees of rights (.0300).

Definitions

10A NCAC 28A .0102

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 9A cover the Commission organization and procedure (.0100) and enforcement of the rules (.0200).

Period of Suspension: Revocation: or Denial

12 NCAC 09A .0205

Amend\*

Summary Suspensions

12 NCAC 09A .0206

Amend\*

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).

Fingerprint Criminal History Record Check

12 NCAC 09B .0103



Amend*			
<u>Basic Training - Juvenile Court Counselors and Chief Cour...</u>	12	NCAC	09B .0235
Amend*			
<u>Basic Training - Juvenile Justice Officers</u>	12	NCAC	09B .0236
Amend*			
<u>Certification of Instructors</u>	12	NCAC	09B .0301
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).

<u>Lateral Transfer of Law Enforcement Officers</u>	12	NCAC	09C .0306
Amend*			

The rules in Subchapter 9E relate to the law enforcement officers' in-service training program.

<u>Department Head Responsibilities: Annual In-Service Training</u>	12	NCAC	09E .0103
Amend*			

The rules in Subchapter 9F cover concealed handgun training.

<u>Approval of Courses</u>	12	NCAC	09F .0103
Amend*			

<u>Instructor Qualifications</u>	12	NCAC	09F .0104
Amend*			

<u>Instructor Responsibilities</u>	12	NCAC	09F .0105
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).

<u>Certification of Instructors</u>	12	NCAC	09G .0307
Amend*			

**LABOR, DEPARTMENT OF**

The rules in Chapter 15 pertain to elevators and amusement devices and include general provisions (.0100); various industry codes and standards (.0200); elevators and related equipment (.0300); amusement devices (.0400); penalties (.0500); forms (.0600); and fees (.0700).

<u>Regulation of Inflatable or Air-Supported Amusement Devices</u>	13	NCAC	15 .0430
Repeal*			

<u>Definitions</u>	13	NCAC	15 .0431
Repeal*			

<u>Ride Design</u>	13	NCAC	15 .0432
Repeal*			

<u>Anchorage or Tie-Down</u>	13	NCAC	15 .0433
Repeal*			

<u>Operation of Inflatable or Air-Supported Amusement Devices</u>	13	NCAC	15 .0434
Repeal*			

<u>Blowers</u>	13	NCAC	15	.0435
Repeal*				
<u>Wind Speed</u>	13	NCAC	15	.0436
Repeal*				
<u>Signs</u>	13	NCAC	15	.0437
Repeal*				
<u>Operating Manual and Documentation</u>	13	NCAC	15	.0438
Repeal*				

**PUBLIC SAFETY, DEPARTMENT OF**

The rules in Chapter 3 concern emergency management including the North Carolina search and rescue program (.0400); and North Carolina hazardous material regional response program (.0500).

<u>Purpose</u>	14B	NCAC	03	.0501
Adopt*				
<u>Abbrev</u>	14B	NCAC	03	.0502
Adopt*				
<u>Dispatch of a Regional Response Team</u>	14B	NCAC	03	.0503
Adopt*				
<u>On-Site Operations of a Program Resource</u>	14B	NCAC	03	.0504
Adopt*				
<u>Standards for Administration of a Contract Response Team..</u>	14B	NCAC	03	.0505
Adopt*				
<u>Recovering the Costs of a Search and Rescue Team</u>	14B	NCAC	03	.0506
Adopt*				
<u>Procedures for Bidding and Contracting for Regional Respo...</u>	14B	NCAC	03	.0507
Adopt*				
<u>Criteria for Evaluating Bids for Contract Response Team</u>	14B	NCAC	03	.0508
Adopt*				
<u>Personnel, Training, and Equipment Standards for Regional...</u>	14B	NCAC	03	.0509
Adopt*				

**PRIVATE PROTECTIVE SERVICES BOARD**

The rules in Chapter 16 are from the Private Protective Services Board and cover organization and general provisions (.0100); licenses and trainee permits (.0200); security guard patrol and guard dog service (.0300); private investigator: electronic countermeasures (.0400); polygraph (.0500); psychological stress evaluator (PSE) (.0600); unarmed security guard registration (.0700); armed security guard firearm registration permit (.0800); trainer certificate (.0900); recovery fund (.1000); training and supervision for private investigator associates (.1100); continuing education (.1300); armed armored car service guards firearm registration permit (.1400); close personal protection (.1500); digital forensics examiner (.1600); and training and supervision for digital forensics examiner (D.F.E) associates (.1700).

<u>Application for Unarmed Security Guard Registration</u>	14B	NCAC	16	.0701
Amend*				
<u>Trainer Name to be Submitted to Director</u>	14B	NCAC	16	.0708
Repeal*				
<u>Application for Firearms Trainer Certificate</u>	14B	NCAC	16	.0902
Amend*				
<u>Renewal of a Firearms Trainer Certificate</u>	14B	NCAC	16	.0904
Amend*				
<u>Application for an Unarmed Trainer</u>	14B	NCAC	16	.0910
Amend*				
<u>Rosters of Unarmed Trainer Classes</u>	14B	NCAC	16	.0912

Repeal\*

Training and Supervision for Private Investigator Associates

14B NCAC 16 .1109

Adopt\*

**COASTAL RESOURCES COMMISSION**

The rules in Subchapter 7H are the state guidelines for areas of environmental concern (AECs) including introduction and general comments (.0100); the estuarine system (.0200); ocean hazard areas (.0300); public water supplies (.0400); natural and cultural resource areas (.0500); development standards (.0600); general permits for construction or maintenance of bulkheads and the placement of riprap for shoreline protection in estuarine and public trust waters (.1100); piers, docks and boat houses in estuarine and public trust waters (.1200); general permit to construct boat ramps along estuarine and public trust shorelines and into estuarine and public trust waters (.1300); groins in estuarine and public trust waters (.1400); excavation within or connecting to existing canals, channels, basins, or ditches in estuarine waters, public trust waters, and estuarine shoreline AECs (.1500); aerial and subaqueous utility lines with attendant structures in coastal wetlands, estuarine waters, public trust waters and estuarine shorelines (.1600); emergency work requiring a CAMA or a dredge and fill permit (.1700); beach bulldozing landward of the mean high-water mark in the ocean hazard AEC (.1800); general permit to allow for temporary structures within the estuarine and ocean AECs (.1900); authorizing minor modifications and repair to existing pier/mooring facilities in estuarine and public trust waters and ocean hazard areas (.2000); construction of sheetpile sill for shoreline protection in estuarine and public trust waters (.2100); construction of freestanding moorings in established waters and public trust areas (.2200); replacement of existing bridges and culverts in estuarine waters, estuarine shorelines, public trust areas and coastal wetlands (.2300); placement of riprap for wetland protection in estuarine and public trust waters (.2400); emergency general permit, to be initiated at the discretion of the Secretary of the Department of Environment and Natural Resources for replacement of structures; the reconstruction of primary or frontal dune systems; and the maintenance excavation of existing canals, basins, channels, or ditches, damaged, destroyed, or filled in by hurricanes or tropical storms, provided all replacement, reconstruction and maintenance excavation activities conform to all current standards (.2500); construction of wetland, stream and buffer mitigation sites by the North Carolina Ecosystem Enhancement Program or the North Carolina Wetlands Restoration Program (.2600); and the construction of riprap sills for wetland enhancement in estuarine and public trust waters (.2700).

<u>Permit Fee</u>	15A NCAC 07H .1103
Amend*	
<u>Permit Fee</u>	15A NCAC 07H .1203
Amend*	
<u>Permit Fee</u>	15A NCAC 07H .1303
Amend*	
<u>Permit Fee</u>	15A NCAC 07H .1403
Amend*	
<u>Application Fee</u>	15A NCAC 07H .1503
Amend*	
<u>Permit Fee</u>	15A NCAC 07H .1903
Amend*	
<u>Permit Fee</u>	15A NCAC 07H .2003
Amend*	
<u>Permit Fee</u>	15A NCAC 07H .2103
Amend*	
<u>Permit Fee</u>	15A NCAC 07H .2203
Amend*	
<u>Permit Fee</u>	15A NCAC 07H .2403
Amend*	
<u>Permit Fee</u>	15A NCAC 07H .2503
Amend*	
<u>Permit Fee</u>	15A NCAC 07H .2703
Amend*	

**WILDLIFE RESOURCES COMMISSION**

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>Definitions and General Requirements</u> Adopt*	15A NCAC 10B .0501
<u>Surveillance Area</u> Adopt*	15A NCAC 10B .0503

The rules in Subchapter 10F cover motorboats and water safety including boat registration (.0100); safety equipment and accident reports (.0200); and local water safety regulations covering speed limits, no-wake restrictions, restrictions on swimming and other activities, and placement of markers for designated counties or municipalities (.0300).

<u>Mecklenburg and Gaston Counties</u> Amend*	15A NCAC 10F .0333
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**SECRETARY OF STATE, DEPARTMENT OF THE**

The rules in Chapter 7 are from the Notary Public Division.

The rules in Subchapter 7B are rules covering traditional notary publics and include general provisions (.0100); fees paid to the department (.0200); filing, signatures on filing, and responses to requests for information (.0300); forms (.0400); commissioning and term of office (.0500); notary public certified instructor (.0700); enforcement and disciplinary actions (.0900); and public records and requests for information (.1000).

<u>U.S. Currency</u> Amend*	18 NCAC 07B .0201
<u>Online Fee Payment</u> Amend*	18 NCAC 07B .0202
<u>Fees Paid in Person</u> Adopt*	18 NCAC 07B .0203
<u>Fees Paid by USPS or by Delivery Service</u> Adopt*	18 NCAC 07B .0204
<u>Fee for Dishonored Payment</u> Amend*	18 NCAC 07B .0205
<u>Filing not Processed if Payment Dishonored</u> Adopt*	18 NCAC 07B .0206
<u>Department Actions upon Dishonored Payment</u> Adopt*	18 NCAC 07B .0207
<u>Notice to Filer of Dishonored Payment</u> Adopt*	18 NCAC 07B .0208
<u>Form Use Required</u> Adopt*	18 NCAC 07B .0301
<u>Mode of Filing</u> Adopt*	18 NCAC 07B .0302
<u>Paper Filings Permitted</u> Adopt*	18 NCAC 07B .0303
<u>Inapplicable Questions</u> Adopt*	18 NCAC 07B .0304
<u>Response to Questions and Requests for Information</u> Adopt*	18 NCAC 07B .0305
<u>Attachments</u> Adopt*	18 NCAC 07B .0306

<u>Notice of Attachment</u> Adopt*	18	NCAC	07B	.0307
<u>Signature for Entity</u> Adopt*	18	NCAC	07B	.0308
<u>Form Preparer Signature Required</u> Adopt*	18	NCAC	07B	.0309
<u>Incomplete Filings</u> Adopt*	18	NCAC	07B	.0310
<u>Rejection of Incomplete Filings</u> Adopt*	18	NCAC	07B	.0311
<u>Filing Date of Document</u> Adopt*	18	NCAC	07B	.0312
<u>General</u> Amend*	18	NCAC	07B	.0401
<u>Contact Information</u> Adopt*	18	NCAC	07B	.0402
<u>Certificate of Appointment Form</u> Adopt*	18	NCAC	07B	.0403
<u>Electronic Notary Public Registration Form</u> Adopt*	18	NCAC	07B	.0404
<u>Form Notifying Department of Selection of Technology Prov...</u> Adopt*	18	NCAC	07B	.0405
<u>Notice to Department of Change by Electronic Notary in Te...</u> Adopt*	18	NCAC	07B	.0406

The rules in subchapter 7F concern electronic notary public requirements including general provisions (.0100); qualifications to be electronic notary (.0200); education of electronic notaries public (.0300); application for registration as electronic notary public (.0400); registration and oath (.0500); selection and use of technology provider to perform electronic notarial acts (.0600); electronic notary signature (.0700); electronic notary seal (.0800); reregistration as electronic notary (.0900); confidentiality, security, and records retention (.1000); and continuing obligations of electronic notaries (.1100).

<u>Scope</u> Amend*	18	NCAC	07F	.0101
<u>Definitions</u> Amend*	18	NCAC	07F	.0102
<u>Electronic Notaries Performing Remote Electronic Notary Acts</u> Adopt*	18	NCAC	07F	.0103
<u>Valid Commission</u> Amend*	18	NCAC	07F	.0201
<u>Approved Course of Study for Electronic Notaries Public</u> Amend*	18	NCAC	07F	.0301
<u>Course to be Taught by Certified Notary Instructors</u> Adopt*	18	NCAC	07F	.0302
<u>Electronic Notary Course</u> Adopt*	18	NCAC	07F	.0303
<u>Student Identity</u> Adopt*	18	NCAC	07F	.0304
<u>Passing Score on Examination</u> Adopt*	18	NCAC	07F	.0305
<u>Submission</u> Amend*	18	NCAC	07F	.0401
<u>Timing of Application</u> Adopt*	18	NCAC	07F	.0402

<u>Notice to Department of Changes</u> Adopt*	18	NCAC	07F	.0403
<u>Failure to Submit Application in Time</u> Adopt*	18	NCAC	07F	.0404
<u>Notice of Department's Actions for Qualified Electronic N...</u> Adopt*	18	NCAC	07F	.0503
<u>Oaths Timing</u> Repeal*	18	NCAC	07F	.0505
<u>Evidence of Identity</u> Repeal*	18	NCAC	07F	.0506
<u>Certificate Delivery</u> Repeal*	18	NCAC	07F	.0507
<u>Registration Effective Date</u> Repeal*	18	NCAC	07F	.0508
<u>Registration Effective Date</u> Adopt*	18	NCAC	07F	.0509
<u>Confirmation of Electronic Notary Status</u> Adopt*	18	NCAC	07F	.0512
<u>Performing Electronic and Remote Electronic Notarial Acts</u> Adopt*	18	NCAC	07F	.0513
<u>Notice to Department of Technology Provider</u> Adopt*	18	NCAC	07F	.0601
<u>Approved Technology Provider</u> Adopt*	18	NCAC	07F	.0602
<u>Unique Signature</u> Amend*	18	NCAC	07F	.0701
<u>Sole Control</u> Amend*	18	NCAC	07F	.0702
<u>Exclusive</u> Repeal*	18	NCAC	07F	.0703
<u>Attributes of Electronic Signature</u> Amend*	18	NCAC	07F	.0704
<u>Appearance of Electronic Signature</u> Amend*	18	NCAC	07F	.0705
<u>Signature Compliance</u> Adopt*	18	NCAC	07F	.0706
<u>Signature Review Before Use</u> Adopt*	18	NCAC	07F	.0707
<u>Affixing Electronic Signature</u> Adopt*	18	NCAC	07F	.0708
<u>Review After Affixing Electronic Signature</u> Adopt*	18	NCAC	07F	.0709
<u>Unique Seal</u> Amend*	18	NCAC	07F	.0801
<u>Sole Control</u> Amend*	18	NCAC	07F	.0802
<u>Exclusive</u> Repeal*	18	NCAC	07F	.0803
<u>Attributes of Electronic Seal</u> Amend*	18	NCAC	07F	.0804
<u>Appearance of Electronic Notary Seal</u> Amend*	18	NCAC	07F	.0805

<u>Perimeter</u>	18	NCAC	07F	.0806
Repeal*				
<u>Contents of Electronic Notary Seal</u>	18	NCAC	07F	.0807
Amend*				
<u>Electronic Notary Seals are Private Property</u>	18	NCAC	07F	.0808
Amend*				
<u>Seal Compliance</u>	18	NCAC	07F	.0809
Adopt*				
<u>Seal Limitation</u>	18	NCAC	07F	.0810
Adopt*				
<u>Seal Review Before Use</u>	18	NCAC	07F	.0811
Adopt*				
<u>Affixing Electronic Seal</u>	18	NCAC	07F	.0812
Adopt*				
<u>Review After Affixing Electronic Seal</u>	18	NCAC	07F	.0813
Adopt*				
<u>Commitment</u>	18	NCAC	07F	.0814
Adopt*				
<u>Reregistration</u>	18	NCAC	07F	.0901
Amend*				
<u>Timing of Reregistration</u>	18	NCAC	07F	.0902
Adopt*				
<u>Form</u>	18	NCAC	07F	.0903
Adopt*				
<u>Education</u>	18	NCAC	07F	.0904
Adopt*				
<u>Electronic Notary Reregistration Other than at Recommissi...</u>	18	NCAC	07F	.0905
Adopt*				
<u>Registration</u>	18	NCAC	07F	.0906
Adopt*				
<u>Employers of Electronic Notaries</u>	18	NCAC	07F	.1001
Amend*				
<u>Protecting Access</u>	18	NCAC	07F	.1002
Amend*				
<u>Retention of Electronic Journal</u>	18	NCAC	07F	.1003
Adopt*				
<u>Notary Credential Sharing Forbidden</u>	18	NCAC	07F	.1004
Adopt*				
<u>Presence Requirement for Electronic Notarization</u>	18	NCAC	07F	.1101
Amend*				
<u>Presence Requirement for Remote Electronic Notarization</u>	18	NCAC	07F	.1102
Amend*				
<u>Individual Principal Signatures for Electronic Notarial Act</u>	18	NCAC	07F	.1103
Adopt*				
<u>Additional Obligations</u>	18	NCAC	07F	.1104
Adopt*				
<u>No Electronic Notarization of Ink Signature</u>	18	NCAC	07F	.1105
Adopt*				
<u>Notice of Changes</u>	18	NCAC	07F	.1106
Adopt*				
<u>Technological Issue as Reason to Halt Electronic or Remo..</u>	18	NCAC	07F	.1107
Adopt*				

<u>Resolution of Technological Issues</u> Adopt*	18 NCAC 07F .1108
<u>Ceasing to Use a Technology Provider</u> Adopt*	18 NCAC 07F .1109
<u>Notice of Cancellation by Provider</u> Adopt*	18 NCAC 07F .1110
<u>Content of Notice</u> Adopt*	18 NCAC 07F .1111
<p>The rules in Subchapter 71 concern journal requirements including general rules (.0100); journal basics (.0200); general journal contents (.0300); and electronic journal requirements (.0400).</p>	
<u>Notaries Subject to Journaling Requirements</u> Adopt*	18 NCAC 07I .0101
<u>Definitions</u> Adopt*	18 NCAC 07I .0102
<u>Journal Requirement</u> Adopt*	18 NCAC 07I .0103
<u>Journal Ownership</u> Adopt*	18 NCAC 07I .0104
<u>Entry of Data into Journal</u> Adopt*	18 NCAC 07I .0105
<u>Exceptions to Rule .0105</u> Adopt*	18 NCAC 07I .0106
<u>Access to the Journal</u> Adopt*	18 NCAC 07I .0107
<u>Form of Traditional Notary Journal</u> Adopt*	18 NCAC 07I .0201
<u>Form of Electronic Notary Journal</u> Adopt*	18 NCAC 07I .0202
<u>Combined Journal</u> Adopt*	18 NCAC 07I .0203
<u>Entries in a Tangible Journal</u> Adopt*	18 NCAC 07I .0204
<u>Requirements for a Tangible Journal</u> Adopt*	18 NCAC 07I .0205
<u>Provision of Journal to Department</u> Adopt*	18 NCAC 07I .0206
<u>Acts Included in Journal</u> Adopt*	18 NCAC 07I .0207
<u>Designation of Notarial Act</u> Adopt*	18 NCAC 07I .0208
<u>Exception to Rule .0208</u> Adopt*	18 NCAC 07I .0209
<u>Designation of Type of Notarial Act</u> Adopt*	18 NCAC 07I .0210
<u>Journal may Combine Employer-Related and Non-Employer Acts</u> Adopt*	18 NCAC 07I .0211
<u>Journal Retention Period</u> Adopt*	18 NCAC 07I .0212
<u>Contents of Journal for Canceled Act</u> Adopt*	18 NCAC 07I .0301
<u>Contents of Journal</u>	18 NCAC 07I .0302



Adopt*				
<u>Additional Journal Contents for Remote Electronic Notariz...</u>	18	NCAC	071	.0303
Adopt*				
<u>Employer Request for Inclusion of Additional Information i...</u>	18	NCAC	071	.0304
Adopt*				
<u>Party Request for Inclusion of Additional Information in ...</u>	18	NCAC	071	.0305
Adopt*				
<u>Notation of Requests for Inclusion of Additional Informat...</u>	18	NCAC	071	.0306
Adopt*				
<u>Notary shall not Provide Unrelated Notarial Act Informati...</u>	18	NCAC	071	.0307
Adopt*				
<u>Journal Supplements</u>	18	NCAC	071	.0308
Adopt*				
<u>Maintain a Backup Copy</u>	18	NCAC	071	.0401
Adopt*				
<u>Format of Backup Copy</u>	18	NCAC	071	.0402
Adopt*				
<u>Printing out of Electronic Journal Entries</u>	18	NCAC	071	.0403
Adopt*				
<u>Including Signatures in Journal</u>	18	NCAC	071	.0404
Adopt*				
<u>Technological Issues</u>	18	NCAC	071	.0405
Adopt*				
<u>Pre-Populated Data to be Confirmed by Notary Public</u>	18	NCAC	071	.0406
Adopt*				
<u>Steps Before Committing an Electronic Journal Entry</u>	18	NCAC	071	.0407
Adopt*				

The rules in Subchapter 7K are miscellaneous rules including general rules (.0100); and charging fees for notarial acts (.0200).

<u>Definitions</u>	18	NCAC	07K	.0101
Adopt*				
<u>Travel Fee Rate</u>	18	NCAC	07K	.0201
Adopt*				
<u>Estimate of Charges</u>	18	NCAC	07K	.0202
Adopt*				
<u>Inclusion of Fees in Journal</u>	18	NCAC	07K	.0203
Adopt*				
<u>Consent to Travel Fees May be Electronic</u>	18	NCAC	07K	.0204
Adopt*				
<u>Contents of Advance Consent to Travel Fees</u>	18	NCAC	07K	.0205
Adopt*				
<u>Notarial Record of Written Consent to Travel Fees</u>	18	NCAC	07K	.0206
Adopt*				

**CHIROPRACTIC EXAMINERS, BOARD OF**

The rules in Chapter 10 include organization of the Board (.0100); the practice of chiropractic (.0200); rules of unethical conduct (.0300); rule-making procedures (.0400); investigation of complaints (.0500); contested cases and hearings in contested cases (.0600-.0700); and miscellaneous provisions (.0800).

<u>Licensure; Renewal of License</u>	21	NCAC	10	.0204
Amend*				

**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).

<u>Definitions</u>	21	NCAC	36	.0120
Amend*				
<u>Refresher Course</u>	21	NCAC	36	.0220
Amend*				
<u>Out of State Students</u>	21	NCAC	36	.0233
Amend*				
<u>Establishment of a Nursing Program - Initial Approval</u>	21	NCAC	36	.0302
Amend*				
<u>Existing Nursing Program</u>	21	NCAC	36	.0303
Amend*				
<u>Process for Program Closure</u>	21	NCAC	36	.0309
Amend*				
<u>Administration</u>	21	NCAC	36	.0317
Amend*				
<u>Faculty</u>	21	NCAC	36	.0318
Amend*				
<u>Students</u>	21	NCAC	36	.0320
Amend*				
<u>Curriculum</u>	21	NCAC	36	.0321
Amend*				
<u>Facilities</u>	21	NCAC	36	.0322
Amend*				
<u>Records and Reports</u>	21	NCAC	36	.0323
Amend*				

**OPTOMETRY, BOARD OF EXAMINERS IN**

The rules in Subchapter 42B concern license to practice optometry including license by examination (.0100); responsibility to supply information (.0200); and professional corporations and limited liability companies (.0300).

<u>Ceasing Practice</u>	21	NCAC	42B	.0204
Amend*				

The rules in Subchapter 42M concern preceptorships.

<u>Remuneration and Expenses</u>	21	NCAC	42M	.0105
Amend*				

**BUILDING CODE COUNCIL**

<u>2024 NC Administrative Code and Policies</u>	221213	Item	B-1
Adopt*			
<u>2024 NC Administrative Code and Policies Appendix B</u>	230314	Item	B-13
Adopt*			
<u>2024 NC Plumbing Code</u>	230314	Item	B-1

Adopt\*

2024 NC Residential Code

Adopt\*

Chapters 1-10, 25-33, 45,  
46, and Appendices