

NORTH CAROLINA REGISTER

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I. EXECUTIVE ORDERS	
Executive Order No. 301 - 303.....	1054 – 1064
II. IN ADDITION	
License and Theft Bureau – Public Notice of License Application Submission	1065
III. PROPOSED RULES	
Environmental Quality, Department of Environmental Management Commission	1066 – 1068
Occupational Licensing Boards and Commissions Optometry, Board of Examiners in.....	1068 – 1070
IV. TEMPORARY RULES	
Elections, State Board of Board.....	1071 – 1073
Health and Human Services, Department of Medical Care Commission	1073 – 1082
Department.....	1082 – 1083
Education, State Board of Board.....	1083 – 1086
V. APPROVED RULES	1087 – 1148
Administration, Department of Department	
Elections, State Board of Board	
Health and Human Services, Department of Social Services Commission	
Medical Care Commission	
Justice, Department of Sheriffs' Education and Training Standards Commission	
Public Safety, Department of Department	
Alarm Systems Licensing Board	
Environmental Quality, Department of Wildlife Resources Commission	
Marine Fisheries Commission	
Revenue, Department of Department	
Secretary of State, Department of Department	
VI. RULES REVIEW COMMISSION	1149 – 1165

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

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NORTH CAROLINA REGISTER
Publication Schedule for January 2024 – December 2024

FILING DEADLINES			NOTICE OF TEXT		PERMANENT RULE			TEMPORARY RULES
Volume & issue number	Issue date	Last day for filing	Earliest date for public hearing	End of required comment Period	Deadline to submit to RRC for review at next meeting	RRC Meeting Date	Earliest Eff. Date of Permanent Rule	270 th day from publication in the Register
38:13	01/02/24	12/06/23	01/17/24	03/04/24	03/20/24	04/30/2024	05/01/24	09/28/24
38:14	01/16/24	12/19/23	01/31/24	03/18/24	03/20/24	04/30/2024	05/01/24	10/12/24
38:15	02/01/24	01/10/24	02/16/24	04/01/24	04/20/24	05/29/2024	06/01/24	10/28/24
38:16	02/15/24	01/25/24	03/01/24	04/15/24	04/20/24	05/29/2024	06/01/24	11/11/24
38:17	03/01/24	02/09/24	03/16/24	04/30/24	05/20/24	06/26/2024	07/01/24	11/26/24
38:18	03/15/24	02/23/24	03/30/24	05/14/24	05/20/24	06/26/2024	07/01/24	12/10/24
38:19	04/01/24	03/08/24	04/16/24	05/31/24	06/20/24	07/31/2024	08/01/24	12/27/24
38:20	04/15/24	03/22/24	04/30/24	06/14/24	06/20/24	07/31/2024	08/01/24	01/10/25
38:21	05/01/24	04/10/24	05/16/24	07/01/24	07/20/24	08/28/2024	09/01/24	01/26/25
38:22	05/15/24	04/24/24	05/30/24	07/15/24	07/20/24	08/28/2024	09/01/24	02/09/25
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39:01	07/01/24	06/10/24	07/16/24	08/30/24	09/20/24	10/30/2024	11/01/24	03/28/25
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39:07	10/01/24	09/10/24	10/16/24	12/02/24	12/20/24	*01/29/2025	02/01/25	06/28/25
39:08	10/15/24	09/24/24	10/30/24	12/16/24	12/20/24	*01/29/2025	02/01/25	07/12/25
39:09	11/01/24	10/11/24	11/16/24	12/31/24	01/20/25	*02/26/2025	03/01/25	07/29/25
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39:11	12/02/24	11/06/24	12/17/24	01/31/25	02/20/25	*03/26/2025	04/01/25	08/29/25
39:12	12/16/24	11/21/24	12/31/24	02/14/25	02/20/25	*03/26/2025	04/01/25	09/12/25

*Dates not approved by the RRC

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

January 11, 2024

Executive Order No. 301

AMENDMENT TO EXECUTIVE ORDER NO. 300

EXTENSION OF THE STATE OF EMERGENCY TO COVER SEVERE WEATHER ON JANUARY 12, 2024

WHEREAS, on January 8, 2024, in anticipation of a severe weather event ("Severe Weather Event") the undersigned declared a state of emergency and activated the North Carolina Emergency Operations Plan ("the Plan"); and

WHEREAS, there is the potential for another severe weather event to cause significant impacts in the State and requires continued activation of the Plan; and

WHEREAS, amending the existing state of emergency declared in Executive Order No. 300 to include anticipated weather, will assist state and local efforts in preparing for any significant impacts; and

WHEREAS, the Council of State has concurred in extending existing transportation waivers to include anticipated and cumulative impacts from new expected weather.

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

Section 1.

The statewide emergency declared in Executive Order No. 300 and activation of the North Carolina Emergency Operations Plan is extended to cover the weather system anticipated to impact the state on Friday, January 12, 2024.

Section 2.

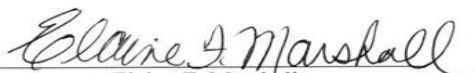
This amendment is effective immediately. Sections 1-9 and 11-12 of Executive Order No. 300 shall remain in effect until February 8, 2024, unless terminated earlier, and Section 10 shall remain in effect for fourteen (14) days from January 8, 2024, unless earlier terminated.

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 11th day of January in the year of our Lord two thousand and twenty-four.



Roy Cooper
Governor

ATTEST:



Elaine F. Marshall
Secretary of State





State of North Carolina

ROY COOPER
GOVERNOR

January 19, 2024

EXECUTIVE ORDER NO. 302

NOTICE OF TERMINATION OF EXECUTIVE ORDER NOS. 300 AND 301

WHEREAS, the State of North Carolina was threatened by severe weather events; and

WHEREAS, Executive Order No. 300, *Declaration of a Statewide State of Emergency and Temporary Waiver and Suspension of Motor Vehicle Regulations*, was issued on January 8, 2024; and

WHEREAS, Executive Order No. 301, *Extension of the State of Emergency to Cover Severe Weather on January 12, 2024*, was issued on January 11, 2024; and

WHEREAS, the emergency declaration and expansion are no longer necessary.

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

Pursuant to N.C. Gen. Stat. § 166A-19.20(c)(1) Executive Order Nos. 300 and 301 are hereby terminated immediately.

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 19th day of January in the year of our Lord two thousand and twenty-four.



Roy Cooper
Governor

ATTEST:



Elaine F. Marshall
Secretary of State





State of North Carolina

ROY COOPER
GOVERNOR

January 29, 2024

EXECUTIVE ORDER NO. 303

**ESTABLISHING A UNIFIED APPROACH TO IMPROVING EDUCATION,
REHABILITATION, AND REENTRY SERVICES FOR INCARCERATED AND
FORMERLY INCARCERATED PEOPLE IN NORTH CAROLINA**

WHEREAS, in North Carolina, approximately 95% of all people in prison will eventually complete their sentence, be released from incarceration and return to their communities; and

WHEREAS, each year, more than 18,000 people are released from North Carolina adult correctional facilities; and

WHEREAS, North Carolina was named America's Top State for Business two (2) years in a row and continues to have record-breaking years for economic development and new job creation; and

WHEREAS, employers throughout the state continue to experience workforce shortages; and

WHEREAS, providing people education and training while incarcerated can help ensure successful reentry to their communities and develop the skilled workforce needed by employers; and

WHEREAS, successful reentry of formerly incarcerated people into their communities leads to a safer North Carolina by reducing crime and breaking the cycle of violence; and

WHEREAS, formerly incarcerated people are fellow North Carolinians and neighbors, and improving education, rehabilitation, and reentry services makes all North Carolina residents safer; and

WHEREAS, in North Carolina, the average cost to the state to incarcerate a person is approximately \$134 per day; and

WHEREAS, formerly incarcerated people, particularly people of color who are incarcerated at disproportionate rates, face barriers to successful reentry that contribute to a high recidivism rate and less safe communities; and

WHEREAS, some people leaving prison face old, forgotten warrants, tickets, and open investigations, and collaboration among justice system partners to resolve outstanding legal issues prior to release would allow incarcerated people the opportunity for a fresh start upon release; and

WHEREAS, participation in educational and vocational programs, faith-based opportunities, family relationship supports, and treatment for behavioral health issues reduces rates of repeat offending and makes North Carolina safer and more prosperous; and

WHEREAS, on average, formerly incarcerated people are 60% less likely to receive callbacks from potential employers than people with no criminal record; this discrepancy is worse for historically underrepresented groups, with formerly incarcerated Black women facing a 43.6% unemployment rate; and

WHEREAS, access to education, technical training, and employment opportunities for incarcerated and formerly incarcerated people increases their ability to find, get and keep good-paying jobs; and

WHEREAS, prison education programs equip incarcerated people with skills to better manage their time in prison and provide a path to employment opportunities that will enable them to support themselves, their families and their communities; and

WHEREAS, as of July 1, 2023, incarcerated people are eligible for Pell grants by way of the *FAFSA Simplification Act* (Title VII, Division FF of P.L. 116-260) to support their education; and

WHEREAS, the undersigned issued Exec. Order No. 158, 35 N.C. Reg. 648-651 (Sept. 15, 2020) on August 18, 2020, implementing fair chance hiring policies at North Carolina state agencies to increase employment opportunities for people with criminal records, because people who have made mistakes deserve second chances; and

WHEREAS, improved access to health resources provides incarcerated and formerly incarcerated people the ability to receive preventative care, screenings, substance abuse treatment, and behavioral health care that will help improve their quality of living as they return to their communities; and

WHEREAS, Medicaid expansion is providing quality health care to hundreds of thousands of North Carolinians, including to formerly incarcerated people which will reduce their likelihood of reoffending; and

WHEREAS, the North Carolina Department of Health and Human Services is seeking to renew North Carolina's Medicaid Reform Demonstration and has requested the ability to use Medicaid funds to support reentry into the community for incarcerated people; and

WHEREAS, improved access to temporary or permanent housing will reduce homelessness, bolster success in building strong families and improve safety by helping reduce recidivism; and

WHEREAS, preparing incarcerated people for release will aid in a successful transition back to their communities by connecting them with reentry resources, providing identification documents, and improving skills necessary for employment and family relationships; and

WHEREAS, a partnership between the North Carolina Department of Adult Correction and the North Carolina Department of Transportation, Division of Motor Vehicles has resulted in incarcerated people being offered state identification cards upon release from state prisons; and

WHEREAS, in 2017, the North Carolina General Assembly and Governor Roy Cooper established the State Reentry Council Collaborative (the "SRCC"), with representation from government, law enforcement, advocacy, faith-based and judicial entities charged with studying the needs of people released from correctional institutions and increasing the effectiveness of local reentry councils; and

WHEREAS, while the SRCC has improved the reentry process, a unified government approach is needed to build upon its success, including improving access to education, vocational training, employment opportunities and behavioral health services; and

WHEREAS, North Carolina Cabinet agencies provide critical services to residents across the state that support their daily lives and help them contribute to their communities; and

WHEREAS, the Council of State Governments Justice Center has established a national initiative, Reentry2030, that calls upon states to set bold goals and achieve transformative outcomes for people exiting prison; and

WHEREAS, pursuant to Article III § 1 of the North Carolina Constitution 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 the 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. Whole-of-Government Coordination for Reentry

The North Carolina Department of Adult Correction (“DAC”) shall lead a coordinated effort with all Cabinet agencies to develop a multi-agency Strategic Plan for Reentry 2030 (the “Strategic Plan”). The Strategic Plan will establish strategies and metrics to achieve the following goals:

1. Improve economic mobility of formerly incarcerated people by increasing the number of local reentry councils and providing access to educational, technical training, apprenticeship, work-based learning and employment opportunities pre- and post-release.
2. Improve mental and physical health by expanding access to behavioral health and substance use disorder services pre- and post-release and ensuring that all eligible incarcerated people obtain Medicaid upon release.
3. Expand housing opportunities for formerly incarcerated people.
4. Remove barriers to successful community reintegration, especially for those returning to historically underserved communities.

The Joint Reentry 2030 Council shall create and present to the Governor the Strategic Plan by July 31, 2024. By December 1, 2024, and annually thereafter, the Joint Reentry 2030 Council shall publish a progress report on the strategies and metrics established in the Strategic Plan. The annual progress report may contain additional strategies and metrics to improve reentry.

Section 2. North Carolina Joint Reentry 2030 Council

DAC shall form and manage the North Carolina Joint Reentry 2030 Council (“JRC”). The JRC will be comprised of:

1. The secretary or secretary’s designee from each Cabinet agency.
2. A designee of the Task Force for Racial Equity in Criminal Justice (“TREC”), appointed by TREC’s Co-Chairs.
3. The chair or designee of the chair of the Post-Release Supervision & Parole Commission.

4. The director or designee of the director of the Office of State Human Resources.

5. The director or designee of the director of the Office of State Budget and Management.

DAC may also invite a designee from each Council of State agency to join the JRC. In coordination with the Office of the Governor, DAC may expand membership to any relevant agency, office, board, or commission.

The JRC shall be chaired by the Secretary of DAC, or the Secretary's designee. The JRC shall meet at least quarterly and shall be convened by the call of the Chair.

Section 3. Educational Pathways in Correctional Facilities

In order to increase access to and completion of educational programs in state correctional facilities, DAC shall:

1. Revise the existing Prison Education Consortium to include representation from all prison higher education, apprenticeship, and workforce partners including the North Carolina Community College System Office, participating community colleges, the UNC System Office, participating UNC System institutions, a representative of North Carolina Independent Colleges and Universities (NCICU), participating independent colleges and universities, the North Carolina Department of Commerce, current or formerly incarcerated students, and philanthropic organizations.
2. In consultation with the Prison Education Consortium, develop local, labor market-driven educational pathways that will guide course offerings and transferable pathways to complete a diploma, degree, or credential.
3. In consultation with the Prison Education Consortium, develop a plan to effectively leverage state, federal, and private funding sources to provide efficient educational programs that, when possible, result in a diploma, degree, or credential.
4. Require education providers utilized by DAC to develop and implement plans for how incarcerated people who do not complete coursework while incarcerated can complete coursework upon release. DAC is encouraged to prioritize offering educational programs in which participants will have unconditional admission to educational programs following release from prison.
5. In consultation with the Labor and Economic Analysis Division of the North Carolina Department of Commerce, develop an annual report first submitted to the Office of the Governor in October 2024 and annually thereafter that provides participation and completion outcomes for people participating in all prison education programs offered by community colleges and four-year colleges and universities, including apprenticeships. When possible, data in the report should be disaggregated by program type, correctional facility, age, gender, and race/ethnicity in order to ensure equitable participation.
6. Create a publicly available, searchable database of all coursework and apprenticeships available to incarcerated people offered by both community colleges and four-year colleges and universities in the state.
7. Establish quality measures and evaluation for all prison education programs, including apprenticeships, diplomas, short-term credentials, associate degrees, and four-year degrees.
8. Increase higher education programming for incarcerated people utilizing Pell Grants by partnering with colleges and universities that qualify to be a prison education partner and meet all federal guidelines.

9. Minimize the movement of incarcerated people who are currently enrolled in an education program, including apprenticeships, and are not requesting a transfer, until they have completed their program unless they can immediately enroll in the same program in the correctional facility to which they will be transferred.

10. Ensure that incarcerated people receive support to develop resumes accurately portraying all education and work experiences.

Section 4. Cabinet Agency Support

Cabinet agencies shall assist DAC in completing the directives outlined in Section 1 and Section 2. Cabinet agencies shall:

1. Commit senior leadership to participate in the development and implementation of the Strategic Plan for Reentry 2030.
 2. Incorporate the prioritization of education, internship, and employment opportunities for formerly incarcerated people into the agency's ongoing efforts to support underserved populations.
- A. The North Carolina Department of Commerce shall:
- i. Continue to collaborate with DAC to improve the Travel/Tourism call center program.
 - ii. Increase the number of incarcerated people receiving virtual career services through NCWorks prior to release.
 - iii. Increase the number of second chance employers hiring people prior to and following release and foster commitments within the business community to remove barriers for qualified applicants with criminal records so that they may attain living wage jobs, especially in historically underserved communities where there may be fewer job opportunities.
- B. The North Carolina Department of Health and Human Services ("DHHS") shall:
- i. Work with the Centers for Medicare & Medicaid Services with the goal of securing approval for the NC Section 1115 Demonstration Waiver to allow certain eligible people to receive certain Medicaid services prior to release.
 - ii. Create mechanisms to allow people to be pre-screened before leaving prison for federal and state benefits (e.g., TANF, SNAP, Medicaid, and LIHEAP) including ensuring processes exist for people preparing for release who are otherwise eligible for Medicaid to receive Medicaid services immediately upon release.
 - iii. Ensure released people who are diagnosed with Serious Mental Illnesses (SMIs), Substance Use Disorders, Intellectual or Developmental Disabilities (I/DD) or Traumatic Brain Injuries (TBIs) are engaged in the appropriate behavioral health services upon release from state prisons and county jails.
 - iv. Apply for a United States Department of Agriculture (USDA) waiver to allow people that are incarcerated with an impending release date to apply for Food and Nutrition Services (FNS) Electronic Benefits Transfer (EBT) while incarcerated so they receive benefits upon release to ensure food security. People with felony drug convictions, excluding Class H or I, are ineligible for FNS benefits.
 - v. Ensure youth receive consistent evidence-based behavioral health treatment during and after any involvement with the juvenile justice system.
 - vi. DHHS will work with DAC to develop a mechanism through data sharing to ensure individuals are aware of their child support obligations upon re-entry. The Departments will also develop new resources to help individuals successfully begin repayment and utilize all tools available.
 - vii. DHHS will work with DAC to provide information to individuals who are scheduled to be released on programs that may be available to them including Work First, Food and Nutrition Services, and other eligibility programs.

C. The North Carolina Department of Transportation shall:

- i. Maintain and increase the availability of state identification cards for people preparing for release.
- ii. Expand work release and employment opportunities for incarcerated and formerly incarcerated people, including expanding existing relationships with nonprofit organizations that employ formerly incarcerated people and expanding specialized on-the-job training opportunities for justice-involved youth and adult populations.
- iii. Provide resources to educate incarcerated people on the process to obtain a driver's license upon release.

D. The North Carolina Department of Information Technology shall:

- i. Assist with the implementation of secure internet-based reentry tools for people in adult and juvenile correctional facilities.
- ii. Develop and implement a plan to measure and improve digital literacy skills for incarcerated people.
- iii. Assist in the digital transfer of the Medicaid application process to include applications and status updates.
- iv. Assist in the implementation of a secure email system for incarcerated people.

E. The North Carolina Department of Military and Veterans Affairs shall:

- i. Create a statewide program to connect incarcerated military veterans to services before and upon release.
- ii. Collaborate with state and local partner agencies to connect justice-involved veterans to employment and educational opportunities.

F. The North Carolina Department of Public Safety ("DPS") shall:

- i. Engage with the North Carolina Department of Public Instruction and the State Board of Education to advance opportunities for students to enhance skill development, access to work-based learning opportunities, and complete secondary education.
- ii. Engage with the North Carolina Department of Public Instruction, the State Board of Education, the North Carolina Community College System, the UNC System, and the Department of Commerce to enhance postsecondary and workforce opportunities for students.
- iii. Develop strategies to review and increase family engagement and transition services for students and families, including programming to support mental health and substance use.

G. The North Carolina Department of Revenue shall:

- i. Continue to collaborate with Legal Aid of North Carolina to provide education regarding tax liability related to certain drug charges.
- ii. In collaboration with DAC, provide a resource document for incarcerated people upon reentry including contact information for resources to help manage any outstanding state tax debt.

H. The North Carolina Department of Natural and Cultural Resources shall:

- i. Partner with DAC to provide work release and employment opportunities, including seasonal and temporary opportunities, for incarcerated and formerly incarcerated people.
- ii. Partner with DAC and DPS to provide education to adults and youth in state facilities.
- iii. Partner with DAC and DPS to expand the State Library's accredited high school diploma program.

I. The North Carolina Department of Administration shall:

- i. Partner with DAC to provide work release and apprenticeship opportunities to incarcerated people and formerly incarcerated people.

J. The North Carolina Department of Environmental Quality ("DEQ") shall:

- i. Provide support to DAC to identify industry partners offering job training opportunities related to waste reduction. DEQ will serve an advisory role in the development of apprenticeship programs between DAC and the industry if such programs are pursued.

K. The North Carolina Post-Release and Parole Commission shall:

- i. Review all Commission policies and procedures to ensure they effectively support successful reentry.
- ii. Work collaboratively with DAC to ensure that qualified persons can productively and successfully participate in the Mutual Agreement Parole Program ("MAPP") both before and after release from incarceration.

L. The North Carolina Office of State Human Resources shall:

- i. In collaboration with DAC, create a training to reduce bias and discrimination towards justice-involved people in the workplace.
- ii. Collaborate as needed with DAC and the Department of Commerce to help justice involved people effectively communicate work experience gained during incarceration on resumes and job applications.
- iii. Collaborate with government agencies to provide guidance and resources to agencies who have or plan to have an apprenticeship program, to include recruitment outreach to justice involved people.
- iv. Support state agencies to increase opportunities to recruit and hire recently incarcerated people, including enhancing partnerships with community-based organizations and Temporary Solutions.

In addition to the above partnerships, DAC shall:

- a. Where they exist, make available resources to allow the incarcerated population to communicate with justice system partners to resolve outstanding warrants, tickets, investigations, obstacles to driver's license restoration, and other unresolved legal issues prior to release from prison.
- b. Facilitate collaboration with reentry partners to expand the number of formerly incarcerated people with driver's licenses.

Higher education systems and institutions, local governments, private businesses, and other North Carolina entities are encouraged to support and provide input on the creation of the Strategic Plan developed through the implementation of this Executive Order and to assist in completing these directives.


Section 5. 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 6. Effective Date.

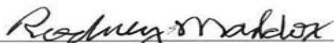
This Executive Order is effective immediately and shall remain in effect until December 31, 2030, or until rescinded or superseded by another applicable Executive Order.

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 29th day of January in the year of our Lord two thousand and twenty-four.



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: Lotus Cars USA Inc

Applicant's Address: 47584 Galleon Drive

Application Date: 4/6/2023

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

Qingfeng Feng – President

Matthew Nice -Secretary

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 15A – DEPARTMENT OF ENVIRONMENTAL QUALITY

Notice is hereby given in accordance with G.S. 150B-21.2 that the Environmental Management Commission intends to amend the rule cited as 15A NCAC 02H .0804.

Link to agency website pursuant to G.S. 150B-19.1(c):
(<https://www.deq.nc.gov/about/divisions/water-resources/water-sciences/chemistry-laboratory/laboratory-certification-branch>)

Proposed Effective Date: July 1, 2024

Public Hearing:

Date: March 20, 2024

Time: 6:00 p.m.

Location: Ground Floor Hearing room in the Archdale Bldg., 512 North Salisbury Street, Raleigh, NC 27603

Reason for Proposed Action: A multitude of emerging contaminants broadly known as “Per- and Polyfluoroalkyl Substances (PFAS)” are of great concern for NC regulators and the general public at large. The NC WW/GW Laboratory Certification Branch does not currently have the authority to certify for the parameter known as “PFAS”. This parameter must be added to Certification rule 15A NCAC 02H .0804 (d).

Comments may be submitted to: Laboratory Certification Branch Manager, 1623 Mail Service Center, Raleigh, NC 27699-1623; email DEQ.WR.CertificationRuleComments@deq.nc.gov

Comment period ends: April 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 (\geq \$1,000,000)
- ☒ Approved by OSBM
- ☐ No fiscal note required

CHAPTER 02 - ENVIRONMENTAL MANAGEMENT

SUBCHAPTER 02H - PROCEDURES FOR PERMITS: APPROVALS

SECTION .0800 – LABORATORY CERTIFICATION

15A NCAC 02H .0804 PARAMETERS FOR WHICH CERTIFICATION MAY BE REQUESTED

(a) Commercial Laboratories shall obtain Certification for Parameter Methods used to generate data that will be reported by the client to the State in accordance with the rules of this Section. Municipal and Industrial Laboratories shall obtain Certification for Parameter Methods used to generate data that will be reported to the State in accordance with the rules of this Section. Commercial Laboratories shall obtain Certification for Field Parameter Methods used to generate data that will be reported by the client to the State in accordance with the rules of this Section. Municipal and Industrial laboratories shall obtain Certification for Field Parameter Methods used to generate data that will be reported to the State in accordance with the rules of this Section.

(b) Inorganics: Each of the inorganic, physical characteristic, and microbiological analytes listed in this Paragraph shall be considered a certifiable parameter. Analytical methods shall be determined from the sources listed in Rule .0805(a)(1) of this Section. One or more analytical methods or Parameter Methods may be listed with a laboratory's certified Parameters. Certifiable inorganic, physical characteristic, and microbiological Parameters are as follows:

- (1) Acidity;
- (2) Alkalinity;
- (3) Biochemical Oxygen Demand;
- (4) Bromide;
- (5) Carbonaceous Biochemical Oxygen Demand;
- (6) Chemical Oxygen Demand;
- (7) Chloride;
- (8) Chlorine, Free Available;
- (9) Chlorine, Total Residual;
- (10) Chlorophyll;
- (11) Coliform, Fecal;
- (12) Coliform, Total;

- (13) Color;
- (14) Conductivity/Specific Conductance;
- (15) Cyanide;
- (16) Dissolved Organic Carbon;
- (17) Dissolved Oxygen;
- (18) Enterococci;
- (19) Escherichia Coliform (E. coli);
- (20) Flash Point;
- (21) Fluoride;
- (22) Hardness, Total;
- (23) Ignitability;
- (24) Surfactants as Methylene Blue Active Surfactants;
- (25) Nitrogen, Ammonia;
- (26) Nitrogen, Nitrite plus Nitrate;
- (27) Nitrogen, Nitrate;
- (28) Nitrogen, Nitrite;
- (29) Nitrogen, Total Kjeldahl;
- (30) Oil and Grease;
- (31) Orthophosphate;
- (32) Paint Filter Liquids;
- (33) pH;
- (34) Phenols;
- (35) Phosphorus, Total;
- (36) Residue, Settleable;
- (37) Residue, Total;
- (38) Residue, Total Dissolved;
- (39) Residue, Total Suspended;
- (40) Residue, Volatile;
- (41) Salinity;
- (42) Salmonella;
- (43) Silica;
- (44) Sulfate;
- (45) Sulfide;
- (46) Sulfite;
- (47) Temperature;
- (48) Total Organic Carbon;
- (49) Turbidity;
- (50) Vector Attraction Reduction: Option 1;
- (51) Vector Attraction Reduction: Option 2;
- (52) Vector Attraction Reduction: Option 3;
- (53) Vector Attraction Reduction: Option 4;
- (54) Vector Attraction Reduction: Option 5;
- (55) Vector Attraction Reduction: Option 6;
- (56) Vector Attraction Reduction: Option 7;
- (57) Vector Attraction Reduction: Option 8; and
- (58) Vector Attraction Reduction: Option 12.

(c) Metals: Each of the metals listed in this Paragraph shall be considered a certifiable Parameter. One or more Parameter Methods shall be listed with a laboratory's certified Parameters. Analytical methods shall be determined from the sources listed in Rule .0805(a)(1) of this Section. Certifiable metals are as follows:

- (1) Aluminum;
- (2) Antimony;
- (3) Arsenic;
- (4) Barium;
- (5) Beryllium;
- (6) Boron;
- (7) Cadmium;

- (8) Calcium;
- (9) Chromium, Hexavalent (Chromium VI);
- (10) Chromium, Total;
- (11) Chromium, Trivalent (Chromium III);
- (12) Cobalt;
- (13) Copper;
- (14) Hardness, Total (Calcium + Magnesium);
- (15) Iron;
- (16) Lead;
- (17) Lithium;
- (18) Magnesium;
- (19) Manganese;
- (20) Mercury;
- (21) Molybdenum;
- (22) Nickel;
- (23) Potassium;
- (24) Phosphorus;
- (25) Selenium;
- (26) Silica;
- (27) Silver;
- (28) Sodium;
- (29) Strontium;
- (30) Thallium;
- (31) Tin;
- (32) Titanium;
- (33) Vanadium; and
- (34) Zinc.

(d) Organics: Each of the organic Parameters listed in this Paragraph shall be considered a certifiable Parameter. One or more Parameter Methods shall be listed with a laboratory's certified Parameters. Analytical methods shall be determined from the sources listed in Rule .0805(a)(1) of this Section. Certifiable organic Parameters are as follows:

- (1) 1,2-Dibromoethane (EDB); 1,2-Dibromo-3-chloro-propane (DBCP); 1,2,3-Trichloropropane (TCP);
- (2) Acetonitrile;
- (3) Acrolein, Acrylonitrile;
- (4) Adsorbable Organic Halides;
- (5) Base/Neutral and Acid Organics;
- (6) Benzidines;
- (7) Chlorinated Acid Herbicides;
- (8) Chlorinated Hydrocarbons;
- (9) Chlorinated Phenolics;
- (10) Explosives;
- (11) Extractable Petroleum Hydrocarbons;
- (12) Haloethers;
- (13) N-Methylcarbamates;
- (14) Nitroaromatics and Isophorone;
- (15) Nitrosamines;
- (16) Nonhalogenated Volatile Organics;
- (17) Organochlorine Pesticides;
- (18) Organophosphorus Pesticides;
- (19) Per- and polyfluoroalkyl substances (PFAS);
- ~~(19)(20)~~ Phenols;
- ~~(20)(21)~~ Phthalate Esters;
- ~~(24)(22)~~ Polychlorinated Biphenyls;
- ~~(22)(23)~~ Polynuclear Aromatic Hydrocarbons;
- ~~(23)(24)~~ Purgeable Aromatics;

- ~~(24)~~(25) Purgeable Halocarbons;
- ~~(25)~~(26) Purgeable Organics;
- ~~(26)~~(27) Total Organic Halides;
- ~~(27)~~(28) Total Petroleum Hydrocarbons – Diesel Range Organics;
- ~~(28)~~(29) Total Petroleum Hydrocarbons – Gasoline Range Organics; and
- ~~(29)~~(30) Volatile Petroleum Hydrocarbons.

Authority G.S. 143-215.3(a)(1); 143-215.3(a)(10).

TITLE 21 - OCCUPATIONAL LICENSING BOARDS AND COMMISSIONS

CHAPTER 42 – BOARD OF EXAMINERS IN OPTOMETRY

Notice is hereby given in accordance with G.S. 150B-21.2 that the Board of Examiners in Optometry intends to amend the rule cited as 21 NCAC 42D .0102.

Link to agency website pursuant to G.S. 150B-19.1(c):
<https://www.ncoptometry.org/proposed-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): Contact the Board at (910) 285-3160, fax at (910) 285-4546 or email to janice@ncoptometry.org.*

Reason for Proposed Action: *Provides guidance to optometric assistants and optometric technicians and the supervising optometrist regarding those acts and duties which may be assigned to them.*

Comments may be submitted to: *Janice Peterson, 521 Yopp Rd., Suite 214 #444, Jacksonville, NC 28540; phone (910) 285-3160; fax (910) 285-4546; email janice@ncoptometry.org*

Comment period ends: April 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 (\geq \$1,000,000)
- ☐ Approved by OSBM
- ☒ No fiscal note required

SUBCHAPTER 42D - OPTOMETRIC ASSISTANT AND TECHNICIAN

21 NCAC 42D .0102 FUNCTION OPTOMETRIC ASSISTANT; OPTOMETRIC TECHNICIAN

(a) ~~For the purposes of this Rule, "paraoptometric personnel" means an optometric assistant, optometric technician, or similarly titled position who qualifies by training and experience to perform duties of an administrative, technical, or clinical nature and is directed and supervised by a licensed optometrist. An optometric assistant is an individual who is certified through the American Optometric Association's certification process. The Board recognizes the American Optometric Association's certification process as its only approved certification process for certified optometric assistants. The certified optometric assistant assists the optometrist in the evaluation and treatment of a patient. The optometrist may delegate acts and duties within the scope of the American Optometric Association training and certification process to the certified optometric assistant; however, the optometrist remains responsible for the acts and duties he or she assigns to that individual. The following are those acts and duties which may be assigned to the certified optometric assistant:~~

- (1) Testing and Procedures
 - (A) Take case histories (including chief complaint, patient and family medical and ocular history, current medications, and allergies).
 - (B) Perform testing procedures including: visual acuity testing and assess visual acuity; stereo acuity testing; blood pressure measurement (manual, automated); keratometry; color vision assessment; chair-side scribing; tonometry; screening for binocular abnormalities, including cover test screening; dry eye testing; meibography; corneal topography; scanning computerized ophthalmic testing; visual field testing; glaucoma ancillary testing; near points of accommodation and convergence testing; macular pigment optical density (MPOD); pupil evaluation screening; Amsler grid; frequency doubling technology (FDT) fields; aberrometry; automated refractometry; contrast sensitivity tests; anterior segment photography;

- fundus photography; low vision testing; pachymetry; traumatic brain injury testing; vision therapy testing; administer diagnostic/therapeutic medications.
- (2) Ophthalmic Optics and Dispensing
- (A) Order and maintain eyewear inventory and frame display
- (B) Educate and assist patient in selecting eyewear
- (C) Take appropriate frame and eye measurements on patient
- (D) Use digital dispensing technology
- (E) Lensometry
- (F) Dispense/adjust/repair eyewear
- (G) Understand fabrication requirements with various frames and prescriptions
- (3) Contact Lenses
- (A) Maintain/order/inventory contact lenses
- (B) Educate patients concerning contact lens options and fees
- (C) Basic Insertion and removal of contact lenses
- (D) Select proper care system for contact lenses
- (E) Perform and evaluate contact lens preliminary fitting
- (F) Educate patients on contact lens care and handling
- (G) Measure base curves using radiuscope
- (H) Verify contact lens diameter, thickness, and power
- (I) Clean and polish gas permeable lenses or prosthetic eyes
- (J) Use slit lamp to evaluate contact lens fit
- (4) Other Duties
- (A) Office Operations including: prepare patient charts for optometrist to review; patient education and communications; direct patient flow; provide patient education; perform telephone triage; computer skills and documentation in the electronic health record; relay communication between doctor, patient, specialists, and pharmacy; maintain and clean examination rooms and testing equipment.
- (B) Administrative Duties including: understand and perform medical billing and coding; maintain diagnostic listings and fee schedule; handle insurance issues; perform staff training; purchase ophthalmic examination equipment and supplies; maintain inventory of diagnostic/therapeutic medications;
- take inventory and reorder office supplies; comply with federal regulations; E-prescribe and managing medication refills; coordinate referrals to other offices for surgeries or other specialty; administer, record, and transmit prescribed medications.
- (b) Paraoptometric personnel shall perform his or her functions within the scope of his or her training, as directed by and assigned by an optometrist, so long as those functions are at the specific direction and under the supervision of the licensee. An optometric technician is an individual who is certified through the American Optometric Association's certification process. The Board recognizes the American Optometric Association's certification process as its only approved certification process for certified optometric technicians. The certified optometric technician assists the optometrist in the evaluation and treatment of a patient. The optometrist may delegate acts and duties within the scope of the American Optometric Association training and certification process to the certified optometric technician; however, the optometrist remains responsible for the acts and duties he or she assigns to that individual. The following are those acts and duties which may be assigned to the certified optometric technician (in addition to those acts and duties which may be assigned to a certified optometric assistant):
- (1) Testing and Procedures
- (A) Slit Lamp Examination
- (B) Ocular surface disease (e.g., SPEED questionnaire, Schirmer's test, TBUT, TearLab tests)
- (C) Aseptic or Infection Control techniques
- (D) Instrument and equipment sterilizing
- (E) Automated and manual refractometry
- (F) Ocular motility testing (pursuits and saccades)
- (G) Binocularity testing including cover testing
- (H) Goldmann tonometry - serial testing
- (I) Assist with performing surgical tasks
- (J) Low vision testing and training
- (K) Specular microscopy
- (L) Electrodiagnostic Testing and training
- (M) Sports vision testing
- (N) Vision therapy testing
- (O) Understand use of YAG lasers
- (2) Ophthalmic Optics and Dispensing
- (A) Fabricate eyewear
- (B) Measure parameters of special lenses including prism and slab off prescriptions
- (C) Calculate Spherical Equivalent and Transpose lens prescriptions
- (D) Write/copy prescriptions
- (E) Troubleshoot problems with eyewear
- (3) Contact Lenses
- (A) Advanced handling - Insertion and removal of specialized and various

- types of contact lenses (e.g., soft, gas permeable, hybrid, scleral)
- (B) Using slit lamp perform contact lens fitting and assessments (e.g., soft, gas permeable, hybrid, scleral, etc.)
- (C) Educate patients on contact lens care and handling of specialized contact lenses
- (D) Trouble shoot contact lens problems
- (E) Perform progress checks on contact lens patients
- (F) Clean and polish gas permeable lenses
- (4) Other Duties
 - (A) Office Operations including: overseeing management of daily patient flow; management of patient clinical issues between patient and doctor.
 - (B) Administrative Duties including: coordinate patient correspondence; assist in publication of office newsletter; assist in use of social media; assist in website development and maintenance; maintain and update policy and procedure manuals; implement new software; prepare internal reports; use computer for billing/accounting; maintain diagnostic listings and fee schedule; perform medical coding; verify accuracy of procedure and medical

coding; provide patient education regarding diagnoses and ophthalmic surgery; help to resolve patient complaints and concerns; implement and maintain Meaningful Use (MACRA/MIPS) and PQRS; assist in hiring and termination of employees; supervise personnel; plan and lead staff meetings; organize in-house educational offerings; train personnel; take office supply inventory; coordinate purchase of ophthalmic examination equipment and supplies; coordinate/maintain credentialing within the office; maintain inventory of diagnostic/therapeutic medications; comply with federal regulations (e.g., HIPAA, OSHA, etc.); perform CPR certification in BLS in case of emergency.

~~(b)(c) The Board may require that paraoptometric personnel An optometric technician be currently certified by the American Optometric Association and maintain this certification shall be in the physical presence of the patient during any patient examination in environments where there is no onsite optometrist physically present during such examination. and supervision is limited.~~

Authority G.S. 90-115.1(6); 90-117.5.

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

TITLE 08 – STATE BOARD OF ELECTIONS

Rule-making Agency: State Board of Elections

Rule Citation: 08 NCAC 20 .0101-.0103

Effective Date: February 8, 2024

Date Approved by the Rules Review Commission: January 31, 2024

Reason for Action: The effective date of a recent act of the General Assembly or of the U.S. congress. S.L. 2023-140, sec. 7(a)-(b) effective January 1, 2024. Pursuant to G.S. 150B-21.1(a)(11), the need for the State Board of Elections to adopt a temporary rule upon any abbreviated notice or hearing the agency finds practical for the following: to implement provisions of state law for which the State Board of Elections has been authorized to adopt rules, and the need for the rule to become effective immediately in order to preserve the integrity of upcoming elections and the elections process. With the enactment of S.L. 2023-140, the existing statute governing election observers has been completely rewritten. The current rule governing observers, 08 NCAC 20 .0101, has been rendered largely obsolete. The subjects that the current rule addresses - the appointment procedures for observers and rules governing their conduct - have been addressed in specific ways by the new observer law - G.S. 163-45.1, once codified. The new law requires the State Board to issue rules to address the following specific items: how to handle challenges to the appointment of observers brought by those who are authorized in statute to issue such challenges, how to handle appeals of those challenge decisions, how to handle appeals from a chief judge's decision to remove an observer from service, and whether to require observers to wear identification badges so that voters and poll workers can identify them and their purpose at the polls. Temporary procedures were required because there was not enough time before the start of early voting in the 2024 primary - February 15 - to complete the permanent rulemaking process.

CHAPTER 20 - ELECTION OBSERVERS

08 NCAC 20 .0101 ELECTION OBSERVERS CHALLENGE TO THE APPOINTMENT OF AN OBSERVER

(a) ~~Observer Lists. The chair of each political party in a county may designate two precinct specific observers to attend each voting place on Election Day and each one stop site during a primary or general election in accordance with this Rule. The precinct specific observer list may include up to eight names and shall include the times that each observer shall serve. The county party chair may designate 10 additional at large observers who~~

~~may attend any voting place in the county. The list of observers for one stop must designate the names of the observers who will be present on each day of early voting and, for precinct specific observers, at each one stop site. At large observers may serve at any one stop site. The chair of each State political party may designate up to 100 additional at large observers who are residents of the State who may attend any voting place in the State.~~

(b) ~~Submission of Lists. The county party chair shall submit a written, signed list of county at large observers to the county director of elections, with two copies provided to the chair of the county board of elections, prior to 10:00 a.m. on the fifth day prior to Election Day. The county party chair shall submit a written, signed list of the observers appointed for each precinct to the chief judge of each precinct, with two copies provided to the chair of the county board of elections, prior to 10:00 a.m. on the fifth day prior to Election Day; the list may be delivered in care of the county director of elections. The county party chair shall submit the list of observers for one stop before 10:00 a.m. on the fifth day before the observer is to observe. The list of at large observers to serve on Election Day may be amended prior to Election Day to substitute one or all of the at large observers. The list of at large observers who serve during early voting may not be amended after 10:00 a.m. on the fifth day before the at large observer is to observe. The list of precinct specific observers to serve on Election Day may not be amended after 10:00 a.m. on the fifth day prior to Election Day. The State party chair shall submit the written, signed list of State at large observers by 10:00 a.m. on the fifth day prior to Election Day to the State Board, which shall disseminate the list to the county boards of elections. The list shall include the full name of each at large observer and the county in which the observer is registered. The State Board shall confirm that each State at large observer is a registered voter of the State. Party chairs may provide the lists by facsimile or email provided the letters are signed. Scanned signatures are permissible.~~

(c) ~~Observers at Voting Place. No more than two precinct-specific observers from each political party may be in the voting enclosure at any time. Only one at large observer from each political party may be in the voting enclosure at any time, even if no precinct specific observers are present. All observers, whether precinct specific or at large, may be relieved after serving no less than four hours; however, the total number of observers from each party cannot exceed three total observers in the voting enclosure at one time: two precinct specific observers and one county or State at large observer. An observer may leave the voting place without having served for four hours, but the observer cannot be replaced by a new observer until at least four hours have passed since the first observer began serving. An observer who leaves the voting place for any reason may be prohibited by the chief judge from returning if the observer's return would cause a disruption in the voting enclosure.~~

~~(d) Observer Conduct. Observers who engage in prohibited conduct after receiving a warning may be required by the chief judge to leave the voting enclosure. Prohibited activities by observers include:~~

- ~~(1) Wearing or distributing campaign material or electioneering;~~
- ~~(2) Impeding or disrupting the voting process or speaking with voters or election assistants;~~
- ~~(3) Interfering with the privacy of the voter, including positioning themselves in such a way that they can view confidential voter information on poll books or laptops or standing in such a way that they can view the contents of ballots inserted into a tabulator;~~
- ~~(4) Using an electronic device to film or take photographs inside the voting enclosure;~~
- ~~(5) Taking photographs, videos, or recording a voter without the consent of the voter and the chief judge;~~
- ~~(6) Entering the voting booth area or attempting to view voted ballots;~~
- ~~(7) Boarding a vehicle containing curbside voters; and~~
- ~~(8) Providing voter assistance.~~

~~(e) Eligibility. No person who is a candidate on the ballot in a primary or general election may serve as an observer or runner in that primary or that general election. No person who serves as an observer or runner in a primary or general election may serve as a precinct official or one stop election official in that primary or that general election.~~

~~(f) Observers for unaffiliated candidates. An unaffiliated candidate or the candidate's campaign manager may appoint two observers at each voting place as set forth in this Rule.~~

~~(g) The use of the term "chief judge" includes one stop site managers.~~

(a) Filing of Challenges. A county board of elections, by a majority vote and documented through a written statement made by any board member, may challenge the appointment of any observer appointed to serve in that county, and a chief judge of a voting place may challenge the appointment of any observer who is eligible to serve in that voting place. The challenge shall be submitted electronically or in writing to the county board of elections office before the observer is scheduled to serve. The challenge shall contain the following information:

- (1) the name of the observer;
- (2) the party or unaffiliated candidate that appointed the observer; and
- (3) the basis for the challenge pursuant to G.S. 163-45.1(f).

The county board of elections office shall immediately provide a copy of the challenge to the chair of the political party or candidate that appointed the observer. A notification sent within three business hours of receipt of the challenge to an email address provided by the chair of the political party or by the candidate appointing the observer is a method of providing immediate notice.

(b) Hearing of Challenges. Upon receiving a challenge pursuant to Paragraph (a) of this Rule, the county board of elections shall hold a hearing and decide the challenge as expeditiously as

possible but no later than two days after the challenge is filed. The chair of the county board of elections shall set the time of the hearing. The hearing may be held remotely, including by telephone. The county board shall provide notice of the hearing by electronic mail or telephone to the chair of the political party or the unaffiliated candidate that appointed the observer, in addition to providing the meeting notice required by G.S. 143-318.12. If notice is by telephone, the county board shall also provide the notice by electronic mail or text message. The notice shall inform the chair of the political party or the candidate that they may waive the hearing or decline to contest the challenge, in which case no hearing shall be held, and the county board may decide the challenge, as submitted, at a meeting held at the same time as the noticed hearing. At the hearing, the county board may shall accept written or oral submissions from elections officials, observers, witnesses, and other individuals with pertinent information. If a majority of board members is unable to attend the meeting to consider the challenge, the chair of the county board of elections shall act on behalf of the county board of elections and decide on the challenge. The decision on the challenge shall be rendered at the meeting for which the challenge was noticed. The decision shall be reduced to writing and served within 24 hours of the same day as the meeting, either electronically or by personal service, in person, to on the chair of the political party or on the candidate appointing the observer.

(c) Appeals on Challenges. The decision by a county board of elections on a challenge to the appointment of an observer pursuant to Paragraph (b) of this Rule may be appealed only by the political party or candidate that appointed the observer. The county board's decision shall not be stayed pending appeal. The appeal shall be filed with the State Board of Elections via email to legal@ncsbe.gov no later than two hours after the county board's decision is served, served pursuant to Paragraph (b) of this Rule. The appeal shall contain an argument explaining why the county board's decision should be reversed on account of one or more of the grounds listed in G.S. 150B-51(b) and shall be signed by the person filing the appeal. A copy of the county board decision must shall be filed with the appeal. Upon receiving an appeal, the State Board shall decide the appeal on the basis of the record and may permit oral argument on the appeal, appeal if the chair of the Board concludes that the written record alone is not legally sufficient to make a decision on the appeal. The appeal shall be decided as expeditiously as possible. The executive director of the State Board may inspect any appeals filed under this Paragraph and, within one business day after the receipt of an appeal, transmit a copy of the appeal to the State Board members along with a written statement indicating the executive director's recommendation either to grant or to deny the appeal. The executive director's recommendation shall become final unless any State Board member raises an oral or written objection within one calendar day, in which case the full State Board shall decide the appeal at a meeting. The decision of the State Board, Board or the executive director's recommendation if it becomes final, shall be reduced to writing and served electronically on the chair of the political party or on the candidate appointing the observer, observer within 24 hours of the decision having been made.

(d) An observer who is successfully challenged pursuant to this Rule shall not be permitted to serve as an observer in the primary or election during which they were challenged.

History Note: Authority G.S. 163-22; ~~163-45; 163-166.6; 163-166.7; 163-22.2; 163-45.1;~~
Eff. October 1, 2018;
Amended Eff. September 1, 2021; 2021;
Temporary Amendment Eff. February 8, 2024.

08 NCAC 20 .0102 APPEAL OF REMOVAL OF AN OBSERVER FROM A VOTING SITE

(a) Filing of Appeal. The decision by a chief judge to remove an observer pursuant to G.S. 163-45.1(j) may be appealed only by the chair of the political party or the candidate that appointed the observer. The appeal shall be filed with the county board of elections in the county where the observer was removed. ~~The To file the appeal, the appeal shall be submitted electronically or in writing emailed to the county director of elections or physically delivered to the county board office during business hours to the county board of elections office as follows:~~

- (1) If the observer was removed from an early voting site, the appeal shall be filed within one business day of when the observer was removed.
- (2) If the observer was removed from an Election Day voting site, the appeal shall be filed within two hours of when the observer was removed.

The appeal shall contain an argument explaining why the chief judge's decision should be reversed on account of one or more of the grounds listed in G.S. 150B-51(b). It shall state whether a hearing is requested and shall be signed by the person filing the appeal. The decision to remove an observer shall not be stayed pending appeal.

(b) Hearing of Appeal. ~~Pursuant to Paragraph (a) of this Rule, the~~ The county board shall consider the appeal appeals filed pursuant to Paragraph (a) of this Rule as follows:

- (1) If the observer was removed from an early voting site, the county board shall decide the appeal as expeditiously as possible but no later than two days after the appeal was received.
- (2) If the observer was removed from an Election Day voting site, the county board shall decide the appeal as expeditiously as possible but no later than four hours after the appeal was received.

The county board shall provide notice of the meeting at which the appeal will be decided by electronic mail or telephone to the chair of the political party or the unaffiliated candidate that appointed the observer, in addition to providing the meeting notice required by G.S. 143-318.12. If notice is by telephone, the county board shall also provide the notice by email or text message. The county board's meeting may be held remotely, including by telephone. The county board ~~may~~ shall accept written or oral submissions from elections officials, observers, witnesses, and other individuals with pertinent information. If no hearing is requested, the county board ~~may~~ shall decide the appeal, based on written submissions only, at a meeting held at the same time as the noticed hearing. ~~If a majority of board members is unable to attend the meeting to consider the appeal, the chair of the county board of elections shall act on behalf of the county board of elections and decide the appeal on his or her own.~~ The decision shall be reduced to writing and served ~~the same day as~~ within 24 hours after the

~~meeting;~~ meeting for early voting, and 2 hours after the meeting on Election Day, either electronically or by personal service, in person, on to the chair of the political party or on the candidate appointing the observer.

(c) An observer who is removed from serving as an observer pursuant to G.S. 163-45.1(j) or this Rule shall not be permitted to serve as an observer in the primary or election during which they were removed.

History Note: Authority G.S. 163-22; 163-22.2; 163-45.1;
Temporary Adoption Eff. February 8, 2024.

08 NCAC 20 .0103 IDENTIFICATION OF OBSERVERS

Every appointed observer serving at a voting site pursuant to G.S. 163-45.1 shall wear an identification tag to make voters and elections officials aware of the observer's role in the voting site. The tag shall read "Observer for [Name] Party" or "Observer for Candidate [Name]" with the "[Name]" being the name of the political party or the candidate, as applicable.

History Note: Authority G.S. 163-22; 163-22.2; 163-45.1;
Temporary Adoption Eff. February 8, 2024.

TITLE 10A – DEPARTMENT OF HEALTH AND HUMAN SERVICES

Rule-making Agency: *Medical Care Commission*

Rule Citation: *10A NCAC 13S .0101, .0104, .0111, .0112, .0114, .0201, .0202, .0207, .0209-.0212, .0315, .0318-.0331*

Effective Date: *February 8, 2024*

Date Approved by the Rules Review Commission: *January 31, 2024*

Reason for Action: *A serious and unforeseen threat to the public health, safety and welfare. The effective date of a recent act of the General Assembly or of the U.S. Congress effective July 1, 2023. 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 and as a result adopted emergency rules effective November 14, 2023. The adoption of temporary rules will ensure continuity of care for patients, will resolve any uncertainty about the rules applicable to impacted providers from October 1st until the Medical Care Commission is able to promulgate 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 temporary 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-153.5; 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;
Temporary Adoption Eff. February 8, 2024.

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-153.5; 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;
Temporary Adoption Eff. February 8, 2024.

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-153.2; 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;
Temporary Adoption Eff. February 8, 2024.

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-153.5; 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;
Temporary Adoption Eff. February 8, 2024.

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-153.5; 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;
Temporary Adoption Eff. February 8, 2024.*

**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-153.5; 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;
Temporary Adoption Eff. February 8, 2024.*

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-153.5; 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;
Temporary Adoption Eff. February 8, 2024.*

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.

*History Note: Authority G.S. 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;
Temporary Adoption Eff. February 8, 2024.*

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-153.5; 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;
Temporary Adoption Eff. February 8, 2024.*

10A NCAC 13S .0210 CORRIDORS

The width of patient use corridors shall be no less than 60 inches.

History Note: Authority 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;
Temporary Adoption Eff. February 8, 2024.*

a manner that might obstruct traffic flow or reduce the required corridor width except doors to spaces not subject to occupancy.

*History Note: Authority 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;
Temporary Adoption Eff. February 8, 2024.*

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

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)

(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 1 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

(ii)

Park, P.O. Box 9101, Quincy, MA 02269-9101, or accessed electronically free of charge at <http://www.nfpa.org>.

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-153.5; 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;

Temporary Adoption Eff. February 8, 2024.

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-153.5; 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; Temporary Adoption Eff. February 8, 2024.

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-153.5; 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; Temporary Adoption Eff. February 8, 2024.

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-153.5; 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; Temporary Adoption Eff. February 8, 2024.

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-153.5; 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; Temporary Adoption Eff. February 8, 2024.

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-153.5; 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; Temporary Adoption Eff. February 8, 2024.

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-153.5; 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; Temporary Adoption Eff. February 8, 2024.

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-153.5; 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; Temporary Adoption Eff. February 8, 2024.

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-153.5; 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; Temporary Adoption Eff. February 8, 2024.

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-153.5; 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; Temporary Adoption Eff. February 8, 2024.

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-153.5; 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; Temporary Adoption Eff. February 8, 2024.

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-153.5; 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; Temporary Adoption Eff. February 8, 2024.

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-153.5; 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; Temporary Adoption Eff. February 8, 2024.

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-153.5; 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; Temporary Adoption Eff. February 8, 2024.

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-153.5; 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;
Temporary Adoption Eff. February 8, 2024.*

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-153.2; 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;

Temporary Adoption Eff. February 8, 2024.

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Rule-making Agency: *Department of Health and Human Services*

Rule Citation: *10A NCAC 15 .1801*

Effective Date: *February 14, 2024*

Date Submitted to Codifier: *February 6, 2024*

Reason for Action: *The effective date of a recent act of the General Assembly or of the U.S. Congress. S.L. 2023-91, s. 2.(b) effective July 10, 2023. The temporary adoption of Rule 10A NCAC 15 .1801, Requirements for Registration of Radon Proficiency Programs, is in response to a recent act of the General Assembly, Session Law 2023-91, "An act to amend the North Carolina Building Code Exclusion for temporary motion picture, television, and theater stage sets and scenery to exempt them from use and occupancy classification under the code; to direct the Department of Health and Human Services to establish an approval process for Radon Proficiency Programs; and to provide that evidence of a licensee having maintained a license in good standing under Article 2 of Chapter 87 of the General Statutes for at least 15 years shall be accepted as experience for plumbing and heating qualifications by the Board of Examiners of Plumbing, Heating and Fire Sprinkler Contractors" that became effective July 10, 2023. Section 2.(b) of this Act, requires the N.C. Department of Health and Human Services to adopt temporary radon proficiency program approval rules. The purpose for the temporary rule adoption is to establish minimum criteria for programs which will certify radon professionals in North Carolina. It additionally gives radon proficiency programs the ability to gain approval in the State of North Carolina since there is currently no other avenue on the state or national level for organizations to be approved to certify radon professionals. Radon is a naturally-occurring radioactive gas that enters people's homes and can lead to lung cancer. The NC Radon Program of DHHS recommends that homeowner's hire certified professionals to test and mitigate high levels of radon in their homes. At this time, there are only 2 companies in the US that have approval from the US Environmental Protection Agency (EPA) to certify radon professionals. There is no mechanism for new companies to gain approval to offer certifications because EPA is currently developing a new set of approval criteria for*

certifying companies. This law allows companies to become approved as professional radon certifiers in NC. Three companies have been listed on the NC Radon Program website for many years and they wish to continue to be listed up until and after the EPA develops criteria for national approval. The temporary rules will allow DHHS to expedite the approval process for these companies.

CHAPTER 15 - RADIATION PROTECTION

SECTION .1800 – STANDARDS FOR RADON PROFICIENCY PROGRAM APPROVAL

10A NCAC 15 .1801 REQUIREMENTS FOR REGISTRATION OF RADON PROFICIENCY PROGRAMS

~~(a)~~ No person shall offer services as a radon proficiency program unless registered with the Department.

~~(b)~~(a) In addition to the definitions found in Rule .0104 of this Chapter, the following definition shall apply to this Rule: "Radon proficiency program" means an organization that provides training, competency testing, and certification to an individual as a radon professional.

~~(c)~~(b) Persons seeking initial registration, to amend a registration, or to renew a registration as a radon proficiency program shall:

- (1) submit an application for registration to the agency at the addresses shown in Rule .0111(a) of this Chapter or as otherwise instructed by the agency. Applications for initial registration and applications to renew a registration shall be submitted with supporting information demonstrating that the requirements of Paragraph (c) of this Rule and S.L. 2023-91, s. 2 are met. Applications to amend a registration shall be submitted with an attachment explaining the items to be amended; and
- (2) comply with the provisions of Paragraph (h) of this Rule.

~~(d)~~(c) The Department shall approve an application for initial registration or to renew a registration as a radon proficiency program that meets the criteria set out in S.L. 2023-91, s. 2.

~~(e)~~(d) Radon proficiency program registrations issued by the Department shall expire at midnight on the expiration date stated on the radon proficiency program registration. The Department shall not issue an initial or renewed registration expiring less than one year from the date of issuance.

~~(f)~~(e) The Department shall deny an application for initial registration or to renew a registration as a radon proficiency program if the application fails to demonstrate compliance with Paragraph (c) of this Rule and S.L. 2023-91, s. 2.

~~(g)~~(f) Persons whose radon proficiency program registrations are revoked or expired may apply for registration in accordance with Paragraph (b) of this Rule and S.L. 2023-91, s. 2 and shall not offer services as a radon proficiency program with a revoked or expired registration. s. 2.

~~(h)~~(g) Each registrant shall, upon notice of at least 48 hours, make available to the Department for inspection records maintained pursuant to this Rule.

(h) Applications submitted to the Department for registration as a radon proficiency program shall contain the following information:

- (1) Box 1, check the box next to the type of registration requested;
- (2) Box 2, business physical address:
 - (A) name of the radiation proficiency program;
 - (B) phone number at the physical location;
 - (C) website associated with the radiation proficiency program;
 - (D) physical address of the business, including the street address, city, county, state, and zip code. The five digit zip code may be used if the nine digit zip code is not known;
 - (E) mailing address if different from Box 1. If the physical and mailing addresses are the same, the mailing address may be left blank: Mailing address of the business, including city, state, and zip code. The five digit zip code may be used if the nine digit zip code is not known; and
 - (F) name, phone number and email for the individual completing the form.
- (3) Box 3, authorizing signature of individual responsible for the radon proficiency program:
 - (A) name of company or corporate office;
 - (B) full legal name. Middle initials may be used in lieu of the full middle name; and
 - (C) signature of the individual registering the radiation proficiency program on behalf of the business; and
- (4) Additional Attachments to include with application:
 - (A) documents establishing compliance and periodic reaccreditation with the international program approval standard through accreditation by a recognized accreditation body or demonstration of current approval by the United States Environmental Protection Agency as a radon proficiency program; program or;
 - (B) list of a board members from various private and public sector stakeholders to make decisions regarding curriculum, testing, instructor qualifications, quality assurance and control, continuing education requirements, and procedures for the handling of complaints;
 - (C) minimum training requirements for radon professionals for each type of certification offered;
 - (D) examination requirements for each type of certification;

- (E) continuing education requirements for each type of certification; and
- (F) instructor names and qualifications demonstrating relevant knowledge and experience.

- (5) copies of the registration form are available free of charge by emailing the contacts listed at <https://www.ncdhhs.gov/divisions/health-service-regulation/north-carolina-radon-program/contacts>.

History Note: Authority S.L. 2023-91, s. 2; Temporary Adoption Eff. February 14, 2024.

TITLE 16 – STATE BOARD OF EDUCATION

Rule-making Agency: *State Board of Education*

Rule Citation: *16 NCAC 06D .0510*

Effective Date: *February 8, 2024*

Date Approved by the Rules Review Commission: *January 31, 2024*

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 9th grade. Sections 8A.6.(k) also amended 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) directed 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; the SBE adopted the emergency rule and concurrently proposed the temporary rule during its next regularly scheduled monthly meeting on November 2, 2023. Although the Codifier objected to the emergency rule because it was formally adopted one day after the legislative deadline, the SBE elected to enter the emergency rule into the Administrative Code over the Codifier's objection to satisfy the substance of the legislative mandate. The emergency rule became effective on November 16, 2023, and the SBE is now prepared to adopt the final temporary rule. Section 8A.6.(s) of S.L. 2023-134 also mandates that "[s]tudents enrolled in tenth grade during the 2023-2024 school year who complete the sequence of courses required for graduation in a three-year period shall be eligible to graduate in the 2024-2025 school year. As a practical matter, PSUs need to be advising students who meet these criteria on course scheduling as soon as possible so that they can satisfy the requirements. Therefore, immediate adoption of the rule is necessary so that PSUs and students know what steps they must take to graduate within three years.*

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 on or after July 1, 2024~~ 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;~~ Armed Forces of the United States;
- (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~~ superintendent or designee shall verify that the student has met the minimum graduation requirements established by the State Board of ~~Education, Education~~ ("SBE"), as defined in ~~16 NCAC 06D .0503, and submit the request to the superintendent for approval. 16 NCAC 06D .0503.~~

(f) 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.

(g) PSUs shall provide students with information on how to graduate from high school within three years prior to the student selecting the student's course schedule for Grade 9. Such information shall include the topics listed in Paragraph (d) in this

Rule as well as a recommended course schedule to allow the student to satisfy the minimum graduation requirements established by the SBE.

History Note: Authority G.S. 115C-12(9d); 115C-218.85; 115C-238.66;

Codifier determined that rule did not meet criteria for emergency rule on November 6, 2023.

Emergency Adoption Eff. November. 16, 2023;

Temporary Adoption Eff. February 8, 2024.

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Rule-making Agency: *State Board of Education*

Rule Citation: *16 NCAC 06G .0701*

Effective Date: *February 8, 2024*

Date Approved by the Rules Review Commission: *January 31, 2024*

Reason for Action: *The effective date of a recent act of the General Assembly or of the U.S. Congress. S.L. 2023-106, Section 2.(a); S.L. 2023-134, Section 7.81.(d) effective October 3, 2023. G.S. 116C-76.60, as enacted by S.L. 2023-106, Section 2.(a), provides parents of children in North Carolina public schools the ability 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, Part 4 of the General Statutes. The provision also directs the SBE to establish rules for these hearings. S.L. 2023-134, Section 7.81.(d) directed the SBE to adopt an emergency rule for these hearings in order to begin receiving requests by January 30, 2024. The emergency rule became effective on November 16, 2023, and the SBE is now prepared to adopt the final temporary rule.*

**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) "Practice" means a regular method, process, or course of conduct, whether or not established in the written policies of a PSU, by which the PSU provides the notices or information to parents

as required by Chapter 115C, Article 7B, Part 4 of the General Statutes. "Practice" does not include isolated incidents or isolated conduct by individual PSU personnel, including those inconsistent with the established procedures of the PSU.

(4)(5) "Principal" is defined in G.S. 115C-76.1(6).

(6) "Procedure" means a regular method or process, as established in the written policies of a PSU, by which the PSU provides the notices or information to parents as required by G.S. 115C-76.45, or age-appropriate instruction on certain topics as described in G.S. 115C-76.55. "Procedure" does not include isolated incidents or isolated conduct by individual PSU personnel, including those inconsistent with the established procedures of the PSU.

(5)(7) "Public school unit" or "PSU" is defined in G.S. 115C-5(7a).

(6)(8) "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 regarding the procedures or practices of a PSU required by Chapter 115C, Article 7B, Part 4 of the General Statutes~~ shall do so in writing. The written request shall be submitted to the SBE, with a copy to the superintendent, and 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~~ Copies of all written correspondence and summaries of all verbal correspondence with PSU personnel, including date, times, and parties involved for any correspondence conducted by telephone or in person, regarding the parental concern and efforts by the PSU to resolve the concern. The parent shall also include 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. or its authorized designee shall review the request and determine whether the SBE has jurisdiction to review the matters therein addressed. The SBE may dismiss the request for any of the following reasons:~~

- (1) The parent has failed to provide any of the information required by Paragraph (b) of this Rule.

(2) The parent's concern does not address the procedures or practices of a PSU required by Chapter 115C, Article 7B, Part 4 of the General Statutes.

(3) The parent has failed to provide the PSU 30 days to resolve the parent's concern.

(4) The parent's proposed resolution is not within the legal authority of the PSU or SBE.

(d) If the SBE determines that it has jurisdiction to review the matters addressed in the request, the SBE shall appoint a hearing officer to review the request.

~~(d)~~(e) 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 and the other party 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)~~(f) Within 30 days of appointment and after having conducted a hearing in accordance with Paragraph (d) of this Rule, the hearing 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 ~~case~~ case, which may include a finding that the parental concern lacks merit.

~~(f)~~(g) At the next regularly scheduled meeting of the SBE held more than three 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.

TEMPORARY RULES

~~(g)~~(h) 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;
Temporary Adoption Eff. February 8, 2024.*

APPROVED RULES

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

Rules approved by the Rules Review Commission at its meeting on January 31, 2024.

**REGISTER CITATION TO THE
NOTICE OF TEXT****ADMINISTRATION, DEPARTMENT OF**

Leases at State Fairgrounds and WNC AG Center 01 NCAC 06B .0307* 38:05 NCR

ELECTIONS, STATE BOARD OF

Authorized Access to Voting System Information in Escrow 08 NCAC 04 .0308* 38:01 NCR

SOCIAL SERVICES COMMISSION

Nature and Purpose of State Adult Day Care Fund 10A NCAC 06T .0201* 38:08 NCR

MEDICAL CARE COMMISSION

Tuberculosis Test, Medical Examination and Immunizations 10A NCAC 13F .0703* 37:24 NCR

Resident Contract, Information on Facility, and Resident ... 10A NCAC 13F .0704* 37:24 NCR

Authorized Representative 10A NCAC 13F .1103* 37:24 NCR

Accounting for Resident's Personal Funds 10A NCAC 13F .1104* 37:24 NCR

Settlement of Cost of Care 10A NCAC 13F .1106* 37:24 NCR

Tuberculosis Test and Medical Examination, and Immunizations 10A NCAC 13G .0702 37:24 NCR

Resident Register 10A NCAC 13G .0703 37:24 NCR

Resident Contract, Information on Facility, and Resident ... 10A NCAC 13G .0704* 37:24 NCR

Authorized Representative 10A NCAC 13G .1102* 37:24 NCR

Accounting for Resident's Personal Funds 10A NCAC 13G .1103* 37:24 NCR

Settlement of Cost of Care 10A NCAC 13G .1106* 37:24 NCR

SHERIFFS' EDUCATION AND TRAINING STANDARDS COMMISSION

Fingerprint Criminal History Records Check 12 NCAC 10B .0303* 38:02 NCR

Verification of Records to Division 12 NCAC 10B .0408* 38:02 NCR

PUBLIC SAFETY, DEPARTMENT OF

Purpose 14B NCAC 03 .0501 38:05 NCR

Abbreviations and Definitions 14B NCAC 03 .0502* 38:05 NCR

Dispatch of a Regional Response Team 14B NCAC 03 .0503* 38:05 NCR

On-Site Operations of a Program Resource 14B NCAC 03 .0504 38:05 NCR

Standards for Administration of a Contract Response Team,... 14B NCAC 03 .0505* 38:05 NCR

Recovering the Costs of a Regional Response Team 14B NCAC 03 .0506* 38:05 NCR

Procedures for Bidding and Contracting for Regional Respo... 14B NCAC 03 .0507* 38:05 NCR

Criteria for Evaluating Bids for Contract Response Team 14B NCAC 03 .0508* 38:05 NCR

Personnel, Training, and Equipment Standards for Regional... 14B NCAC 03 .0509* 38:05 NCR

ALARM SYSTEMS LICENSING BOARD

Experience or Training Requirements for License 14B NCAC 17 .0202* 38:05 NCR

Training Requirements for Alarm Licensees 14B NCAC 17 .0208 38:05 NCR

WILDLIFE RESOURCES COMMISSION

<u>Brunswick County</u>	15A NCAC 10F .0305*	38:07 NCR
<u>Forsyth: Rockingham And Stokes Counties</u>	15A NCAC 10F .0316*	38:07 NCR
<u>Caldwell County</u>	15A NCAC 10F .0338	38:07 NCR
<u>Town of Rhodhiss</u>	15A NCAC 10F .0380	38:07 NCR
<u>Course Requirements</u>	15A NCAC 10K .0101*	38:07 NCR
<u>Issuance of Certificate of Competency</u>	15A NCAC 10K .0102*	38:07 NCR
<u>Instructor Certification</u>	15A NCAC 10K .0103*	38:07 NCR

MARINE FISHERIES COMMISSION

<u>Definitions</u>	15A NCAC 18A .0301*	38:03 NCR
<u>Appeals Procedure</u>	15A NCAC 18A .0305	38:03 NCR
<u>Applicability of Rules</u>	15A NCAC 18A .0401	38:03 NCR
<u>General Requirements for Operation</u>	15A NCAC 18A .0402	38:03 NCR
<u>Supervision and Training</u>	15A NCAC 18A .0403	38:03 NCR
<u>Construction</u>	15A NCAC 18A .0404	38:03 NCR
<u>Facility Flooding</u>	15A NCAC 18A .0405	38:03 NCR
<u>Floors</u>	15A NCAC 18A .0406	38:03 NCR
<u>Walls and Ceilings</u>	15A NCAC 18A .0407	38:03 NCR
<u>Lighting</u>	15A NCAC 18A .0408	38:03 NCR
<u>Ventilation</u>	15A NCAC 18A .0409	38:03 NCR
<u>Pest Control</u>	15A NCAC 18A .0410	38:03 NCR
<u>Rodent and Animal Control</u>	15A NCAC 18A .0411	38:03 NCR
<u>Plumbing and Hand Washing Facilities</u>	15A NCAC 18A .0412	38:03 NCR
<u>Water Supply</u>	15A NCAC 18A .0413	38:03 NCR
<u>Toilet Facilities</u>	15A NCAC 18A .0414	38:03 NCR
<u>Premises</u>	15A NCAC 18A .0415	38:03 NCR
<u>Personal Hygiene</u>	15A NCAC 18A .0416	38:03 NCR
<u>Employees' Personal Articles</u>	15A NCAC 18A .0417	38:03 NCR
<u>Supply Storage</u>	15A NCAC 18A .0418*	38:03 NCR
<u>Records</u>	15A NCAC 18A .0421*	38:03 NCR
<u>Shellstock Cleaning</u>	15A NCAC 18A .0422	38:03 NCR
<u>Sale of Live Shellstock</u>	15A NCAC 18A .0423	38:03 NCR
<u>Shellfish Receiving</u>	15A NCAC 18A .0424	38:03 NCR
<u>Bulk Shipments Between Shellfish Dealers</u>	15A NCAC 18A .0426	38:03 NCR
<u>Sampling and Testing</u>	15A NCAC 18A .0428*	38:03 NCR
<u>Embargo or Disposal of Shellfish</u>	15A NCAC 18A .0429	38:03 NCR
<u>Bacteriological and Contamination Stands</u>	15A NCAC 18A .0430*	38:03 NCR
<u>Public Display of Consumer Advisory</u>	15A NCAC 18A .0432	38:03 NCR
<u>Hazard Analysis</u>	15A NCAC 18A .0433	38:03 NCR
<u>HACCP Plan</u>	15A NCAC 18A .0434*	38:03 NCR
<u>Sanitation Monitoring Requirements</u>	15A NCAC 18A .0435	38:03 NCR
<u>Monitoring Records</u>	15A NCAC 18A .0436	38:03 NCR
<u>In-Shell Product</u>	15A NCAC 18A .0437	38:03 NCR
<u>Inspections and Compliance Schedule</u>	15A NCAC 18A .0438	38:03 NCR
<u>Recall Procedure</u>	15A NCAC 18A .0439*	38:03 NCR
<u>Requirements for Shellstock Plants and Reshippers</u>	15A NCAC 18A .0501	38:03 NCR

APPROVED RULES

<u>Grading Shellstock and Commingling</u>	15A NCAC	18A .0502	38:03 NCR
<u>Grader</u>	15A NCAC	18A .0503	38:03 NCR
<u>Reshippers</u>	15A NCAC	18A .0504	38:03 NCR
<u>Requirements for Shucking and Packing Plants and Repackin...</u>	15A NCAC	18A .0601	38:03 NCR
<u>Separation of Operations</u>	15A NCAC	18A .0602	38:03 NCR
<u>Hot Water System</u>	15A NCAC	18A .0603	38:03 NCR
<u>Handwashing Facilities</u>	15A NCAC	18A .0604	38:03 NCR
<u>Delivery Window or Shelf</u>	15A NCAC	18A .0605	38:03 NCR
<u>Non-Food Contact Surfaces</u>	15A NCAC	18A .0606	38:03 NCR
<u>Shucking Benches</u>	15A NCAC	18A .0607	38:03 NCR
<u>Equipment Construction</u>	15A NCAC	18A .0608*	38:03 NCR
<u>Sanitizing Equipment</u>	15A NCAC	18A .0609	38:03 NCR
<u>Equipment Sanitation</u>	15A NCAC	18A .0610	38:03 NCR
<u>Equipment Storage</u>	15A NCAC	18A .0611	38:03 NCR
<u>Ice</u>	15A NCAC	18A .0612	38:03 NCR
<u>Shellfish Shucking</u>	15A NCAC	18A .0613	38:03 NCR
<u>Containers</u>	15A NCAC	18A .0614	38:03 NCR
<u>Shellfish Cooling</u>	15A NCAC	18A .0615	38:03 NCR
<u>Shellfish Freezing</u>	15A NCAC	18A .0616	38:03 NCR
<u>Shipping</u>	15A NCAC	18A .0617	38:03 NCR
<u>Heat Shock Method of Preparation of Shellfish</u>	15A NCAC	18A .0618	38:03 NCR
<u>Repacking of Shellfish</u>	15A NCAC	18A .0619	38:03 NCR
<u>Shellfish Thawing and Repacking</u>	15A NCAC	18A .0620*	38:03 NCR
<u>Recall Procedure</u>	15A NCAC	18A .0621	38:03 NCR
<u>Requirements for Depuration</u>	15A NCAC	18A .0701*	38:03 NCR
<u>Facility Supervision</u>	15A NCAC	18A .0702	38:03 NCR
<u>Facility Design and Sanitation</u>	15A NCAC	18A .0703	38:03 NCR
<u>Laboratory Procedures</u>	15A NCAC	18A .0704	38:03 NCR
<u>Facility Operations</u>	15A NCAC	18A .0705	38:03 NCR
<u>Shellfish Sampling Procedures</u>	15A NCAC	18A .0706	38:03 NCR
<u>Depuration Process Water Control - Sampling Procedures</u>	15A NCAC	18A .0707	38:03 NCR
<u>Requirements for Wet Storage of Shellstock</u>	15A NCAC	18A .0708	38:03 NCR
<u>Depuration - Shellfish Meat Standards</u>	15A NCAC	18A .0709	38:03 NCR
<u>Ultraviolet Unit</u>	15A NCAC	18A .0710	38:03 NCR
<u>Shellstock Storage</u>	15A NCAC	18A .0711	38:03 NCR
<u>Depuration - Tagging and Release of Shellfish</u>	15A NCAC	18A .0712	38:03 NCR
<u>Depuration Records</u>	15A NCAC	18A .0713	38:03 NCR
<u>Requirements for Wet Storage of Shellstock</u>	15A NCAC	18A .0801	38:03 NCR
<u>Plant Design: Sanitation: and Wet Storage</u>	15A NCAC	18A .0802	38:03 NCR
<u>Wet Storage Water</u>	15A NCAC	18A .0803	38:03 NCR
<u>Shellstock Cleaning</u>	15A NCAC	18A .0804	38:03 NCR
<u>Wet Storage Tanks</u>	15A NCAC	18A .0805	38:03 NCR
<u>Shellstock Containers</u>	15A NCAC	18A .0806	38:03 NCR

REVENUE, DEPARTMENT OF

<u>Radio, Television, Movie Theatres Receipts</u>	17 NCAC	07B .3101*	n/a G.S. 150B-1(D)(4)
<u>Contractors for the Federal Government</u>	17 NCAC	07B .4203*	n/a G.S. 150B-1(D)(4)
<u>Native American Indian Country</u>	17 NCAC	07B .4210*	n/a G.S. 150B-1(D)(4)

APPROVED RULES

<u>Equipment Furnished with Operator</u>	17 NCAC	07B .4404*	n/a G.S. 150B-1(D)(4)
<u>Equipment and Supplies for Laundries: etc.</u>	17 NCAC	07B .4503*	n/a G.S. 150B-1(D)(4)
<u>Fire Trucks and Equipment</u>	17 NCAC	07B .4609*	n/a G.S. 150B-1(D)(4)
<u>Recreational Vehicles</u>	17 NCAC	07B .4614*	n/a G.S. 150B-1(D)(4)
<u>Commercial Printers and Publishers</u>	17 NCAC	07B .4701*	n/a G.S. 150B-1(D)(4)
<u>Eyeglass Frames and Repair Parts</u>	17 NCAC	07B .5002*	n/a G.S. 150B-1(D)(4)

SECRETARY OF STATE, DEPARTMENT OF THE

<u>U.S. Currency</u>	18 NCAC	07B .0201	38:04 NCR
<u>Online Fee Payment</u>	18 NCAC	07B .0202*	38:04 NCR
<u>Fees Paid in Person</u>	18 NCAC	07B .0203*	38:04 NCR
<u>Fees Paid by USPS or by Delivery Service</u>	18 NCAC	07B .0204*	38:04 NCR
<u>Fee for Dishonored Payment</u>	18 NCAC	07B .0205*	38:04 NCR
<u>Filing not Processed if Payment Dishonored</u>	18 NCAC	07B .0206*	38:04 NCR
<u>Department Actions upon Dishonored Payment</u>	18 NCAC	07B .0207	38:04 NCR
<u>Notice to Filer of Dishonored Payment</u>	18 NCAC	07B .0208*	38:04 NCR
<u>Form Use Required</u>	18 NCAC	07B .0301*	38:04 NCR
<u>Mode of Filing</u>	18 NCAC	07B .0302*	38:04 NCR
<u>Paper Filings Permitted</u>	18 NCAC	07B .0303*	38:04 NCR
<u>Inapplicable Questions</u>	18 NCAC	07B .0304*	38:04 NCR
<u>Response to Questions and Requests for Information</u>	18 NCAC	07B .0305*	38:04 NCR
<u>Attachments</u>	18 NCAC	07B .0306*	38:04 NCR
<u>Notice of Attachment</u>	18 NCAC	07B .0307*	38:04 NCR
<u>Signature for Entity</u>	18 NCAC	07B .0308*	38:04 NCR
<u>Form Preparer Signature Required</u>	18 NCAC	07B .0309*	38:04 NCR
<u>Incomplete Filings</u>	18 NCAC	07B .0310*	38:04 NCR
<u>Rejection of Incomplete Filings</u>	18 NCAC	07B .0311*	38:04 NCR
<u>Filing Date of Document</u>	18 NCAC	07B .0312*	38:04 NCR
<u>General</u>	18 NCAC	07B .0401	38:04 NCR
<u>Contact Information</u>	18 NCAC	07B .0402*	38:04 NCR
<u>Certificate of Appointment Form</u>	18 NCAC	07B .0403*	38:04 NCR
<u>Electronic Notary Public Registration Form</u>	18 NCAC	07B .0404*	38:04 NCR
<u>Form Notifying Department of Selection of Technology Prov...</u>	18 NCAC	07B .0405*	38:04 NCR
<u>Notice to Department of Change by Electronic Notary in Te...</u>	18 NCAC	07B .0406*	38:04 NCR
<u>Scope</u>	18 NCAC	07F .0101	38:04 NCR
<u>Definitions</u>	18 NCAC	07F .0102*	38:04 NCR
<u>Electronic Notaries Performing Remote Electronic Notary Acts</u>	18 NCAC	07F .0103*	38:04 NCR
<u>Valid Commission</u>	18 NCAC	07F .0201	38:04 NCR
<u>Approved Course of Study for Electronic Notaries Public</u>	18 NCAC	07F .0301*	38:04 NCR
<u>Courses to be Taught by Certified Notary Instructors</u>	18 NCAC	07F .0302*	38:04 NCR
<u>Electronic Notary Course</u>	18 NCAC	07F .0303*	38:04 NCR
<u>Student Identity</u>	18 NCAC	07F .0304	38:04 NCR
<u>Passing Score on Examination</u>	18 NCAC	07F .0305*	38:04 NCR
<u>Submission</u>	18 NCAC	07F .0401*	38:04 NCR
<u>Timing of Application</u>	18 NCAC	07F .0402*	38:04 NCR
<u>Notice to Department of Changes</u>	18 NCAC	07F .0403*	38:04 NCR
<u>Failure to Submit Application in Time</u>	18 NCAC	07F .0404	38:04 NCR
<u>Notice of Department's Actions for Qualified Electronic N...</u>	18 NCAC	07F .0503*	38:04 NCR

<u>Oaths Timing</u>	18 NCAC 07F .0505*	38:04 NCR
<u>Evidence of Identity</u>	18 NCAC 07F .0506*	38:04 NCR
<u>Certificate Delivery</u>	18 NCAC 07F .0507*	38:04 NCR
<u>Registration Effective Date</u>	18 NCAC 07F .0508*	38:04 NCR
<u>Registration Effective Date</u>	18 NCAC 07F .0509*	38:04 NCR
<u>Confirmation of Electronic Notary Status</u>	18 NCAC 07F .0512*	38:04 NCR
<u>Performing Electronic and Remote Electronic Notarial Acts</u>	18 NCAC 07F .0513*	38:04 NCR
<u>Notice to Department of Technology Provider</u>	18 NCAC 07F .0601*	38:04 NCR
<u>Approved Technology Provider</u>	18 NCAC 07F .0602	38:04 NCR
<u>Unique Signature</u>	18 NCAC 07F .0701	38:04 NCR
<u>Sole Control</u>	18 NCAC 07F .0702*	38:04 NCR
<u>Exclusive</u>	18 NCAC 07F .0703	38:04 NCR
<u>Attributes of Electronic Signature</u>	18 NCAC 07F .0704*	38:04 NCR
<u>Appearance of Electronic Signature</u>	18 NCAC 07F .0705*	38:04 NCR
<u>Signature Compliance</u>	18 NCAC 07F .0706*	38:04 NCR
<u>Signature Review Before Use</u>	18 NCAC 07F .0707*	38:04 NCR
<u>Affixing Electronic Signature</u>	18 NCAC 07F .0708*	38:04 NCR
<u>Review After Affixing Electronic Signature</u>	18 NCAC 07F .0709*	38:04 NCR
<u>Unique Seal</u>	18 NCAC 07F .0801*	38:04 NCR
<u>Sole Control</u>	18 NCAC 07F .0802	38:04 NCR
<u>Exclusive</u>	18 NCAC 07F .0803	38:04 NCR
<u>Attributes of Electronic Seal</u>	18 NCAC 07F .0804*	38:04 NCR
<u>Appearance of Electronic Notary Seal</u>	18 NCAC 07F .0805*	38:04 NCR
<u>Perimeter</u>	18 NCAC 07F .0806*	38:04 NCR
<u>Contents of Electronic Notary Seal</u>	18 NCAC 07F .0807*	38:04 NCR
<u>Use of Electronic Notary Seals</u>	18 NCAC 07F .0808*	38:04 NCR
<u>Seal Compliance</u>	18 NCAC 07F .0809*	38:04 NCR
<u>Seal Limitation</u>	18 NCAC 07F .0810*	38:04 NCR
<u>Seal Review Before Use</u>	18 NCAC 07F .0811*	38:04 NCR
<u>Affixing Electronic Seal</u>	18 NCAC 07F .0812*	38:04 NCR
<u>Review After Affixing Electronic Seal</u>	18 NCAC 07F .0813*	38:04 NCR
<u>Commitment</u>	18 NCAC 07F .0814*	38:04 NCR
<u>Reregistration</u>	18 NCAC 07F .0901*	38:04 NCR
<u>Timing of Reregistration</u>	18 NCAC 07F .0902*	38:04 NCR
<u>Form</u>	18 NCAC 07F .0903*	38:04 NCR
<u>Education</u>	18 NCAC 07F .0904*	38:04 NCR
<u>Electronic Notary Reregistration Other than at Recommissi...</u>	18 NCAC 07F .0905*	38:04 NCR
<u>Registration</u>	18 NCAC 07F .0906*	38:04 NCR
<u>Employers of Electronic Notaries</u>	18 NCAC 07F .1001*	38:04 NCR
<u>Protecting Access</u>	18 NCAC 07F .1002*	38:04 NCR
<u>Retention of Electronic Journal</u>	18 NCAC 07F .1003*	38:04 NCR
<u>Notary Credential Sharing Forbidden</u>	18 NCAC 07F .1004*	38:04 NCR
<u>Presence Requirement for Electronic Notarization</u>	18 NCAC 07F .1101*	38:04 NCR
<u>Presence Requirement for Remote Electronic Notarization</u>	18 NCAC 07F .1102*	38:04 NCR
<u>Individual Principal Signatures for Electronic Notarial Act</u>	18 NCAC 07F .1103*	38:04 NCR
<u>Additional Obligations</u>	18 NCAC 07F .1104*	38:04 NCR
<u>No Electronic Notarization of Ink Signature</u>	18 NCAC 07F .1105*	38:04 NCR

<u>Notice of Changes</u>	18 NCAC 07F .1106*	38:04 NCR
<u>Technological Issue as Reason to Halt Electronic or Remot...</u>	18 NCAC 07F .1107*	38:04 NCR
<u>Resolution of Technological Issues</u>	18 NCAC 07F .1108*	38:04 NCR
<u>Ceasing to Use a Technology Provider</u>	18 NCAC 07F .1109*	38:04 NCR
<u>Notice of Cancellation by Provider</u>	18 NCAC 07F .1110*	38:04 NCR
<u>Content of Notice</u>	18 NCAC 07F .1111*	38:04 NCR
<u>Notaries Subject to Journaling Requirements</u>	18 NCAC 07I .0101*	38:04 NCR
<u>Definitions</u>	18 NCAC 07I .0102*	38:04 NCR
<u>Journal Requirement</u>	18 NCAC 07I .0103*	38:04 NCR
<u>Journal Ownership</u>	18 NCAC 07I .0104*	38:04 NCR
<u>Entry of Data into Journal</u>	18 NCAC 07I .0105	38:04 NCR
<u>Exceptions to Rule .0105</u>	18 NCAC 07I .0106	38:04 NCR
<u>Access to the Journal</u>	18 NCAC 07I .0107*	38:04 NCR
<u>Form of Traditional Notary Journal</u>	18 NCAC 07I .0201*	38:04 NCR
<u>Form of Electronic Notary Journal</u>	18 NCAC 07I .0202	38:04 NCR
<u>Combined Journal</u>	18 NCAC 07I .0203	38:04 NCR
<u>Entries in a Tangible Journal</u>	18 NCAC 07I .0204*	38:04 NCR
<u>Requirements for a Tangible Journal</u>	18 NCAC 07I .0205*	38:04 NCR
<u>Provision of Journal to Department</u>	18 NCAC 07I .0206*	38:04 NCR
<u>Acts Included in Journal</u>	18 NCAC 07I .0207*	38:04 NCR
<u>Designation of Notarial Act</u>	18 NCAC 07I .0208*	38:04 NCR
<u>Exception to Rule .0208</u>	18 NCAC 07I .0209*	38:04 NCR
<u>Designation of Type of Notarial Act</u>	18 NCAC 07I .0210*	38:04 NCR
<u>Journal may Combine Employer-Related and Non-Employer Acts</u>	18 NCAC 07I .0211*	38:04 NCR
<u>Journal Retention Period</u>	18 NCAC 07I .0212*	38:04 NCR
<u>Contents of Journal for Canceled Act</u>	18 NCAC 07I .0301*	38:04 NCR
<u>Contents of Journal</u>	18 NCAC 07I .0302*	38:04 NCR
<u>Additional Journal Contents for Remote Electronic Notariz...</u>	18 NCAC 07I .0303*	38:04 NCR
<u>Employer Request for Inclusion of Additional Information ...</u>	18 NCAC 07I .0304*	38:04 NCR
<u>Party Request for Inclusion of Additional Information in ...</u>	18 NCAC 07I .0305*	38:04 NCR
<u>Notation of Requests for Inclusion of Additional Informat...</u>	18 NCAC 07I .0306*	38:04 NCR
<u>Notary shall not Provide Unrelated Notarial Act Informati...</u>	18 NCAC 07I .0307*	38:04 NCR
<u>Journal Supplements</u>	18 NCAC 07I .0308	38:04 NCR
<u>Maintain a Backup Copy</u>	18 NCAC 07I .0401*	38:04 NCR
<u>Format of Backup Copy</u>	18 NCAC 07I .0402*	38:04 NCR
<u>Printing out of Electronic Journal Entries</u>	18 NCAC 07I .0403*	38:04 NCR
<u>Including Signatures in Journal</u>	18 NCAC 07I .0404*	38:04 NCR
<u>Technological Issues</u>	18 NCAC 07I .0405*	38:04 NCR
<u>Pre-Populated Data to be Confirmed by Notary Public</u>	18 NCAC 07I .0406*	38:04 NCR
<u>Steps Before Committing an Electronic Journal Entry</u>	18 NCAC 07I .0407*	38:04 NCR

The following rules are subject to Legislative Review.

MARINE FISHERIES COMMISSION

<u>Harvest Vessels and Vehicles</u>	15A NCAC 18A .0419	38:03 NCR
<u>Transporting Shellfish</u>	15A NCAC 18A .0420*	38:03 NCR
<u>Shellfish Storage</u>	15A NCAC 18A .0427	38:03 NCR

TITLE 01 - DEPARTMENT OF ADMINISTRATION

01 NCAC 06B .0307 LEASES AT STATE FAIRGROUNDS AND WNC AG CENTER

The Department of Agriculture and Consumer Services, without prior approval of the Council of State, is authorized to enter into leases of buildings or land, and contracts for the furnishing of rides, shows and other related services on the State Fairgrounds and the WNC Ag Center, provided that the duration of each lease, rental agreement or contract shall not exceed 20 days per year for up to three years, plus 10 days before and after an event for move-in and move-out. A lease, rental agreement or contract for more than one year, which provides for a payment to the State of more than one hundred thousand dollars (\$100,000) per year, shall be awarded to the highest qualified bidder in a request for proposals issued by the Department.

History Note: Authority G.S. 143-341(4)d ; 143-341(4)f; Council of State Resolution of July 1, 1975; Eff. February 1, 1976; Readopted Eff. February 27, 1979; Amended Eff. January 1, 2006; August 1, 1988; Exp. Eff. August 1, 2018 pursuant to G.S. 150B-21.3A; Eff. February 1, 2024.

TITLE 08 – STATE BOARD OF ELECTIONS

08 NCAC 04 .0308 AUTHORIZED ACCESS TO VOTING SYSTEM INFORMATION IN ESCROW

(a) Subject to the provisions of this Rule, upon written request from a person or entity authorized under G.S. 163-165.7(a)(6) to a vendor of a certified voting system in this state, the vendor shall make available for review and examination any information placed in escrow under G.S. 163-165.9A to an authorized person. The person or entity making the request shall simultaneously provide a copy of the request to the State Board. Any request from the State chairs of a political party recognized under G.S. 163-96 shall be made no later than 90 days before the start of early voting in the state. This Rule does not address or restrict the pre-certification review of a vendor's source code under G.S. 163-165.7(e).

(b) Authorized Persons. Only authorized persons may review and examine the information placed in escrow by a voting system vendor. For the purpose of this Rule, "authorized person" means a person who:

- (1) Is an agent:
 - (A) designated by majority vote in a public meeting by the State Board or a purchasing county's board of commissioners;
 - (B) designated in writing by the chair of a political party recognized under G.S. 163-96; or
 - (C) designated in writing by the Secretary of Department of Information Technology. No more than three

people may be designated by an authorized entity under G.S. 163-165.7(f)(9);

- (2) Has submitted to a criminal history record check, to be facilitated by the State Board, as provided for in G.S. 163-27.2(b) and has not been convicted of a disqualifying offense. Disqualifying offenses shall be all felonies, and any misdemeanors that involve theft, deception, the unlawful concealment or dissemination of information, falsification or destruction of records, or the unlawful access to information or facilities. The requirement to submit to a criminal history record check does not apply to State employees who have already submitted to a criminal history record check for State employment;
- (3) Has submitted to the State Board a résumé detailing the person's experience with voting systems and information technology, to include any training or experience pertaining to computer code development or analysis;
- (4) Has submitted to the State Board a sworn affidavit, under penalty of perjury, attesting that the person:
 - (A) has never been found by a court of law, administrative body, or former or current employer to have disclosed without authorization confidential information that the person had access to;
 - (B) has never been, either in their private capacity or in any capacity as an agent for another person or entity, subject to any civil or criminal claims alleging misappropriation of a trade secret, violation of confidentiality agreement or nondisclosure agreement, copyright infringement, patent infringement, or unauthorized disclosure of any information protected from disclosure by law, except to the extent any such claims were dismissed with prejudice and not pursuant to a settlement agreement;
 - (C) has never had a security clearance issued by a federal agency revoked for any reason other than expiration of the clearance;
 - (D) if granted access to review and examine the information placed in escrow, will not disclose or reveal any proprietary information to which the Authorized Person is granted access, pursuant to G.S. 132-1.2, to any person outside of the individuals or entities identified in G.S. 163-165.7(a)(6), testing and certification

- program staff at the U.S. Election Assistance Commission, election infrastructure security staff for the U.S. Department of Homeland Security's Cybersecurity and Infrastructure Security, or a court of law using the court's procedures to file such information under seal;
- (E) will not disclose or reveal any feature, component, or perceived flaw or vulnerability of the information placed in escrow by a voting system vendor, pursuant to G.S. 132-1.7(a2), G.S. 132-1.7(b), and G.S. 132-6.1(c), to any person outside of other persons authorized under this Rule, the State Board, the vendor, testing and certification program staff at the U.S. Election Assistance Commission, election infrastructure security staff for the U.S. Department of Homeland Security's Cybersecurity and Infrastructure Security, or a court of law using the court's procedures to file such information under seal;
- (F) will submit copies of any notes taken during the examination of the information in escrow to the State Board;
- (G) acknowledges that, should the person disclose any information placed in escrow that is protected under state or federal law in contravention of Part (b)(4)(D) or (E) of this Rule, the person will be subject to any remedies provided by law which could include monetary damages; and
- (H) will provide the vendor and the State Board with prompt written notice if the person becomes or is likely to be compelled by law to disclose any of the escrow information, will cooperate with the vendor and the State Board to obtain a protective order or other appropriate remedy, and, in the event any escrow information must be disclosed pursuant to legal compulsion, will disclose only the portion of information that the person is legally required to disclose in the written opinion of its counsel; and
- (5) Consents in writing to searches of their person and effects, similar in nature to searches that members of the public submit to when entering the office buildings of the General Assembly, to be conducted upon entry into the secure facility described in Subparagraph (d)(1) of this Rule; and
- (6) Is a citizen of the United States.
- (c) Within 30 days of meeting the definition of an authorized person in Paragraph (b) of this Rule, the Executive Director of the State Board shall issue a written authorization to the person or entity making the request under Paragraph (a) of this Rule to review and examine information placed in escrow by a voting system vendor. The authorization shall be presented by the person or entity to the vendor prior to gaining access to such information under this Rule.
- (d) Conditions of Access. When providing access to information in escrow pursuant to this Rule, the State Board and vendor shall ensure the following conditions are met:
- (1) The information in escrow shall be made available by the vendor on up to three computers provided by the vendor (one for each potentially designated agent under G.S. 163-165.7(f)(9)) that are not connected to any network and are located within a secure facility, as described in Subparagraph (d)(3) of this Rule, designated by the State Board of Elections. Such computers shall be preloaded with software tools necessary for use in viewing, searching, and analyzing the information subject to review, including tools permitting automated source code review. Such computers shall have the following access controls:
- (A) Credentials shall be traceable to individuals. Generic login accounts are not authorized. Sharing of accounts and reuse of credentials is prohibited. Each user must have their own assigned login account.
- (B) Only one administrative account shall be present on the system to allow for the initial provisioning of necessary applications and setup of security controls.
- (C) Where passwords are used to authenticate authorized individuals, login accounts shall use complex passwords. A sufficiently complex password is one that is not based on common dictionary words and includes no fewer than 10 characters, and includes at least one uppercase letter, one lowercase letter, one number, and a special character.
- (D) Screen lock times shall be set to no longer than 10 minutes.
- (E) All computers shall be locked or logged out from whenever they are not being attended and used.
- (F) The entire hard drive on any computer must have full disk encryption. Where possible, the minimum encryption level shall be AES-256.
- (G) After the information subject to review and software tools for viewing are loaded on the computers, all ports

- shall be sealed with tamper-evident seals.
- (H) After the ports are sealed, no input/output or recording devices may be connected to the computers. The State Board shall provide for the secure storage of any equipment used for the duration of the review.
 - (2) The computers shall be air-gapped and shall not be connected to a network, and any feature allowing connection to a network shall be disabled. Prohibited network connections include the Internet, intranet, fax, telephone line, networks established via modem, or any other wired or wireless connection.
 - (3) The secure facility designated by the State Board under Subparagraph (1) of this Paragraph is the specific location where the computing equipment will be stored and the review conducted, and may be a secured portion of a building. All conduct within the facility shall meet the following conditions:
 - (A) For the entire review period, the facility shall be secured from access by any person not designated under Subparagraph (b)(1), Part (d)(3)(G), and Subparagraph (d)(7) of this Rule.
 - (B) Only individuals authorized under Subparagraph (b)(1), Part (d)(3)(G), and Subparagraph (d)(7) of this Rule may enter the facility. Such individuals shall present government-issued photo identification upon initial entry, and may be asked to show identification multiple times throughout the review period.
 - (C) Each time an individual accesses the facility, the State Board or its designee shall record the name of the individual, the time of their entry, the time of their departure, and a description of any materials brought in or out of the facility.
 - (D) All equipment used in the review, as specified in Subparagraph (d)(1) of this Rule, must remain in the facility during the review period.
 - (E) No authorized person pursuant to this Rule shall possess any removable media device, cell phone, computer, tablet, camera, wearable, or other outside electronic device within the facility where the person is accessing information in escrow.
 - (F) No authorized person shall attempt to connect the computers used in the review to any network.
 - (G) State personnel who are designated by the Executive Director of the State Board of Elections and who also satisfy the conditions set forth in Subparagraphs (b)(2) through (b)(5) shall have access to the facility where the review is being conducted at all times, to monitor the process and ensure that all requirements of this Rule are complied with.
 - (H) Persons entering the facility shall submit to inspection, as provided for in Subparagraph (b)(5), and shall be denied entry if they possess any unauthorized devices.
 - (I) State personnel designated pursuant to this subsection shall inspect the computers used in the review before and after the review for compliance with Subparagraphs (d)(1) and (d)(2).
 - (4) Authorized persons are permitted to perform manual source code review, and use code analysis tools as provided in Subparagraph (1) of this Paragraph, to analyze the source code. This source code review shall be performed using "read only" access and any authorized person shall use only the analysis tools preloaded on the computers, as described in Subparagraph (1) of this Paragraph, to examine the information placed in escrow.
 - (5) Any review performed pursuant to this Rule shall occur during the State Board's regular business hours and shall last no longer than 10 business days. Such review shall not occur during the period from the start of early voting through the conclusion of statewide canvassing of the vote.
 - (6) Authorized persons and the vendor are each responsible for bearing their own costs in conducting the review pursuant to G.S. 163-165.7(a)(6).
 - (7) Up to three representatives of the vendor may be designated in writing to the State Board by a corporate executive of the vendor to supervise the review at all times. Such representatives shall not interfere with the review and shall be afforded an opportunity to inspect the facility for compliance with these conditions prior to the review commencing. State Board staff designated under Subparagraph (3) of this Paragraph shall monitor the review, without obstructing the review process.
 - (e) Dispute Resolution. Any dispute that arises between an authorized person and a vendor concerning the execution of review pursuant to this Rule may be presented to the State Board of Elections in the form of a petition seeking relief. The party seeking such relief shall serve their petition on the opposing party, and the opposing party shall have 14 days to respond. The State Board shall make a decision on the petition based on the written submissions, or it may schedule a hearing to consider the petition.

History Note: Authority G.S. 132-1.2; 132-1.7; 132-6.1; 163-22; 163-27.2; 163-165.7; 163-165.9A; 163-166.7; 163-275; 42 U.S.C. 5195c; Eff. February 1, 2024.

TITLE 10A - DEPARTMENT OF HEALTH AND HUMAN SERVICES

10A NCAC 06T .0201 NATURE AND PURPOSE OF STATE ADULT DAY CARE FUND

- (a) The State adult day care fund shall be used for adult day care and adult day health services provided through county departments of social services for the purpose of enabling people to remain in or return to their own homes.
- (b) The fund shall be used to increase State financial participation in the costs of this service.
- (c) A county department of social services or a designee of the board of county commissioners may purchase adult day care services for an individual following a preadmission assessment as specified in 10A NCAC 06R .0501. A county department of social services or a designee of the board of county commissioners may purchase adult day health services for an individual following a preadmission health assessment as specified in 10A NCAC 06S .0204(c)(2)(A) and a determination that the individual needs one or more services as set forth in 10A NCAC 06S .0402(a).
- (d) If an adult day care or adult day health provider elects to provide or arrange for transportation services for the individual who attends the program, the county department of social services or a designee of the board of county commissioners may reimburse the adult day care or adult day health provider for transporting the individual to the adult day care or adult day health program.

History Note: Authority G.S. 143B-153(2a); 143B-153(6); S.L. 1981, c. 1048; S.L. 2023-65; Eff. January 1, 1982; Temporary Amendment Eff. July 27, 1994 for a period of 180 days or until the permanent rule becomes effective, whichever is sooner; Amended Eff. December 1, 1994; July 1, 1990; Temporary Amendment Eff. December 8, 1997; Amended Eff. March 1, 2007; April 1, 2005; April 1, 1999; Readopted Eff. November 1, 2019; Amended Eff. February 1, 2024.

10A NCAC 13F .0703 TUBERCULOSIS TEST, MEDICAL EXAMINATION AND IMMUNIZATIONS

- (a) Upon admission to an adult care home each resident shall be tested for tuberculosis disease in compliance with the control measures adopted by the Commission for Public Health as specified in 10A NCAC 41A .0205 including subsequent amendments and editions.
- (b) Each resident shall have a medical examination completed by a licensed physician or physician extender prior to admission to the facility and annually thereafter. For the purposes of this Rule, "physician extender" means a licensed physician assistant or

licensed nurse practitioner. The medical examination completed prior to admission shall be used by the facility to determine if the facility can meet the needs of the resident.

(c) The medical examination shall be completed no more than 90 days prior to the resident's admission to the facility, except in the case of emergency admission.

(d) In the case of an unplanned, emergency admission, the medical examination of the resident shall be conducted within 72 hours after admission. Prior to an emergency admission, the facility shall obtain current medication and treatment orders from a licensed physician or physician extender.

(e) The result of the medical examination required in Paragraph (b) of this Rule shall be documented on the North Carolina Medicaid Adult Care Home FL-2 form which is available at no cost on the Department's Medicaid website at <https://medicaid.ncdhhs.gov/media/6549/open>. The Adult Care Home FL-2 shall be signed and dated by the physician or physician extender completing the medical examination. The medical examination shall include the following:

- (1) resident's identification information, including the resident's name, date of birth, sex, admission date, county and Medicaid number, current facility and address, physician's name and address, a relative's name and address, current level of care, and recommended level of care;
- (2) resident's admitting diagnoses, including primary and secondary diagnoses and dates of onset;
- (3) resident's current medical information, including orientation, behaviors, personal care assistance needs, frequency of physician visits, ambulatory status, functional limitations, information related to activities and social needs, neurological status, bowel and bladder functioning status, manner of communication of needs, skin condition, respiratory status, and nutritional status including orders for therapeutic diets;
- (4) special care factors, including physician orders for blood pressure, diabetic urine testing, physical therapy, range of motion exercises, a bowel and bladder program, a restorative feeding program, speech therapy, and restraints;
- (5) resident's medications, including the name, strength, dosage, frequency and route of administration of each medication;
- (6) results of x-rays or laboratory tests determined by the physician or physician extender to be necessary information related to the resident's care needs; and
- (7) additional information as determined by the physician or physician extender to be necessary for the care of the resident.

(f) If the information on the Adult Care Home FL-2 is not clear or is insufficient, or information provided to the facility related to the resident's condition or medications after the completion of the medical examination conflicts with the information provided on

the Adult Care Home FL-2, the facility shall contact the physician or physician extender for clarification in order to determine if the facility can meet the individual's needs.

(g) The results of the medical examination shall be maintained in the resident's record in accordance with Rule .1201 of this Subchapter. Discharge medication orders shall be clarified in accordance with Rule .1002(a) of this Subchapter.

(h) Upon a resident's return to the facility from a hospitalization, the facility shall obtain and review the hospital discharge summary or discharge instructions, including any discharge medication orders. If the facility identifies discrepancies between the discharge orders and current orders at the facility, the facility shall clarify the discrepancies with the resident's physician or physician extender.

(i) Each resident shall be immunized against pneumococcal disease and annually against influenza virus according to G.S. 131D-9, except as otherwise indicated in law.

(j) The facility shall make arrangements for a resident to be evaluated by a licensed mental health professional, licensed physician or licensed physician extender for follow-up psychiatric care within 30 days of admission or re-admission to the facility when the resident:

- (1) has been an inpatient of a psychiatric facility within 12 months prior to admission to the facility and does not have a current plan for follow-up psychiatric care; or
- (2) has been hospitalized due to threatening or violent behavior, suicidal ideation or self-harm, or other psychiatric symptoms that required hospitalization within 12 months prior to admission to the facility and does not have a current plan for follow-up psychiatric care.

History Note: Authority G.S. 131D-2.16; 143B-165; Temporary Adoption Eff. September 1, 2003; Eff. June 1, 2004; Readopted Eff. June 1, 2024.

10A NCAC 13F .0704 RESIDENT CONTRACT, INFORMATION ON FACILITY, AND RESIDENT REGISTER

(a) An adult care home administrator or their management designee shall furnish and review with the resident or the resident's authorized representative as defined in Rule .1103 of this Subchapter information on the facility upon admission and when changes are made to that information. The facility shall involve the resident in the review of the resident contract and information on the facility unless the resident is cognitively unable to participate in the discussion. A statement indicating that this information has been received upon admission or amendment as required by this Rule shall be signed and dated by each person to whom it is given and retained in the resident's record in the facility. The information shall consist of the following:

- (1) the resident contract to which the following applies:
 - (A) the contract shall specify charges for resident services and accommodations, including the cost of different levels of service, description

of levels of care and services, and any other charges or fees;

- (B) the contract shall disclose any health needs or conditions that the facility has determined it cannot meet;
- (C) the contract shall be signed and dated by the administrator or management designee and the resident or the resident's authorized representative, a copy given to the resident or the resident's authorized representative and a copy kept in the resident's record;
- (D) the resident or the resident's authorized representative shall be given a written 30-day notice prior to any change in charges for resident services and accommodations, including the cost of different levels of service, description of level of care and services, and any other charges or fees, and be provided an amended contract or an amendment to the contract for review and confirmation of receipt;
- (E) gratuities in addition to the established rates shall not be accepted; and
- (F) the maximum monthly adult care home rate that may be charged to Special Assistance recipients as established by the North Carolina Social Services Commission and the North Carolina General Assembly.

- (2) a written copy of all house rules, including facility policies on smoking, alcohol consumption, visitation, refunds and the requirements for discharge of residents consistent with the rules of this Subchapter, and amendments disclosing any changes in the house rules. The house rules shall be in compliance with G.S. 131D-21;
- (3) a copy of the Declaration of Residents' Rights as found in G.S. 131D-21;
- (4) a copy of the facility's grievance procedures that shall indicate how the resident is to present complaints and make suggestions as to the facility's policies and services on behalf of himself or herself or others; and
- (5) a statement as to whether the facility has signed Form DSS-1464, Statement of Assurance of Compliance with Title VI of the Civil Rights Act of 1964 for Other Agencies, Institutions, Organizations or Facilities, and which shall also indicate that, if the facility does not choose to comply or is non-compliant, the residents of the facility would not be able to receive State-County Special Assistance for Adults and the facility would not receive supportive services from the county department of social services.

(b) The administrator or their management designee and the resident or the resident's representative shall complete and sign the Resident Register initial assessment within 72 hours of the resident's admission to the facility in accordance with G.S. 131D-2.15. The facility shall involve the resident in the completion of the Resident Register unless the resident is cognitively unable to participate. The Resident Register shall consist of the following:

- (1) resident's identification information including the resident's name, date of birth, sex, admission date, medical insurance, family and emergency contacts, advanced directives, and physician's name and address;
- (2) resident's current care needs including activities of daily living and services, use of assistive aids, orientation status;
- (3) resident's preferences including personal habits, food preferences and allergies, community involvement, and activity interests;
- (4) resident's consent and request for assistance including the release of information, personal funds management, personal lockable space, discharge information, and assistance with personal mail;
- (5) name of the individual identified by the resident who is to receive a copy of the notice of discharge per G.S. 131D-4.8; and
- (6) resident's consent including a signature confirming the review and receipt of information contained in the form.

The Resident Register is available on the internet website, <https://info.ncdhhs.gov/dhsr/acls/pdf/resregister.pdf> at no charge. The facility may use a resident information form other than the Resident Register as long as it contains the same information as the Resident Register. Information on the Resident Register shall be kept updated and maintained in the resident's record.

History Note: Authority 131D-2.15; 131D-2.16; 143B-165; Temporary Adoption Eff. July 1, 2004; Eff. July 1, 2005; Amended Eff. April 1, 2022; Readopted Eff. June 1, 2024.

10A NCAC 13F .1103 AUTHORIZED REPRESENTATIVE

(a) In situations where the facility determines a resident of an adult care home is unable to manage their monetary funds, the administrator shall contact the resident's responsible person or the county department of social services regarding the need for an authorized representative. For the purposes of this Section, an "authorized representative" shall mean a person who is legally authorized or designated in writing by the resident to act on his or her behalf in the management of their funds.

(b) The administrator and other staff of the home facility shall not serve as a resident's authorized representative, payee, or executor of a will except in the case of funds administered by the Social Security Administration, the Veteran's Administration or other federal government agencies. The administrator of the facility may serve as a payee when so authorized as a legally constituted authority by the respective federal agencies.

(c) The administrator shall give the resident's authorized representative or payee receipts for any monies received on behalf of the resident.

History Note: Authority G.S. 35A-1203; 108A-37; 131D-2.16; 143B-165; Eff. July 1, 2005; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6, 2018; Amended Eff. June 1, 2024.

10A NCAC 13F .1104 ACCOUNTING FOR RESIDENT'S PERSONAL FUNDS

(a) To document a resident's receipt of the State-County Special Assistance personal needs allowance after payment of the cost of care, a statement shall be signed by the resident or marked by the resident. If the statement is marked by the resident, there shall be one witness signature. For residents who have been adjudicated incompetent, the signature of the resident's authorized representative shall be required. Witnesses cannot include the staff handling the residents' personal funds transactions. The statement shall be maintained in the facility.

(b) No employee of a facility shall handle the personal funds for a resident, except for the facility administrator or the administrator's designee after having received prior written authorization from the resident or the resident's authorized representative. The facility administrator or their designee shall maintain an accurate account balance and accounting of all funds received, disbursements, and the balance on hand which shall be available upon request to the resident or their authorized representative during the facility's regular business office hours.

(c) The facility shall provide each resident or the resident's authorized representative a written monthly accounting of the resident's funds handled by the administrator or the administrator's designee. The facility shall maintain at the facility a record signed by the resident or their authorized representative indicating whether the resident or their authorized representative agrees that the monthly accounting is accurate. The records shall be maintained by the facility for at least one year.

(d) A resident's personal funds shall not be commingled with facility funds. The facility shall not commingle the personal funds of residents in an interest-bearing account.

(e) All or any portion of a resident's personal funds shall be available to the resident or their authorized representative upon request during the facility's established business days and hours except as provided in Rule .1105 of this Section.

(f) The resident's personal needs allowance shall be credited to the resident's account within one business day of the funds being available in the facility's resident personal funds account.

History Note: Authority G.S. 131D-2.16; 143B-165; Eff. July 1, 2005; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6, 2018; Amended Eff. June 1, 2024.

10A NCAC 13F .1106 SETTLEMENT OF COST OF CARE

(a) If a resident of an adult care home, has been notified by the facility of its intent to discharge in accordance with Rule .0702 of this Subchapter, the facility shall refund the resident an amount equal to the cost of care for the remainder of the month minus the amount charged for any nights spent in the facility during the notice period. The refund shall be made within 14 days after the resident leaves the facility. For the purposes of this Rule, "cost of care" means any monies paid by the resident or the resident's legal representative in advance for room and board and services provided by the facility as agreed upon in the resident's contract.

(b) When a resident moves out of the facility without giving notice, as may be required by the facility according to Rule .0702(i) of this Subchapter, or before the facility's required notice period has elapsed, the facility shall charge the resident no more than the amount equal to the cost of care for the required notice period. If a resident receiving State-County Special Assistance moves before the facility's required notice period has elapsed, the facility may charge the resident for the required notice period. The facility shall refund the resident the remainder of any advance payment following settlement of the cost of care. The refund shall be made within 14 days from the date of notice or, if no notice is given, within 14 days after the resident leaves the facility.

(c) When there is an exception to the notice as provided in Rule .0702(i) of this Subchapter, to protect the health or safety of the resident or others in the facility, or when there is a sudden, unexpected closure of the facility that requires the resident to relocate, the facility shall only charge the resident for any nights spent in the facility. A refund shall be made to the resident by the facility within 14 days from the date of notice.

(d) When a resident gives notice of leaving the facility, as may be required by the facility according to Rule .0702(i) of this Subchapter, and leaves at the end of the notice period, the facility shall refund the resident the remainder of any advance payment within 14 days from the date of notice. If notice is not required by the facility, the refund shall be made within 14 days after the resident leaves the facility.

(e) When a resident leaves the facility and the resident or his or her responsible person has notified the facility of the intent of returning to it, the following apply:

- (1) If the resident or their responsible party reserves their bed for a set number of days, the facility shall have a written agreement for the payment for the days the bed is held in accordance with Rule .0704(a)(1)(A) of this Subchapter.
- (2) If, after leaving the facility, the resident decides not to return to it, the facility shall require no more than a 14-day written notice that he or she is not returning.
- (3) If the facility requires a 14-day written notice, the requirement shall be a part of the written agreement and explained by the facility to the resident and his or her family or responsible person before signing.
- (4) When a resident or someone acting on his or her behalf notifies the facility that he or she will not be returning to the facility, the facility shall

refund the remainder of any advance payment to the resident or his or her responsible person. The refund shall include the amount equal to the cost of care for the period covered by the agreement. The refund shall be made within 14 days after notification that the resident will not be returning to the facility.

- (5) The facility shall not require payment from a resident that receives State County Special Assistance for more than 30 days unless the resident is actually residing in the facility or it is anticipated that he or she will return to the facility within 30 days.

- (6) Exceptions to the 14-day notice, if required by the facility, are cases where returning to the facility would jeopardize the health or safety of the resident or others in the facility as certified by the resident's physician or approved by the county department of social services, and in the case of the resident's death. In these cases, the facility shall provide a refund the rest of any advance payment calculated beginning with the day the facility is notified. The facility shall provide the refund to the authorized representative with 14 days after the resident leaves the facility or within 30 days after the resident's death.

(f) If a resident dies, the administrator of his or her estate or the Clerk of Superior Court, when no administrator for his or her estate has been appointed, shall be given a refund equal to the cost of care for the month minus any nights spent in the facility during the month. This is to be done within 30 days after the resident's death.

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

Eff. July 1, 2005;

Readopted Eff. June 1, 2024.

10A NCAC 13G .0702 TUBERCULOSIS TEST AND MEDICAL EXAMINATION, AND IMMUNIZATIONS

(a) Upon admission to a family care home each resident shall be tested for tuberculosis disease in compliance with the control measures adopted by the Commission for Public Health as specified in 10A NCAC 41A .0205 including subsequent amendments and editions.

(b) Each resident shall have a medical examination completed by a licensed physician or physician extender prior to admission to the home and annually thereafter. For the purposes of this Rule, "physician extender" means a licensed physician assistant or licensed nurse practitioner. The medical examination completed prior to admission shall be used by the facility to determine if the facility can meet the needs of the resident.

(c) The medical examination shall be completed no more than 90 days prior to the resident's admission to the facility, except in the case of emergency admission.

(d) In the case of an unplanned, emergency admission, the medical examination of the resident shall be conducted within 72 hours after admission. Prior to an emergency admission, the

facility shall obtain current medication and treatment orders from a licensed physician or physician extender.

(e) The result of the medical examination required in Paragraph (b) of this Rule shall be documented on the North Carolina Medicaid Adult Care Home FL-2 form which is available at no cost on the Department's Medicaid website at <https://medicaid.ncdhhs.gov/media/6549/open>. The Adult Care Home FL-2 shall be signed and dated by the physician or physician extender completing the medical examination. The medical examination shall include the following:

- (1) resident's identification information, including the resident's name, date of birth, sex, admission date, county and Medicaid number, current facility and address, physician's name and address, a relative's name and address, current level of care, and recommended level of care;
- (2) resident's admitting diagnoses, including primary and secondary diagnoses and dates of onset;
- (3) resident's current medical information, including orientation, behaviors, personal care assistance needs, frequency of physician visits, ambulatory status, functional limitations, information related to activities and social needs, neurological status, bowel and bladder functioning status, manner of communication of needs, skin condition, respiratory status, and nutritional status including orders for therapeutic diets;
- (4) special care factors, including physician orders for blood pressure, diabetic urine testing, physical therapy, range of motion exercises, a bowel and bladder program, a restorative feeding program, speech therapy, and restraints;
- (5) resident's medications, including the name, strength, dosage, frequency and route of administration of each medication;
- (6) results of x-rays or laboratory tests determined by the physician or physician extender to be necessary information related to the resident's care needs; and
- (7) additional information as determined by the physician or physician extender to be necessary for the care of the resident.

(f) If the information on the Adult Care Home FL-2 is not clear or is insufficient, or information provided to the facility related to the resident's condition or medications after the completion of the medical examination conflicts with the information provided on the Adult Care Home FL-2, the facility shall contact the physician or physician extender for clarification in order to determine if the facility can meet the individual's needs.

(g) The results of the medical examination shall be maintained in the resident's record in accordance with Rule .1201 of this Subchapter. Discharge medication orders shall be clarified in accordance with Rule .1002(a) of this Subchapter.

(h) Upon a resident's return to the facility from a hospitalization, the facility shall obtain and review the hospital discharge

summary or discharge instructions, including any discharge medication orders. If the facility identifies discrepancies between the discharge orders and current orders at the facility, the facility shall clarify the discrepancies with the resident's physician or physician extender.

(i) Each resident shall be immunized against pneumococcal disease and annually against influenza virus according to G.S. 131D-9, except as otherwise indicated in law.

(j) The facility shall make arrangements for a resident to be evaluated by a licensed mental health professional, licensed physician or licensed physician extender for follow-up psychiatric care within 30 days of admission or re-admission to the facility when the resident:

- (1) has been an inpatient of a psychiatric facility within 12 months prior to admission to the facility and does not have a current plan for follow-up psychiatric care; or
- (2) has been hospitalized due to threatening or violent behavior, suicidal ideation or self-harm, or other psychiatric symptoms that required hospitalization within 12 months prior to admission to the facility and does not have a current plan for follow-up psychiatric care.

History Note: Authority G.S. 131D-2.16; 143B-165; Eff. January 1, 1977; Readopted Eff. October 31, 1977; Amended Eff. December 1, 1993; July 1, 1990; April 1, 1987; April 1, 1984; Temporary Amendment Eff. September 1, 2003; Amended Eff. June 1, 2004; Readopted Eff. June 1, 2024.

10A NCAC 13G .0703 RESIDENT REGISTER

History Note: Authority G.S. 131D-2.16; 143B-165; Eff. January 1, 1977; Readopted Eff. October 31, 1977; Amended Eff. July 1, 1990; April 1, 1987; April 1, 1984; Temporary Amendment Eff. July 1, 2004; Amended Eff. April 1, 2022; July 1, 2005; Repealed Eff. June 1, 2024.

10A NCAC 13G .0704 RESIDENT CONTRACT, INFORMATION ON FACILITY, AND RESIDENT REGISTER

(a) The administrator or supervisor-in-charge shall furnish and review with the resident or the resident's authorized representative as defined in Rule .1103 of this Subchapter information on the facility upon admission and when changes are made to that information. The facility shall involve the resident in the review of the resident contract and information on the facility unless the resident is cognitively unable to participate in the discussion. A statement indicating that this information has been received upon admission or amendment as required by this Rule shall be signed and dated by each person to whom it is given. This statement shall be retained in the resident's record in the facility. The information shall consist of the following:

- (1) the resident contract to which the following applies:
 - (A) the contract shall specify charges for resident services and accommodations, including the cost of different levels of service, description of levels of care and services, and any other charges or fees;
 - (B) the contract shall disclose any health needs or conditions that the facility has determined it cannot meet;
 - (C) the contract shall be signed and dated by the administrator or supervisor-in-charge and the resident or the resident's authorized representative and a copy given to the resident or the resident's authorized representative and a copy kept in the resident's record;
 - (D) the resident or the resident's authorized representative shall be given a written 30-day notice prior to any change in charges for resident services and accommodations, including the cost of different levels of service, description of level of care and services, and any other charges or fees, and be provided an amended copy of the contract for review and confirmation of receipt;
 - (E) gratuities in addition to the established rates shall not be accepted; and
 - (F) The maximum monthly rate that may be charged to Special Assistance recipients as established by the North Carolina General Assembly;
- (2) a written copy of any house rules, including facility's policies on smoking, alcohol consumption, visitation, refunds, and the requirements for discharge of residents consistent with the rules in this Subchapter and amendments disclosing any changes in the house rules. The house rules shall be in compliance with G.S. 131D-21;
- (3) a copy of the Declaration of Residents' Rights as found in G.S. 131D-21;
- (4) a copy of the facility's grievance procedures that shall indicate how the resident is to present complaints and make suggestions as to the facility's policies and services on behalf of self or others; and
- (5) a statement as to whether the facility has signed Form DSS-1464, Statement of Assurance of Compliance with Title VI of the Civil Rights Act of 1964 for Other Agencies, Institutions, Organizations or Facilities, and which shall also indicate that if the facility does not choose to comply or is non-compliant the residents of the facility would not be able to receive State-

County Special Assistance for Adults and the facility would not receive supportive services from the county department of social services.

- (b) A family care home's administrator or supervisor-in-charge and the resident or the resident's responsible person shall complete and sign the Resident Register initial assessment within 72 hours of the resident's admission to the facility in accordance with G.S. 131D-2.15. The facility shall involve the resident in the completion of the Resident Register unless the resident is cognitively unable to participate. The Resident Register shall consist of the following:

- (1) resident's identification information including the resident's name, date of birth, sex, admission date, medical insurance, family and emergency contacts, advanced directives, and physician's name and address;
- (2) resident's current care needs including activities of daily living and services, use of assistive aids, orientation status;
- (3) resident's preferences including personal habits, food preferences and allergies, community involvement, and activity interests;
- (4) resident's consent and request for assistance including the release of information, personal funds management, personal lockable space, discharge information, and assistance with personal mail;
- (5) name of the individual identified by the resident who is to receive a copy of the notice of discharge per G.S. 131D-4.8; and
- (6) resident's consent including a signature confirming the review and receipt of information contained in the form.

The Resident Register is available on the internet website, <https://info.ncdhhs.gov/dhsr/acls/pdf/resregister.pdf>, at no charge. The facility may use a resident information form other than the Resident Register as long as it contains same information as the Resident Register. Information on the Resident Register shall be kept updated and maintained in the resident's record.

History Note: Authority G.S. 131D-2.16; 143B-165; Eff. April 1, 1984; Amended Eff. July 1, 1990; April 1, 1987; Temporary Amendment Eff. July 1, 2004; Amended Eff. July 1, 2005; Readopted Eff. June 1, 2024.

10A NCAC 13G .1102 AUTHORIZED REPRESENTATIVE

- (a) In situations where the facility determines a resident of a family care home is unable to manage their monetary funds the administrator shall contact a family member, responsible person, or the county department of social services regarding the need for an authorized representative. For the purposes of this Section, an "authorized representative" shall mean a person who is legally authorized or designated in writing by the resident to act on his or her behalf in the management of their funds.
- (b) The administrator and other staff of the facility shall not serve as a resident's authorized representative, payee, or executor of a

will, except in the case of funds administered by the Social Security Administration, the Veteran's Administration or other federal government agencies. The administrator of the facility may serve as a payee when so authorized as a legally constituted authority by the respective federal agencies.

(c) The administrator shall give the resident's authorized representative receipts for any monies received on behalf of the resident.

History Note: Authority G.S. 35A-1203; 108A-37; 131D-2.16; 143B-165;
Eff. January 1, 1977;
Readopted Eff. October 31, 1977;
Amended Eff. July 1, 2005; April 1, 1984;
Readopted Eff. June 1, 2024.

10A NCAC 13G .1103 ACCOUNTING FOR RESIDENT'S PERSONAL FUNDS

(a) To document a resident's receipt of the State-County Special Assistance personal needs allowance after payment of the cost of care, a statement shall be signed by the resident or marked by the resident. If the statement is marked by the resident, there shall be one witness signature. For residents who have been adjudicated incompetent, the signature of the resident's authorized representative shall be required. Witnesses cannot include the staff handling the residents' personal funds transactions. The statement shall be maintained in the facility.

(b) No employee of a facility shall handle the personal funds for a resident, except for the facility administrator or the administrator's designee after having received prior written authorization from the resident or the resident's authorized representative. The facility administrator or their designee shall maintain an accurate account balance and accounting of all funds received, disbursements, and the balance on hand which shall be available upon request to the resident or their authorized representative during the facility's regular business office hours.

(c) The facility shall provide each resident or the resident's authorized representative a written monthly accounting of the resident's funds handled by the administrator or the administrator's designee. The facility shall maintain at the facility a record signed by the resident or their authorized representative indicating whether the resident or their authorized representative agrees that the monthly accounting is accurate. The records shall be maintained by the facility for at least one year.

(d) A resident's personal funds shall not be commingled with facility funds. The facility shall not commingle the personal funds of residents in an interest-bearing account.

(e) All or any portion of a resident's personal funds shall be available to the resident or their authorized representative upon request during the facility's established business days and hours except as provided in Rule .1105 of this Subchapter.

(f) The resident's personal needs allowance shall be credited to the resident's account within one business day of the funds being available in the facility's resident personal funds account.

History Note: Authority G.S. 131D-2.16; 143B-165;
Eff. April 1, 1984;
Amended Eff. July 1, 2005; April 1, 1987;
Readopted Eff. June 1, 2024.

10A NCAC 13G .1106 SETTLEMENT OF COST OF CARE

(a) If a resident of a family care home, has been notified by the facility of its intent to discharge in accordance with Rule .0705 of this Subchapter, the facility shall refund the resident an amount equal to the cost of care for the remainder of the month minus the amount charged for any nights spent in the facility during the notice period. The refund shall be made within 14 days after the resident leaves the facility. For the purposes of this Rule, "cost of care" means any monies paid by the resident or the resident's legal representative in advance for room and board and services provided by facility as agreed upon in the resident's contract.

(b) When a resident moves out of the facility without giving notice, as may be required by the facility according to Rule .0705(i) of this Subchapter, or before the facility's required notice period has elapsed, the facility shall charge the resident no more than the amount equal to the cost of care for the required notice period. If a resident receiving State-County Special Assistance moves without giving notice or before the notice period has elapsed, the facility may charge the resident for the required notice period. The facility shall refund the resident the remainder of any advance payment following settlement of the cost of care. The refund shall be made within 14 days from the date of notice or, if no notice is given, within 14 days of the resident leaving the facility.

(c) When there is an exception to the notice as provided in Rule .0705(i) of this Subchapter to protect the health or safety of the resident or others in the facility, or when there is a sudden, unexpected closure of the facility that requires the resident to relocate, the facility shall only charge the resident for any nights spent in the facility. A refund shall be made to the resident by the facility within 14 days from the date of notice.

(d) When a resident gives notice of leaving the facility, as may be required by the facility according to Rule .0705(i) of this Subchapter, and leaves at the end of the notice period, the facility shall refund the resident the remainder of any advance payment within 14 days from the date of notice. If notice is not required by the facility, the refund shall be made within 14 days after the resident leaves the facility.

(e) When a resident leaves the facility and the resident or his or her responsible person has notified the facility of the intent of returning to it, the following apply:

- (1) If the resident or their responsible party reserves their bed for a set number of days, the facility shall have written agreement for the payment for the days the bed is held in accordance with Rule .0704(a)(1)(A) of this Subchapter.
- (2) If, after leaving the facility, the resident decides not to return to it, the facility shall require no more than a 14-day written notice that he or she is not returning.
- (3) If the facility requires a 14-day written notice, the requirement shall be a part of the written agreement and explained by the facility to the resident and his or her family or responsible person before signing.
- (4) When a resident or someone acting on his or her behalf notifies the facility that he or she will not

be returning to the facility, the facility shall refund the remainder of any advance payment to the resident or his or her responsible person. The refund shall include the amount equal to the cost of care for the period covered by the agreement. The refund shall be made within 14 days after notification that the resident will not be returning to the facility.

- (5) The facility shall not require payment from a resident that receives State County Special Assistance for more than 30 days unless the resident is actually residing in the facility or it is anticipated that he or she will return to the facility within 30 days.
- (6) Exceptions to the 14-day notice, if required by the facility, are cases where returning to the facility would jeopardize the health or safety of the resident or others in the facility as certified by the resident's physician or approved by the county department of social services, and in the case of the resident's death. In these cases, the facility shall provide a refund of any advance payment calculated beginning with the day the facility is notified. The facility shall provide the refund to the authorized representative with 14 days after the resident leaves the facility or within 30 days after the resident's death.

(f) If a resident dies, the administrator of his or her estate or the Clerk of Superior Court, when no administrator for his or her estate has been appointed, shall be given a refund equal to the cost of care for the month minus any nights spent in the facility during the month. This is to be done within 30 days after the resident's death.

*History Note: Authority G.S. 131D-2.16; 131D-4.5; 143B-165;
Eff. January 1, 1977;
Readopted Eff. October 31, 1977;
Amended Eff. July 1, 1990; June 1, 1987; April 1, 1984;
Temporary Amendment Eff. January 1, 2001;
Temporary Amendment Expired October 13, 2001;
Amended Eff. July 1, 2005;
Readopted Eff. June 1, 2024.*

TITLE 12 - DEPARTMENT OF JUSTICE

12 NCAC 10B .0303 FINGERPRINT CRIMINAL HISTORY RECORDS CHECK

- (a) Each applicant for certification, pursuant to Rules .0301 and .0401 of this Subchapter, shall submit electronic fingerprints in the Statewide Automated Fingerprint Identification System (SAFIS).
- (b) The employing agency shall forward the applicant's fingerprint record to the North Carolina State Bureau of Investigation for a criminal history record check utilizing fingerprints against state and federal files.
- (c) The employing agency will receive a report of the results of the criminal history record check utilizing fingerprints against

state and federal files from the North Carolina State Bureau of Investigation. The employing agency shall retain the results of the criminal history records check utilizing fingerprints in compliance with the North Carolina Department of Natural and Cultural Resources Retention Schedule established pursuant to G.S. 121-4 and G.S. 132-8.1. The employing agency shall include the results of the fingerprint criminal history record check with the applications submitted to the Commission.

- (d) Each applicant for certification and certified justice officers shall also submit electronic fingerprints, other identifying information required by the State and National Repositories of Criminal Histories, and any other information required by the State Bureau of Investigation for their enrollment in the Federal Bureau of Investigation's Next Generation Identification (NGI) System and Criminal Justice Record of Arrest and Prosecution Background (Rap Back) Service. Those individuals seeking justice officer certification shall submit the required electronic fingerprints, along with the required documentation pursuant to Rule .0408 of this Subchapter, and other information prior to being issued certification. Those individuals certified as justice officers prior to July 1, 2023 shall submit the required electronic fingerprints and other information no later than June 30, 2023.
- (e) Pursuant to Rule .0301(4) of this Section an applicant for certification as a justice officer shall not perform any action requiring certification by the Commission prior to the date on which the employing agency receives the report of the result of the criminal history record check utilizing fingerprints.

*History Note: Authority G.S. 17E-7; 143B-972.1;
Eff. January 1, 1989;
Amended Eff. August 1, 2000; January 1, 1993; January 1, 1992;
Pursuant to G.S. 150B-21.3A, rule is necessary without
substantive public interest Eff. March 6, 2018;
Amended Eff. February 1, 2024; January 1, 2023.*

12 NCAC 10B .0408 VERIFICATION OF RECORDS TO DIVISION

(a) Prior to issuing certification of each justice officer, for the purpose of verifying compliance with these Rules, the employing agency shall submit to the Division, along with the Report of Appointment (F-4), the following documents:

- (1) documentation consisting of diplomas, school transcripts, or certificates from the educational institution attended by the applicant confirming the applicant's compliance with the educational requirement pursuant to Rule .0302(a) of this Subchapter;
- (2) certified copy of the applicant's Oath of Office, if applying for certification as a deputy sheriff;
- (3) the applicant's Medical History Statement (F-1);
- (4) the applicant's Medical Examination Report (F-2 and F-2A);
- (5) the applicant's unredacted Psychological Screening Examination as required by G.S. 17E-7;
- (6) the applicant's notarized Personal History Statement (F-3);

- (7) the Commission-mandated Background Investigation Form (F-8) with all accompanying documentation set out in Rule .0305 of this Subchapter;
 - (8) documentation of negative results on a drug screen pursuant to Rule .0301(6) of this Subchapter; and
 - (9) documentation of the applicant's compliance with the probationary certification requirements pursuant to Rule .0403(b) of this Section, if the applicant is a deputy sheriff or a detention officer and is authorized by the agency to carry a firearm.
- (b) Compliance with this Rule is waived, with the exception of the requirements of Subparagraph (a)(9) of this Rule for officers applying for dual certification as defined in Rule .0103(9) of this Subchapter provided that:
- (1) the officer holds a valid certification issued by this Commission as either a deputy sheriff, detention officer, or telecommunicator, with the employing agency requesting dual certification; and
 - (2) the officer has continuously been employed as a justice officer with the agency.
- (c) Where the Division has previously received a complete Background Investigation Form (F-8) with all accompanying documentation set out in Rule .0305 of this Subchapter in connection with another application for certification to this Commission, the Background Investigation need only be updated from the date of the last background investigation on file in the Division with documentation of compliance with Subparagraphs (f)(1), (2), and (3) of this Rule, and a certified criminal record check from each jurisdiction in which the person has resided in and for each name the applicant has used since the initial Background Investigation (Form F-8) was completed. The criminal record check shall be from the Clerk of Court, a law enforcement agency within the jurisdiction, or other governmental entity that maintains or has access to criminal records for the jurisdiction. The criminal record check shall be certified by the entity providing the record with either a raised seal or other visible verification that the document is an authentic copy. In addition:
- (1) if the applicant has been issued an out-of-state driver's license by a state other than North Carolina since obtaining certification, then compliance with Subparagraph (f)(4) of this Rule, is required; and
 - (2) if the applicant has resided in a state other than North Carolina since obtaining certification, a certified criminal record check from each jurisdiction shall be provided, if available. The criminal record check shall be from the Clerk of Court, a law enforcement agency within the jurisdiction, or other governmental entity that maintains or has access to criminal records for the jurisdiction. The criminal record check shall be certified by the entity providing the record with either a raised seal or other visible verification that the document is an authentic copy.
- (d) If the Personal History Statement (F-3) required in Subparagraph (a)(6) of this Rule was completed more than 120 days prior to the applicant's date of appointment, the Personal History Statement (F-3) shall be updated by the applicant, who shall initial and date all changes, or a new Personal History Statement (F-3) shall be completed.
- (e) If the Mandated Background Investigation Form (F-8) required in Subparagraph (a)(7) of this Rule was completed more than 120 days prior to the applicant's date of appointment, the Mandated Background Investigation Form (F-8) shall be updated by the background investigator who shall initial and date all changes or a new Mandated Background Investigation Form (F-8), must be completed.
- (f) The Background Investigation Form (F-8) shall have the following records checks attached to it when submitted:
- (1) a Statewide search of the Administrative Office of the Courts (AOC) computerized system;
 - (2) the national criminal record database accessible through the Division of Criminal Information (DCI) network;
 - (3) the North Carolina Division of Motor Vehicles, if the applicant has ever possessed a driver's license issued in North Carolina;
 - (4) an out-of-state motor vehicles check obtained through the Division of Criminal Information or obtained through another state's division of motor vehicles agency for any state in which the applicant held a license within the 10 year period prior to the date of appointment; and
 - (5) the applicant's Administrative Office of the Courts' AOC-CR-280 form as set forth in Rule .0305 of this Subchapter.
- (g) The Background Investigation shall include records checks from jurisdictions where the applicant resided within the 10 year period prior to the date of appointment and where the applicant attended high school, as follows:
- (1) where the applicant resided in jurisdictions in North Carolina, Clerk of Court records checks shall be acceptable;
 - (2) where the applicant resided in another country:
 - (A) an Interpol records check shall be acceptable provided the country is a member of Interpol;
 - (B) if the applicant was in the United States military, a military records check shall be acceptable; or
 - (C) if neither an Interpol or United States military record check are available, subject to the limits of United States and North Carolina law, the employing agency shall make a good faith effort to obtain a records check from the national law enforcement authority, judicial authority, or other governmental entity charged with maintaining criminal records for the country where the applicant resided

and submit the record check if available. If the employing agency cannot obtain the records check it shall submit documentation consisting of the correspondence with the foreign governmental entity and a written report from the assigned background investigator explaining the employing agency's efforts to obtain the record and why the record could not be obtained. The following steps are required to show a good faith effort to obtain the record check:

- (i) contacting and requesting the record from the foreign governmental entity or entities the employing agency believes are likely to possess the records by mail, telegram, telephone, facsimile or electronic mail;
- (ii) if referred to another foreign governmental entity, contacting and requesting the record from that foreign governmental entity; and
- (iii) if requested, providing and submitting any formal requests, forms, or documentation required by the foreign governmental entity before it will provide the record check;

- (3) where the applicant resided in a state other than North Carolina, a records check through the Division of Criminal Information using the Out-of-State Computer Name Query (IQ) shall be acceptable provided the state will respond to an Out-of-State Computer Name Query. If not, then either a records check response from both the municipality, city, or town where the applicant resided and the county-wide Sheriff's Office or Police Department obtained by mail, telegram, facsimile, or electronic mail, or a records check from the county-wide or state-wide record holding agency shall be acceptable.

(h) If the applicant had prior military service, the Background Investigation shall also include a copy of the applicant's DD214, Certificate of Release from Active Duty, that shows the characterization of discharge for each discharge that occurred and military discipline received, if any. If the DD214 indicates a discharge characterization of any type other than Honorable, then a military records check shall also be required.

(i) All records checks shall be performed on each name by which the applicant for certification has ever been known since the age of 12. If the applicant has had an official name change that occurred after the applicant had reached the age of 12 years of age, then a copy of the legal document effecting the name change with either a raised seal or other visible verification that the

document is an authentic copy from the governmental entity that issued the document or is charged with maintaining the record of the document shall be submitted by the employing agency.

(j) The employing agency shall forward to the Division certified copies of any criminal charges and dispositions known to the agency or listed on the applicant's Personal History Statement (F-3). The employing agency shall identify any charges or other violations on the records checks required in Paragraph (f) of this Rule that are for individuals other than the applicant for certification and explain why the employing agency believes another individual is responsible for the charge or violation.

History Note: Authority G.S. 17E-4; 17E-7;

Eff. January 1, 1989;

Recodified from 12 NCAC 10B .0407 Eff. January 1, 1991;

Amended Eff. January 1, 1996; January 1, 1994; January 1, 1993; January 1, 1992;

Temporary Amendment Eff. March 1, 1998;

Amended Eff. August 1, 2002; August 1, 1998;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6, 2018;

Amended Eff. February 1, 2024; December 1, 2023; April 1, 2023; February 1, 2023; January 1, 2023.

TITLE 14B - DEPARTMENT OF PUBLIC SAFETY

14B NCAC 03 .0501 PURPOSE

- (a) The purpose of this section is to prescribe requirements pertaining to the North Carolina Department of Public Safety's Division of Emergency Management administered North Carolina Hazardous Materials Regional Response Team Program.
- (b) This section applies to all persons or entities of the North Carolina Hazardous Materials Regional Response Team Program made parties pursuant to G.S. 166A-22.

History Note: Authority G.S. 166A-22;

Eff. March 1, 2024.

14B NCAC 03 .0502 ABBREVIATIONS AND DEFINITIONS

As used in this section, the following abbreviations and terms mean:

- (1) "Activation" means the status of a program resource placed at the direction, control, and funding of NCEM as part of the NC RRT Program.
- (2) "All-hazards Disaster Response Model" means a response methodology where program resources provide all capability to respond to any threat or hazard that is impacting the state or is forecasted to impact the State as determined by the NCEM Director.
- (3) "Authority Having Jurisdiction" (AHJ) means those local, State, tribal or federal entities having a duty to act over a specific aspect of hazardous materials in a specific geographic area.

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| <p>(4) "County to County Mutual Aid" means public safety resource sharing under the conditions of the NC Statewide Mutual Aid Agreement or another similar agreement between political subdivisions.</p> <p>(5) "Federal Emergency Management Agency" (FEMA) is an agency of the United States Department of Homeland Security with the responsibility to coordinate the federal response to a Presidentially-declared disaster that has occurred in the United States and that overwhelms the resources of local and State authorities.</p> <p>(6) "FEMA Public Assistance Program" means a federal reimbursement grant program that provides federal funding to help communities respond to and recover from disasters.</p> <p>(7) "Functionally equivalent" means an item or group of items that can be used in the same basic manner as another item or items to perform a task to the same standard.</p> <p>(8) "Incident Commander" (IC) means the individual responsible for all incident activities, including the development of strategies and tactics and the ordering and release of resources. The IC has overall authority and responsibility for conducting incident operations and is responsible for the management of all incident operations at the incident site.</p> <p>(9) "Local Emergency Management Coordinator" (LEMC) means the County Emergency Management Coordinator as defined in G.S. 166A-19.15 who is responsible for all local disaster preparedness, response, and recovery activities in a specific geographic area. county.</p> <p>(10) "North Carolina Hazardous Materials Regional Response Team Technical Advisory Committee" (NC RRT TAC) means an advisory committee established in Article 2 of Chapter 166A of the North Carolina General Statutes to advise the Secretary of the North Carolina Department of Public Safety and the North Carolina Division of Emergency Management on the management of hazardous materials emergencies.</p> <p>(11) "North Carolina Division of Emergency Management" (NCEM) means a division of the North Carolina Department of Public Safety established in G.S. 143B-1000 with the responsibility to coordinate the mitigation, planning, preparedness, response, and recovery to a disaster or emergency that has or is forecasted to occur in the State as determined by the NCEM Director.</p> <p>(12) "North Carolina Emergency Management Operations Chief" (NCEM OSC) means the Assistant Director of Operations for the North Carolina Division of Emergency Management.</p> | <p>(13) "North Carolina Emergency Management Director" (NCEM Director) means the Director of the North Carolina Division of Emergency Management.</p> <p>(14) "National Incident Management System" (NIMS) means a federal policy that provides a systematic, proactive approach guiding government agencies at all levels, nongovernmental organizations, and the private sector to work to prevent, protect against, respond to, recover from, and mitigate the effects of incidents, regardless of cause, size, location, or complexity, to reduce the loss of life or property and harm to the environment.</p> <p>(15) "On-duty" means when a person is functioning, paid or unpaid, as an agent of their Sponsoring Agency or of the NC Division of Emergency Management as part of the NC RRT Program.</p> <p>(16) "Program agreements" means contracts, memoranda of agreements, or memoranda of understanding between NCEM and regional response teams for the purposes of establishing and maintaining the NC RRT Program.</p> <p>(17) "Program costs" means training, equipment, personnel, or administrative expenses incurred by a Sponsoring Agency during activities of the NC RRT Program.</p> <p>(18) "Program personnel" means human resources from a regional response team with an active program agreement with the Division of Emergency Management for hazardous materials response or human resources employed on a full-time or part-time basis by the Division of Emergency Management with a responsibility for hazardous materials response.</p> <p>(19) "Program resource" means personnel or equipment from a regional response team that is participating in the NC RRT Program with an active program agreement with the North Carolina Division of Emergency Management for hazardous materials response.</p> <p>(20) "Qualifying event" means an incident that system personnel have been charged, arrested, pleads no contest, pleads guilty, or is convicted of a crime that would require notification to the Sponsoring Agency.</p> <p>(21) "Qualified personnel" means an individual that meets the training and medical monitoring requirements established by 29 CFR 1910.120(a)(3) which are adopted and are incorporated by reference with subsequent changes or amendments pursuant to G.S. 150B-21.6 and can be found at no cost at: https://www.osha.gov/laws-regs/regulations/standardnumber/1910/1910.120; National Fire Protection Association Standard 470 as it relates to Hazardous Materials Technicians which are adopted and are incorporated by reference with subsequent</p> |
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changes or amendments pursuant to G.S. 150B-21.6 and can be found for ninety dollars (\$90.00) at: <https://www.nfpa.org/codes-and-standards/all-codes-and-standards/list-of-codes-and-standards/detail?code=470>; and 29 CFR 1910.134 which are adopted and are incorporated by reference with subsequent changes or amendments pursuant to G.S. 150B-21.6 and can be found at no cost at: <https://www.osha.gov/laws-regs/regulations/standardnumber/1910/1910.134>.

- (22) "Resource typing" means a document defining and categorizing, by capability, the program resources requested, deployed, and used in incidents.
- (23) "Responsible Party" means the entity whose actions or inactions caused a hazardous materials incident as determined by the authority having jurisdiction requiring program resources to respond and incur costs.
- (24) "Sensitive information" means any information, to include but not limited to audio recordings, images, and video recordings, obtained during an activation that has not been released to the public by the AHJ.
- (25) "Sponsoring Agency" means a local or tribal unit of government or a corporation with an active response agreement with a local unit of government, that organizes and coordinates a regional response team in the NC RRT Program.
- (26) "State Emergency Operations Plan" (SEOP) means a document maintained under the authority of G.S. 166A-19.12(2) that details how the State of North Carolina will respond to a disaster or emergency requiring State assistance utilizing an established comprehensive, all-hazards approach All-Hazards Disaster Response Model.
- (27) "State Mission Assignment" (State Mission) means a NCEM approved request for assistance to deploy program resources at the request of a local unit of government.

History Note: Authority G.S. 166A-22; 166A-23; 166A-25; 166A-26; 166A-27;
Eff. March 1, 2024.

14B NCAC 03 .0503 DISPATCH OF A REGIONAL RESPONSE TEAM

- (a) Program resources shall employ the All-Hazards Response Model.
- (b) NCEM shall maintain direction and control of any deployed program resources that have been deployed through action of NCEM until a time that they have been demobilized or the program resource is needed by the Sponsoring Agency.
- (c) Any resource of the NC RRT Program remains a local resource and may deploy within their county under their local

authorities or agreements, notwithstanding any action by the State.

Participation in the NC RRT Program shall not limit or supersede their local authorities, responsibilities, or agreements when the program resource is deploying under those authorities or agreements.

(d) Program resources shall be deployed by the State using a State Mission Assignment.

(e) The IC, LEMC, an NCEM official, Secretary of Public Safety, and the Governor shall have the authority to request program resources. The IC may be from local law enforcement agencies, fire departments, rescue squads, and any other local, state, or federal authority having jurisdiction.

History Note: Authority G.S. 166A-22; 166A-23;
Eff. March 1, 2024.

14B NCAC 03 .0504 ON-SITE OPERATIONS OF A PROGRAM RESOURCE

All NC RRT Program resources shall operate in accordance with the following standards of response:

- (1) FEMA NIMS standards which are adopted and are incorporated by reference with subsequent changes or amendments pursuant to G.S. 150B-21.6 and can be found at no cost at: https://www.fema.gov/sites/default/files/2020-07/fema_nims_doctrine-2017.pdf;
- (2) following all direction from NCEM personnel acting pursuant to G.S. 166A-19.12(1) when deploying as a program resource;
- (3) when responding in support of law enforcement operations, program resources shall coordinate activities with the law enforcement authorities to ensure their actions support any potential criminal investigation; and
- (4) program resources shall not release any sensitive information to the public or media during operations without the consent of the local, State, or federal authority having jurisdiction consistent with Chapter 132 of the North Carolina General Statutes.

History Note: Authority G.S. 166A-22;
Eff. March 1, 2024.

14B NCAC 03 .0505 STANDARDS FOR ADMINISTRATION OF A REGIONAL RESPONSE TEAM, INCLUDING PROCEDURES FOR REIMBURSEMENT OF RESPONSE COSTS

- (a) Program resources shall maintain the following personnel records and have them available for audit by NCEM personnel:
 - (1) Responder medical history; and
 - (2) Emergency contact information.
- (b) Program personnel shall be in an on-duty status as an emergency management worker as defined in G.S. 166A-19.60(e).
- (c) Program resources shall maintain a current team roster.

(d) Program resources shall maintain all program personnel training, certification, and credentials as outlined in Rule .0509 in this Section.

(e) Program resources shall maintain all inventory and maintenance records for deployable equipment.

(f) Program resource records must be available for review by NCEM officials.

(g) Within 45 days of demobilization from a state mission, system resources shall submit documentation receipts, expense reports, and supporting documentation of actual costs to NCEM for reimbursement consistent with the FEMA Public Assistance Program and Policy Guide which is adopted and incorporated by reference with subsequent changes or amendments pursuant to G.S. 150B-21.6 and is available at no cost at: https://www.fema.gov/sites/default/files/documents/fema_pappg-v4-updated-links_policy_6-1-2020.pdf.

History Note: Authority G.S. 166A-19.60; 166A-22; 166A-23; 42 U.S.C. 5121 et seq; 44 CFR Part 206; Eff. March 1, 2024.

14B NCAC 03 .0506 RECOVERING THE COSTS OF A REGIONAL RESPONSE TEAM

NCEM shall seek reimbursement from the responsible party for system response costs.

- (1) The authority having jurisdiction shall determine who the responsible party is for all State Missions. Determination as the responsible party shall not be a determination of contributory negligence or other potential liabilities of any third parties for some aspect of the incident.
- (2) NCEM shall bill responsible parties' response costs to include personnel and equipment costs payable to NCEM for reimbursement consistent with FEMA Public Assistance Program and Policy Guide which is adopted and incorporated by reference with subsequent changes or amendments pursuant to G.S. 150B-21.6 and is available at no cost at: https://www.fema.gov/sites/default/files/documents/fema_pappg-v4-updated-links_policy_6-1-2020.pdf.
- (3) Responsible parties shall remit payment to NCEM within 30 days of receipt of the invoice via certified mail.

History Note: Authority G.S. 166A-22; 166A-27; Eff. March 1, 2024.

14B NCAC 03 .0507 PROCEDURES FOR BIDDING AND CONTRACTING FOR REGIONAL RESPONSE TEAM

(a) Eligibility for participation as a Sponsoring Agency as a regional response team:

- (1) be a local unit of government, tribal government, with an active response agreement with a local or tribal unit of government;

- (2) maintain participation in the statewide mutual aid agreement; and
- (3) ensure all personnel possess the qualifications as outlined in Rule .0509 of this Section.

(b) Regional response teams – Within 18 months of a new contract period, NCEM shall distribute a bid announcement to all program resources and local emergency management coordinators for interested parties to return a letter of interest. NCEM shall distribute a bid package to all interested parties that shall be returned to NCEM.

- (1) Regional response teams shall be limited to seven regionally based teams. Each team will be assigned a primary response region in the state.
- (2) The bidding agency agencies shall be in that specified response region.
- (3) The NCEM Director or designee shall establish a review committee. This committee will open all completed sealed bid packages and evaluate them based on the criteria outlined in Rule .0508 of this Section at a date to be set by the NCEM Director or designee.
- (4) The committee shall develop a bid package review summary that includes their recommendations for selections that will be sent to the NCEM Operations Chief for concurrence before being reviewed and approved by the NCEM Director.
- (5) Agencies that are successful in the bid process will be notified and program agreements shall be drafted and executed.
- (6) NCEM shall draft, execute, and maintain a program agreement with the Sponsoring Agency for the program resource to maintain participation in the program.
 - (A) NCEM shall execute and maintain a program agreement with the Sponsoring Agency that outlines the scope of work that the team shall follow to enable reimbursement of eligible training, equipment, administrative, and personnel costs associated with maintaining and deploying a regional response team. The program agreement shall be limited to the four-year contract period with an optional one-year extension.
 - (B) Funds reimbursed through this agreement shall go directly to cover program costs and be utilized by the Sponsoring Agency for the purposes of this program.
 - (C) The Sponsoring Agency shall maintain all records of any program spending and shall not comingle funds or use program funding for any other purpose other than for the purposes of this program.

History Note: Authority G.S. 166A-22; 166A-23;
Eff. March 1, 2024.

**14B NCAC 03 .0508 CRITERIA FOR EVALUATING
BIDS FOR CONTRACT RESPONSE TEAM**

(a) Bidding agency shall:

- (1) submit an offer via courier, United States Mail, or hand delivered to the NCEM State Emergency Operations Center by an authorized representative of a local unit of government, tribal government, or corporation that maintains an active response agreement with a local or tribal unit of government;
- (2) provide a plan for the bidding entity to deploy the required personnel;
- (3) provide a plan for the bidding entity to maintain the required number of personnel trained per Rule .0509 of this Section; and
- (4) ensure all participating members possess the qualifications outlined in Rule 0509 of this Section.

(b) Bids shall be evaluated on:

- (1) geographic location of team base;
- (2) ability to maintain the required number of trained personnel to ensure response readiness;
- (3) ability to maintain and care for any program-provided equipment;
- (4) availability of local equipment to support response activities;
- (5) availability to maintain dedicated administrative staff to ensure management of administrative duties, training, and logistical requirements;
- (6) experience responding to hazardous materials incidents as a technician-level entry capability;
- (7) consistent with federal procurement rules as outlined in 2 CFR Part 200 which is adopted and incorporated by reference with subsequent changes or amendments pursuant to 150B-21.6 and can be found at no cost at: <https://www.ecfr.gov/current/title-2/subtitle-A/chapter-II/part-200>; and
- (8) consistent with State procurement rules as outlined in 01 NCAC 05 which is adopted and incorporated by reference with subsequent changes or amendments pursuant to G.S. 150B-21.6 and can be found at no cost at: <http://reports.oah.state.nc.us/ncac.asp?folderName=Title%201%20-%20AdministrationChapter%205%20-%20Purchase%20and%20Contract>.

History Note: Authority G.S. 166A-22; 166A-23;
Eff. March 1, 2024.

**14B NCAC 03 .0509 PERSONNEL, TRAINING, AND
EQUIPMENT STANDARDS FOR REGIONAL
RESPONSE TEAM REQUIREMENTS FOR ALL
PROGRAM PERSONNEL:**

(a) Requirements for all system personnel

- (1) Qualified personnel shall be no less than 18 years of age;
- (2) Qualified personnel shall be an employee of a Sponsoring Agency or an employee of the North Carolina Division of Emergency Management. By participating in this program, program personnel remain employees of their Sponsoring Agency and at no time become State employees entitled to State benefits unless they are an employee of NCEM;
- (3) Qualified personnel shall maintain no less than 48 hours of hazardous material training annually consistent with 29 CFR 1910.120(e);
- (4) Qualified personnel shall possess the qualifications of character and general fitness requisite for a public servant and be of good moral character and entitled to the high regard and confidence of the public, as evidenced by not having been convicted by a local, state, federal, or military court of:
 - (A) a felony;
 - (B) a crime or unlawful act defined as a Class 1A, Class 1, or Class 2 misdemeanor within the five-years prior or four or more crimes or unlawful acts as defined as a Class 1A, Class 1, or Class 2 misdemeanor regardless of the date of conviction;
 - (C) not having been convicted of an offense that would prohibit the possession of a firearm or ammunition, under 18 U.S.C. 922, which is hereby incorporated by reference with subsequent amendments and editions under G.S. 150B-21.6 can be found at no cost <https://www.govinfo.gov/content/pkg/USCODE-2018-title18/pdf/USCODE-2018-title18-partI-chap44.pdf>;
 - (D) being truthful in providing information to the appointing agency;
 - (E) not having pending or outstanding charges that, if convicted, would exclude eligibility under this Rule.
- (5) make the following notifications:
 - (A) within seven days of the qualifying event, notify the Sponsoring Agency in writing of all criminal or traffic offenses for which the individual is charged or arrested;
 - (B) within seven days of the qualifying event, notify the Sponsoring Agency in writing of all criminal offenses for

- (C) which the individual pleads no contest, pleads guilty, or convicted; within seven days of criminal summons pursuant to the provisions of Article 17 of Chapter 15A of the G.S., shall notify the Sponsoring Agency that he or she has been served by a judicial official;
- (D) within seven days of the date the case was disposed of in court, the Sponsoring Agency, provided they have knowledge of program personnel's arrests or criminal charges and final dispositions, shall also notify the NCEM of arrests or criminal charges and final disposition of the criminal charges against program personnel; and
- (E) within seven days of the issuance of all Domestic Violence Protective Orders pursuant to G.S. 50B and Civil No Contact Orders pursuant to G.S. 50C, the Sponsoring Agency, provided they have the knowledge of the order, shall also notify NCEM of these orders.

(b) Requirements for all system equipment:

- (1) equipment shall be made available for inspections and inventory by NCEM personnel;
- (2) program resources shall maintain any state-owned equipment per manufacturer's recommendations and immediately notify NCEM of any damage to state owned and issued equipment; and
- (3) upon separation, all parties to a program agreement shall return all state property within 30 days to NCEM.

(c) Regional Response Team Personnel and Training Requirements:

- (1) Regional Response Teams shall maintain at all times a minimum of 28 qualified personnel;
- (2) Regional Response Teams shall maintain any additional support personnel as required for a technician-level entry team. These personnel must additionally meet the requirements of 29 CFR 1910.120, which is adopted and incorporated by reference with subsequent changes or amendments under G.S. 150B-21.6 as outlined in the latest published standard by the EPA and can be found at: <https://www.ecfr.gov/current/title-29/subtitle-B/chapter-XVII/part-1910/subpart-H/section-1910.120> at no cost, to operate on a hazardous materials incident scene but are not required to be qualified to make entry into a hazardous or potentially hazardous environments;
- (3) NCEM shall be responsible to provide any additional technical specialists required to support Regional Response Team operations;

- (4) Regional Response Teams shall respond with qualified personnel who are capable of providing a regional response to hazardous materials incidents requiring technician-level entry capability as that term is and as defined in G.S. 166A-21; and

- (5) Regional Response Teams shall limit its hazardous materials response team activity to that within the safety and training levels specified by 29 CFR 1910.120.

(d) Regional Response Team Equipment Requirements:

- (1) Regional response teams shall maintain a functionally equivalent cache of equipment required in the FEMA Resource Typing Document for a Type II Hazardous Materials Response Team, which is adopted and incorporated by reference with subsequent changes or amendments under G.S. 150B-21.6 as outlined in the latest published standard by FEMA and can be found at: <https://rtlt.preptoolkit.fema.gov/Public/Resources/View/4-508-1248?q=hazardous%20materials> at no cost.
- (2) Equipment shall be maintained in a state of readiness and with a means to transport all required equipment.

History Note: Authority G.S. 166A-21; 166A- 22; 166A-23; Eff. March 1, 2024.

14B NCAC 17 .0202 EXPERIENCE OR TRAINING REQUIREMENTS FOR LICENSE

Applicants for an alarm system license shall meet the following requirements, which are in addition to those specified in G.S. 74D:

- (1) establish two year's experience within the past five years in alarm systems installation or service, or alarm systems business management; or
- (2) no longer than one year prior to the application date, successfully complete the Certified Alarm Technician Level I Course offered by the Electronic Security Association (ESA) or equivalent. Equivalency shall be determined by the Board's Training and Education Committee by comparing each segment of the training to ensure that the alternative course encompasses all segments of the ESA course.

History Note: Authority G.S. 74D-5; Temporary Rule Eff. January 9, 1984, for a period of 120 days to expire on May 7, 1984; Eff. May 1, 1984; Amended Eff. January 1, 2007; August 1, 1998; January 1, 1995; March 1, 1993; August 3, 1992; June 1, 1990; Transferred and Recodified from 12 NCAC 11 .0202 Eff. July 1, 2015;

Amended Eff. December 1, 2017;

Readopted Eff. June 1, 2018;

Amended Eff. February 1, 2024; April 1, 2021.

**14B NCAC 17 .0208 TRAINING REQUIREMENTS
FOR ALARM LICENSEES**

History Note: Authority G.S. 74D-5(a)(2);

Eff. March 1, 1993;

Transferred and Recodified from 12 NCAC 11 .0208 Eff. July 1, 2015;

Readopted Eff. June 1, 2018;

Repealed Eff. February 1, 2024.

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

15A NCAC 10F .0305 BRUNSWICK COUNTY

(a) Regulated Areas. This Rule shall apply to the waters described as follows:

- (1) Lockwood Folly River in the Town of Varnamtown, from a point at 33.94966 N, 78.22587 W, 500 yards northwest of the boat ramp located at the end of S.R. 1123 otherwise known as Fisherman Road, to a point at 33.94498 N, 78.22206 W, 180 yards southeast of the boat ramp, and including the portion of the river otherwise known as Mill Creek where it meets Lockwood Folly River directly across from the boat ramp, to a point 100 feet northeast at 33.94687 N, 78.22235 W;
- (2) Calabash River in the Town of Calabash, from a point in the water at the end of Marina Drive at 33.88638 N, 78.56254 W to a point 650 yards southwest at the southern end of the deep-sea fishing docks at 33.88344 N, 78.56751 W;
- (3) Morningstar Marinas Southport, shore to shore beginning at its intersection with the Intracoastal Waterway at a point at 33.91685 N, 78.02865 W;
- (4) Shallotte River east of S.R. 1233, otherwise known as Village Point Road SW south of the Town of Shallotte, shore to shore from its intersection with the Intracoastal Waterway at a point at 33.91477 N, 78.37103 W to point 500 feet north at 33.91613 N, 78.37126 W;
- (5) Montgomery Slough, otherwise known as Davis Creek, within 100 yards of the hotel and marina at the northern end of 57th Place West in the Town of Oak Island;
- (6) the waters in the natural and concrete canals located on the south side of the Intracoastal Waterway, east of N.C. Highway 904 in the Town of Ocean Isle Beach;
- (7) Town Creek east of S.R. 1609, otherwise known as Clearview Lane in Town Creek Township, shore to shore from a point at 34.16788 N, 78.07139 W, north and east around

- (8) a bend in the creek to a point at 34.16910 N, 78.07030 W;
- (8) Montgomery Slough, otherwise known as Davis Creek, shore to shore from its entrance at the Intracoastal Waterway west of SW Yacht Drive at a point at 33.92145 N, 78.19408 W, to the canal end at NE 40th Street in the Town of Oak Island;
- (9) Intracoastal Waterway in the Town of Sunset Beach in the vicinity of the S.R. 1172 Sunset Beach Bridge and Sunset Beach Boating Access Area at 101 Sunset Boulevard, shore to shore from a point 150 yards east of the Sunset Beach Bridge at 33.88173 N, 78.50995 W, to a point 50 yards west of the bridge at 33.88111 N, 78.51194 W;
- (10) Intracoastal Waterway in the Town of Ocean Isle Beach in the vicinity of the N.C. Highway 904 Odell Williamson Bridge and Ocean Isle Beach Boating Access Area at 67 Causeway Drive, shore to shore from a point 100 yards east of the N.C. Highway 904 Odell Williamson Bridge at 33.89578 N, 78.43870 W, to a point 100 yards west of the Bridge at 33.89567 N, 78.51194 W;
- (11) Lockwood Folly River at Rourk's Landing Subdivision, beginning at a point south of the subdivision at 33.95338 N, 78.22553 W, north and west around two sharp bends in the channel and ending north at a point at 33.95539 N, 78.22900 W;
- (12) Intracoastal Waterway in the Town of Holden Beach, N.C. Highway 130 Holden Beach Bridge and Holden Beach Boating Access Area at 99 S. Shore Drive, shore to shore between a point 250 feet west and a point 100 feet east of the Holden Beach Bridge;
- (13) Intracoastal Waterway, within 50 yards of the Oak Island Boating Access Area at 4950 Fish Factory Road SE in Southport;
- (14) within 50 yards of the Sunset Harbor Boating Access Area adjacent to the Intracoastal Waterway at 356 Riverview Drive SE in Bolivia;
- (15) within 20 yards of the shoreline and 50 yards east and 50 yards west of the Brick Landing Boating Access Area on the Intracoastal Waterway at 1921 Brick Landing Road SW in Shallotte;
- (16) within 50 yards of Rices Creek Boating Access Area on Rice Creek at 797 Gordon Lewis Drive SE in Winnabow;
- (17) within 50 yards of the Pireway Boating Access Area on Waccamaw River at 9739 Pireway Road NW in Ash; and
- (18) within 50 yards of the Dutchman Creek Boat Ramp on Dutchman Creek in Southport.

(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) **Placement and Maintenance of Markers.** The following agencies shall place or place and maintain 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 Aldermen of Varnamtown for placement in the area indicated in Subparagraph (a)(1) of this Rule;
- (2) the Board of Commissioners of Brunswick County for placement in areas indicated in Subparagraphs (a)(2) through (8) and (a)(11) of this Rule; and
- (3) the North Carolina Wildlife Resources Commission for the placement and maintenance of areas indicated in Subparagraphs (a)(9), (a)(10), and (a)(12) through (18) of this Rule.

(d) Notwithstanding Paragraphs (a) through (c) of this Rule, no person shall operate a vessel at greater than no-wake speed in the waters of South Jinks Creek in the Town of Sunset Beach, beginning at a line north of the feeder channel, from a point on the west shore at 33.87617 N, 78.49297 W to a point on the east shore at 33.87664 N, 78.49164 W, then southeast to a point on the south shore at 33.87325 N, 78.49033 W, and waters south and west of those lines including the feeder channel, four finger canals, and the bay area. The North Carolina Wildlife Resources Commission is the designated agency for placement and maintenance of markers for this regulated area.

*History Note: Authority G.S. 75A-3; 75A-15.
Eff. February 1, 1976;
Amended Eff. April 1, 1997; July 1, 1994; July 1, 1993; January 1, 1989; January 1, 1987;
Temporary Amendment Eff. March 1, 1998;
Amended Eff. April 1, 2009; April 1, 1999;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;
Amended Eff. May 1, 2021; July 1, 2018;
Temporary Amendment Eff. October 1, 2022;
Temporary Amendment Eff. August 15, 2023;
Amended Eff. February 1, 2024.*

15A NCAC 10F .0316 FORSYTH, ROCKINGHAM, AND STOKES COUNTIES

(a) **Regulated Areas.** This Rule shall apply to the following waters in Forsyth, Rockingham, and Stokes counties:

- (1) Belews Lake within 50 yards of a public boat launching ramp on the lake, and within 50 yards of a bridge crossing on the lake;
- (2) Belews Lake at Humphrey's Ridge Marina and Grill at 473-499 Humphrey Ridge Drive in Stokesdale, east of a line from a point on the north shore at 36.27962 N, 80.03507 W to a point on the south shore at 36.27804 N, 80.03565 W; and
- (3) Belews Lake at Carolina Marina at 548 Shelton Road in Stokesdale, beginning at a line from a

point on the shore south of the fuel dock at 36.30303 N, 80.01403 W, to a point 50 yards west from the shore into the channel, then to the northwest 50 yards west of the shore of the marina at 36.30394 N, 80.01522 W, then to a point on the north shore of the cove at 36.30521 N, 80.01416 W, to include the waters east of the line at the mouth of the cove, where the boat ramp, Dry Stack, and outdoor boat storage facilities are located.

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

(c) **Placement and Maintenance of Markers.** The Boards of Commissioners of Forsyth County, Rockingham County and Stokes County shall place and maintain markers implementing this Rule.

*History Note: Authority G.S. 75A-3; 75A-15;
Eff. February 1, 1976;
Amended Eff. May 1, 1976;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;
Amended Eff. February 1, 2024; June 1, 2023; October 1, 2018.*

15A NCAC 10F .0338 CALDWELL COUNTY

(a) **Regulated Areas.** This Rule shall apply to the following waters in Caldwell County:

- (1) Catawba River;
- (2) Lake Rhodhiss:
 - (A) within 50 yards of the marina facilities at Castle Bridge Marina, 6131 Castle Bridge Drive in Granite Falls;
 - (B) within 50 yards of the Castle Bridge Boating Access Area, 6131 Connelly Springs Road in Granite Falls; and
 - (C) within 50 yards of the Conley Creek Boating Access Area, 5475 Waterworks Road in Granite Falls.
- (3) Little Gunpowder Lake; and
- (4) Lake Hickory:
 - (A) within 30 yards of the docks at the Lake Hickory Marina and Boat Rentals, on Limbaugh Lane in the City of Hickory;
 - (B) within 50 yards of the Gunpowder Boating Access Area, at 5450 Hurricane Hill Road in Granite Falls; and
 - (C) within 50 yards of the Lovelady Boating Access Area, at 5682 Rocky Mount Road in Granite Falls.

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

(c) **Speed Limit in Mooring Areas.** No person shall operate a vessel at greater than no-wake speed while within a marked mooring area on the regulated areas described in Paragraph (a) of this Rule.

(d) **Swimming Areas.** No person operating or responsible for the operation of a vessel shall permit it to enter any marked public swimming area on the regulated areas described in Paragraph (a) of this Rule.

(e) **Placement of Markers.** The following agencies shall place or place and maintain the markers implementing this Rule, subject to the approval of the United States Coast Guard and United States Army Corps of Engineers:

- (1) the Board of Commissioners of Caldwell County shall place the markers implementing Subparagraphs (a)(1) and (a)(3), and Part (a)(2)(A) of this Rule;
- (2) the City of Hickory shall place the markers implementing Part (a)(4)(A) of this Rule; and
- (3) the North Carolina Wildlife Resources Commission shall place and maintain the markers implementing Parts (a)(2)(B), (C), and (a)(4)(B), (C) of this Rule.

History Note: Authority G.S. 75A-3; 75A-15;
Eff. August 23, 1981;

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;
Amended Eff. February 1, 2024; July 1, 2018.*

15A NCAC 10F .0380 TOWN OF RHODHISS

(a) **Regulated Area.** This rule applies to the waters of Lake Hickory in the Town of Rhodhiss in Burke and Caldwell counties, shore to shore, beginning west of a line 165 yards east of the S.R. 1611 Bridge from a point on the north shore at 35.77322 N, 81.42891 W to a point on the south shore at 35.77179 N, 81.42910 W, westward ending at the Rhodhiss Dam.

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

(c) **Placement and Maintenance of Markers.** The Town of Rhodhiss shall place and maintain the markers implementing this Rule, subject to the approval of the United States Army Corps of Engineers.

History Note: Authority G.S. 75A-3; 75A-15;
Eff. February 1, 2024.

15A NCAC 10K .0101 COURSE REQUIREMENTS

(a) Commission-approved basic hunter education courses include either an instructor-led course with a minimum of six hours of instruction or a self-paced, independent study course that instructs on the topics identified in G.S. 113-270.1A(b). Information on Commission-approved courses and registration can be found at ncwildlife.org.

(b) The following requirements must be satisfied by the course participant to successfully complete a basic hunter education course and be entitled a Certificate of Competency:

- (1) complete six hours of instruction in the instructor-led course or the material contained in the independent study course; and
- (2) score a minimum of 70 percent on the final examination.

History Note: Authority G.S. 113-134; 113-270.1A;
Eff. October 1, 1991;
Amended Eff. June 1, 2014, April 1, 2003; April 1, 1996;
Readopted Eff. February 1, 2024.

15A NCAC 10K .0102 ISSUANCE OF CERTIFICATE OF COMPETENCY

(a) Upon successful completion of a basic hunter education course, in accordance with Rule .0101 of this Section, a certificate of competency shall be issued by the Commission.

(b) Duplicate certificates may be obtained from the Commission free of charge upon request.

(c) The Commission shall recognize a certificate of competency from another state or province so long as the hunter education course met or exceeded the standards of the International Hunter Education Association, which is hereby incorporated by reference, including subsequent amendments and editions. The standards may be accessed at ihea-usa.org/resources/#Standards at no charge.

History Note: Authority G.S. 113-134; 113-270.1A;
Eff. September 1, 1991;

*Amended Eff. April 1, 2003; May 1, 1995;
Readopted Eff. February 1, 2024.*

15A NCAC 10K .0103 INSTRUCTOR CERTIFICATION

(a) Hunter Education Instructors shall be certified by the Commission prior to delivering basic hunter education courses.

(b) To be eligible for Hunter Education Instructor Certification an individual shall:

- (1) be at least 21 years of age at the time of application;
- (2) possess a certificate of competency from a Commission-approved basic hunter education course.
- (3) complete and submit to the Commission, the North Carolina Hunter Education Instructors application, available at ncwildlife.org, with the following information:
 - (A) name, address, email, phone number; and
 - (B) date of birth.
- (4) complete the Commission-led Hunter Education Instructors course and score 80 percent or higher on the written examination.
- (5) submit to a background investigation including a records check with none of the following disqualifying convictions identified:
 - (A) a felony;
 - (B) a crime or unlawful act defined as a "Class 1" misdemeanor within the five-year period prior to the date of application; or
 - (C) any conviction of game and fish law which would require a mandatory suspension and or revocation of a license as indicated in G.S. 113-276.3 within the three-year period prior to the date of application.

*History Note: Authority G.S. 113-134; 113-270.1A;
Eff. May 1, 1996;
Amended Eff. April 1, 2003;
Readopted Eff. February 1, 2024.*

15A NCAC 18A .0301 DEFINITIONS

The following definitions shall apply throughout Sections .0300 through .0800 of this Subchapter:

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| <p>(1) "Adulterated" means:</p> <p style="padding-left: 20px;">(a) any shellfish that have been harvested from polluted areas as defined in 15A NCAC 03I .0101;</p> <p style="padding-left: 20px;">(b) any shellfish that have been shucked, packed, or otherwise processed in a plant that has not been permitted by the Division of Marine Fisheries in accordance with these Rules or by another state shellfish control "authority" as defined in the National Shellfish Sanitation Program (NSSP) Guide for the Control of Molluscan Shellfish, Section I: Purposes and Definitions. This definition is incorporated by reference, including subsequent amendments and editions. A copy of the reference material can be found at https://www.fda.gov/food/federalstate-food-programs/national-shellfish-sanitation-program-nssp, at no cost;</p> <p style="padding-left: 20px;">(c) any shellfish that may have been contaminated by flood waters in accordance with Rule .0405 of this Subchapter;</p> <p style="padding-left: 20px;">(d) any shellfish that exceed the standards in Rule .0430 of this Subchapter; and</p> <p style="padding-left: 20px;">(e) any shellfish that have been deemed to be an imminent hazard.</p> <p>(2) "Certification number" means the unique identification number assigned by the state shellfish control agency to each certified shellfish dealer for each location. It consists of a one-to-five-digit number preceded by the two-letter state abbreviation and followed by the two-letter abbreviation designating the type of operation certified.</p> <p>(3) "Clean" means free from dirt, debris, dust, marks, stains, waste materials, litter, or foreign material.</p> <p>(4) "Critical control point" means a point, step, or procedure in a food process at which control can be applied, and a food safety hazard can as a result be prevented, eliminated, or reduced to acceptable levels.</p> <p>(5) "Critical limit" means the maximum or minimum value to which a physical, biological, or chemical parameter must be controlled at a</p> | <p>(6) "Depurate" or "depuration" means the process of reducing the pathogenic organisms that may be present in shellstock by using a controlled aquatic environment as the treatment process.</p> <p>(7) "Depuration facility" means any establishment or place where the depuration of shellfish occurs by a shellfish dealer.</p> <p>(8) "Division" means the Division of Marine Fisheries.</p> <p>(9) "Easily cleanable" has the same meaning as defined in the 2017 U.S. Food Code. This definition is incorporated by reference, not including subsequent amendments and editions. A copy of the reference material can be found at https://www.fda.gov/food/fda-food-code/food-code-2017, at no cost.</p> <p>(10) "Food contact surface" means the parts of equipment, including auxiliary equipment, that may be in contact with the food being processed, or that may drain into the portion of equipment with which food is in contact.</p> <p>(11) "Food safety hazard" means any biological, chemical, or physical property that may cause a food to be unsafe for human consumption.</p> <p>(12) "Good repair" means maintained to function as designed and without defect.</p> <p>(13) "HACCP plan" means a written document that delineates the procedures a shellfish dealer follows to implement food safety controls.</p> <p>(14) "Hazard analysis critical control point (HACCP)" means a system of inspection, control, and monitoring measures initiated by a shellfish dealer to identify microbiological, chemical, or physical food safety hazards that are likely to occur in shellfish products produced by the dealer.</p> <p>(15) "Heat shock process" means the practice of heating shellstock to facilitate removal of the shellfish meat from the shell.</p> <p>(16) "Imminent hazard" has the same meaning as defined in G.S. 130A-2.</p> <p>(17) "In-shell product" means non-living, processed shellfish with one or both shells present.</p> <p>(18) "Misbranded" as defined in G.S. 106-30 shall include any shellfish that are not labeled in compliance with these Rules.</p> <p>(19) "National Shellfish Sanitation Program (NSSP)" means the federal/state cooperative program recognized by the U.S. Food and Drug Administration (FDA) and the Interstate Shellfish Sanitation Conference (ISSC) for the sanitary control of shellfish produced and sold for human consumption.</p> <p>(20) "Pests" means animals or insects, including dogs, cats, birds, rodents, flies, and larvae.</p> |
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- (21) "Plant" means the establishment or place where shellfish processing occurs by shellfish dealers.
- (22) "Processing" or "processed" means any activity associated with the handling, shucking, freezing, packing, labeling, or storing of shellfish in preparation for distribution. This includes the activities of a shellstock shipper, shucker-packer, repacker, reshipper, or depuration processor.
- (23) "Recall procedure" means the detailed procedure the shellfish dealer will use to retrieve product from the market when it is determined that the product is adulterated or misbranded.
- (24) "Repacking plant" means the establishment or place where a shellfish dealer, other than the original shucker-packer, repacks shucked shellfish into other containers.
- (25) "Reshipper" means a person that purchases shellfish from a shellfish dealer and sells the product without repacking or relabeling to another shellfish dealer, wholesaler, or retailer.
- (26) "Responsible individual" means the individual present at a shellfish dealer that is the supervisor or the supervisor's designee at the time of the inspection.
- (27) "Sanitize" has the same meaning as defined in 21 CFR 110.3, which is incorporated by reference including subsequent amendments and editions. A copy of the reference material can be found at <https://www.ecfr.gov/current/title-21/chapter-I/subchapter-B/part-110/subpart-A/section-110.3>, at no cost.
- (28) "SELL BY date" means a date placed on a container or tag by which a consumer is informed of the latest date the product will remain suitable for sale.
- (29) "Shellfish" means oysters, mussels, scallops, and all varieties of clams, whether shucked or in the shell, fresh, frozen, whole, or in part. The requirements of Sections .0300 through .0800 of this Subchapter shall not apply to scallops if the final product is the shucked adductor muscle only.
- (30) "Shellfish dealer" means a plant to which a Shellfish Dealer Permit and Certificate of Compliance is issued by the Division for the activities of shellstock shipping, shucking or packing, repacking, reshipping, or depuration.
- (31) "Shellstock" means any live molluscan shellfish that remain in their shells.
- (32) "Shellstock conveyance" means all trucks, vessels, trailers, or other conveyances used to transport shellstock.
- (33) "Shellstock plant" means any establishment or place where shellstock are washed, packed, or otherwise prepared for sale by a shellfish dealer.

- (34) "Shucking and packing plant" means any establishment or place where shellfish are shucked and packed for sale by a shellfish dealer.
- (35) "Use" means employ, set, operate, or permit to be operated or employed.
- (36) "Wet storage" means the storage by a shellfish dealer of shellstock from a growing area in the open status and classified as "approved" or "conditionally approved" as defined in Rule .0901 of this Subchapter, in containers or floats in natural bodies of water, or in tanks containing natural or synthetic sea water at any permitted land-based activity or facility.

History Note: Authority G.S. 113-134; 113-182; 113-221.2; 143B-289.52;
Eff. February 1, 1987;
Amended Eff. August 1, 2000; August 1, 1998; February 1, 1997; January 4, 1994; September 1, 1990; December 1, 1987;
Readopted Eff. April 1, 2024.

15A NCAC 18A .0305 APPEALS PROCEDURE

History Note: Authority G.S. 130A-230;
Eff. February 1, 1987;
Amended Eff. September 1, 1990;
Repealed Eff. April 1, 2024.

15A NCAC 18A .0401 APPLICABILITY OF RULES

The rules in this Section shall apply to the operation of all facilities and persons permitted in Rule .0302 of this Subchapter, including shellfish dealers, shellstock plants, reshippers, shucking and packing plants, repacking plants, depuration facilities, permittees with facilities approved for wet storage, and all other businesses and persons that buy, sell, transport, or ship shellfish. These Rules shall not apply to individuals possessing shellfish for personal use.

History Note: Authority G.S. 113-134; 113-182; 113-221.2; 143B-289.52;
Eff. February 1, 1987;
Amended Eff. April 1, 1997; December 1, 1987;
Readopted Eff. April 1, 2024.

15A NCAC 18A .0402 GENERAL REQUIREMENTS FOR OPERATION

- (a) Shellfish dealers shall provide mechanical refrigeration that is capable of maintaining an ambient temperature of 45°F or less and be sized to handle one day's production. The mechanical refrigeration shall include an automatic temperature regulating control and be equipped with an accurate, operating thermometer in the refrigerated storage area. If the sole means of refrigeration is a portable unit, that unit shall be capable of operating utilizing alternating current electrical power that will allow the unit to be plugged into a power supply during transport and at the certified facility.
- (b) Food contact surfaces shall be easily cleanable, corrosion-resistant, constructed of non-toxic and food-grade materials, and

shall be kept in good repair. Shellfish dealers shall only use food contact surface equipment that conforms to standards found in the guidance document within the National Shellfish Sanitation Program (NSSP) Guide for the Control of Molluscan Shellfish, Section II: Model Ordinance titled "Shellfish Industry Equipment Construction Guide", which is incorporated by reference, including subsequent amendments and editions. A copy of the reference material can be found at <https://www.fda.gov/food/federalstate-food-programs/national-shellfish-sanitation-program-nssp> at no cost.

(c) Food contact surfaces of equipment, utensils, and containers shall be cleaned at the end of each day or operation and shall be sanitized prior to the start-up of each day's activities. Food contact surfaces shall also be cleaned and sanitized following any interruption during which the surfaces have become contaminated.

(d) Non-food contact surfaces such as equipment, floors, walls, ceilings, and windows shall be kept clean and in good repair.

(e) Wheelbarrows, measures, baskets, shovels, and other implements used in the handling of shellstock shall not be used for any other purpose and shall be cleaned prior to use.

(f) Shellfish dealers shall provide a temperature measuring device accurate to +/- 2°F for use in monitoring product temperatures.

History Note: Authority G.S. 113-134; 113-182; 113-221.2; 143B-289.52;

Eff. February 1, 1987;

Readopted Eff. April 1, 2024.

15A NCAC 18A .0403 SUPERVISION AND TRAINING

(a) The shellfish dealer shall personally supervise or shall designate a responsible individual whose principal duty shall be to supervise and be responsible for compliance with the rules of this Subchapter. No unauthorized individuals shall be allowed in any processing area of the plant during periods of operation. For the purpose of this Rule, "unauthorized individual" shall mean an individual that is not designated and trained by the shellfish dealer or responsible individual to perform specific processing tasks in the facility.

(b) The shellfish dealer shall ensure that all employees that manufacture, process, pack, or hold food obtain training in the principles of food hygiene and food safety, including the importance of employee health and personal hygiene, in accordance with 21 CFR 117.4, which is incorporated by reference, including subsequent amendments and editions. A copy of the reference material can be found at <https://www.ecfr.gov/current/title-21/chapter-I/subchapter-B/part-117/subpart-A/section-117.4> at no cost. Employees shall complete the training within 30 days following the initial hire date. The shellfish dealer or responsible individual shall maintain a record of the completed training.

History Note: Authority G.S. 113-134; 113-182; 113-221.2; 143B-289.52;

Eff. February 1, 1987;

Readopted Eff. April 1, 2024.

15A NCAC 18A .0404 CONSTRUCTION

Shellfish plants shall be sized and constructed to permit compliance with the operational provisions of Sections .0300 through .0800 of this Subchapter.

History Note: Authority G.S. 113-134; 113-182; 113-221.2; 143B-289.52;

Eff. February 1, 1987;

Readopted Eff. April 1, 2024.

15A NCAC 18A .0405 FACILITY FLOODING

(a) Shellfish plants shall be located so that they will not be subject to flooding by high tides.

(b) If the facility floors are flooded, processing shall be discontinued until flood waters have receded and the facility and equipment are cleaned and sanitized.

(c) Any shellfish that may have been contaminated by flood waters shall be deemed adulterated and shall be destroyed.

History Note: Authority G.S. 113-134; 113-182; 113-221.2; 113-221.4; 143B-289.52;

Eff. February 1, 1987;

Readopted Eff. April 1, 2024.

15A NCAC 18A .0406 FLOORS

Floors shall be concrete or other equally impervious material, constructed so that they are easily cleanable, sloped so that water drains completely, and kept in good repair. The junction between floors and walls shall be sealed to render them impervious to water in areas where the floor gets wet and is used to store shellfish, process food, or clean equipment and utensils.

History Note: Authority G.S. 113-134; 113-182; 113-221.2; 143B-289.52;

Eff. February 1, 1987;

Readopted Eff. April 1, 2024.

15A NCAC 18A .0407 WALLS AND CEILINGS

(a) Walls and ceilings in areas where shellfish are stored, handled, processed, or packaged or where food handling equipment or packaging materials are stored shall be constructed of smooth, easily cleanable, non-corrosive, impervious material. The walls and ceilings in these areas shall also be light-colored, such as white in color, so that unclean surfaces can be detected.

(b) Doors and windows shall be tightly fitted and kept in good repair so as to keep pests and weather out of the facility.

History Note: Authority G.S. 113-134; 113-182; 113-221.2; 143B-289.52;

Eff. February 1, 1987;

Readopted Eff. April 1, 2024.

15A NCAC 18A .0408 LIGHTING

(a) Natural or artificial lighting shall be provided in all parts of the plant. Lighting intensities shall be a minimum of 25 foot-candles on working surfaces in packing and shucking rooms and a minimum of 10 foot-candles measured at a height of 30 inches above the floor throughout the rest of the processing portion of the facility.

(b) Light bulbs, fixtures, or other glass within the plant shall be shatterproof or shielded to prevent food contamination in case of breakage.

History Note: Authority G.S. 113-134; 113-182; 113-221.2; 143B-289.52;
Eff. February 1, 1987;
Readopted Eff. April 1, 2024.

15A NCAC 18A .0409 VENTILATION

Ventilation shall be provided to prevent odors and condensation from contaminating shellfish, food contact surfaces, or food packaging materials.

History Note: Authority G.S. 113-134; 113-182; 113-221.2; 143B-289.52;
Eff. February 1, 1987;
Readopted Eff. April 1, 2024.

15A NCAC 18A .0410 PEST CONTROL

(a) All exterior openings shall be screened or provided with wind curtains, or other methods to prevent the entrance of pests. All screens shall be kept in good repair. All exterior doors shall open outward and shall be self-closing.

(b) The use and storage of pesticides and rodenticides shall comply with all applicable State and federal laws and rules.

(c) No pets or other animals shall be allowed in those portions of the facility where shellfish, food handling equipment, or packaging materials are stored, handled, processed, or packaged.

History Note: Authority G.S. 113-134; 113-182; 113-221.2; 143B-289.52;
Eff. February 1, 1987;
Readopted Eff. April 1, 2024.

15A NCAC 18A .0411 RODENT AND ANIMAL CONTROL

History Note: Authority G.S. 130A-230;
Eff. February 1, 1987;
Repealed Eff. April 1, 2024.

15A NCAC 18A .0412 PLUMBING AND HAND WASHING FACILITIES

(a) All plumbing shall be in compliance with applicable plumbing codes.

(b) Hand washing facilities shall be provided with running water at a minimum temperature of 100°F dispensed from a hot and cold combination faucet.

(c) Hand washing facilities shall be provided in or adjacent to each bathroom and in shucking and packing rooms. Hand washing facilities in packing areas shall be located where supervisors can observe employee use.

(d) Hand washing facilities shall be separate from three-compartment or other sinks used for cleaning equipment and utensils.

(e) Soap, single service towels in protected dispensers, and an easily cleanable waste receptacle shall be available and used at hand washing facilities. Other hand drying devices may be used

if approved by the Division of Marine Fisheries based upon being equally effective at drying hands without the potential for recontamination.

History Note: Authority G.S. 113-134; 113-182; 113-221.2; 143B-289.52;
Eff. February 1, 1987;
Readopted Eff. April 1, 2024.

15A NCAC 18A .0413 WATER SUPPLY

(a) The water supply used shall be in accordance with 15A NCAC 18A .1720 through .1728, 15A NCAC 18C, or 02 NCAC 09C .0703, which are incorporated by reference, including subsequent amendments.

(b) If the water supply is from a private source, samples for bacteriological analysis shall be collected by the Division of Marine Fisheries prior to use and after the water supply has been repaired or disinfected, and submitted for analysis to the State Laboratory of Public Health or other laboratory that is certified in accordance with 10A NCAC 42C .0102, which is incorporated by reference, including subsequent amendments.

(c) Cross-connections with unapproved water supplies shall be prohibited. A backflow or back siphonage of a solid, liquid, or gas containment into the water supply shall be precluded by use of an air gap or backflow prevention device in accordance with applicable plumbing codes.

(d) Hot and cold running water under pressure shall be provided to food preparation, utensil, and hand washing areas and any other areas in which water is required for cleaning. Running water under pressure shall be provided in sufficient quantity to carry out all food preparation, utensil washing, hand washing, cleaning, and other water-using operations.

History Note: Authority G.S. 113-134; 113-182; 113-221.2; 143B-289.52;
Eff. February 1, 1987;
Amended Eff. September 1, 1990;
Readopted Eff. April 1, 2024.

15A NCAC 18A .0414 TOILET FACILITIES

(a) Toilets shall be provided in the plant by the owner or responsible individual and shall be kept clean and in good repair.

(b) Toilet tissue, in a holder, shall be provided by the owner or responsible individual.

(c) Toilet room doors shall not open directly into a processing area and shall be tight-fitting and self-closing.

(d) All toilet wastes and other sewage shall be disposed of in accordance with 15A NCAC 18A .1900 or 15A NCAC 02H .0200, which are incorporated by reference, including subsequent amendments.

History Note: Authority G.S. 113-134; 113-182; 113-221.2; 143B-289.52;
Eff. February 1, 1987;
Amended Eff. September 1, 1990;
Readopted Eff. April 1, 2024.

15A NCAC 18A .0415 PREMISES

- (a) The premises shall be maintained free from conditions that may constitute an attractant, breeding place, or harborage for pests such as unmowed weeds or grass, uncontained litter or waste, or unused equipment.
- (b) To prevent pests and odors, shells and other solid waste shall not be permitted to accumulate on the premises.

History Note: Authority G.S. 113-134; 113-182; 113-221.2; 143B-289.52;
Eff. February 1, 1987;
Readopted Eff. April 1, 2024.

15A NCAC 18A .0416 PERSONAL HYGIENE

- (a) All employees shall wash their hands thoroughly with soap and running water before beginning work and again after each interruption or if their hands may have become soiled or contaminated. Hand washing signs shall be posted by the owner or responsible individual at each hand washing facility in a language understood by employees.
- (b) All individuals employed or engaged in the shucking, packing, or repacking of shellfish shall wear clean, washable outer clothing. Clean plastic or rubber aprons, overalls, and rubber gloves shall be considered satisfactory.
- (c) All individuals employed or engaged in the shucking, packing, or repacking of shellfish shall wear hair restraints and have clean fingernails free from nail polish and that are short enough to not extend past the fingertips. Employees shall not wear jewelry other than easily cleanable rings. The use of absorbent wraps or absorbent finger cots shall not be permitted.
- (d) Employees shall not eat, drink, use electronic cigarettes or vaping products, or use tobacco in any form in the rooms where shellfish are stored, processed, or handled.
- (e) An individual known to be a carrier of any disease that can be transmitted through the handling of shellfish or who has an infected wound or open lesion on any exposed portion of the body shall be prohibited from handling shellfish or coming into contact with food contact surfaces.

History Note: Authority G.S. 113-134; 113-182; 113-221.2; 143B-289.52;
Eff. February 1, 1987;
Readopted Eff. April 1, 2024.

15A NCAC 18A .0417 EMPLOYEES' PERSONAL ARTICLES

Employees' street clothing, aprons, gloves, food, drink, and personal articles shall be stored in a room or locker separate from any area where shellfish are shucked or packed or any area that is used for the cleaning or storage of utensils.

History Note: Authority G.S. 113-134; 113-182; 113-221.2; 143B-289.52;
Eff. February 1, 1987;
Readopted Eff. April 1, 2024.

15A NCAC 18A .0418 SUPPLY STORAGE

- (a) Shipping containers, boxes, and other supplies shall be stored in a storage room or area. The storage room or area shall be kept clean.
- (b) Pesticides, rodenticides, chemical agents, sanitizers, and other toxic substances shall be stored separate from processing areas or food contact surfaces using spacing or partitioning so that they cannot contaminate food, equipment, utensils, and single-service articles. Each of the following categories of toxic substances shall be stored separate from one another using spacing or partitioning such that one category of toxic substance is not mistaken for another category:
- (1) pesticides and rodenticides;
 - (2) detergents, sanitizers, and cleaning agents; and
 - (3) caustic acids, polishes, and other chemicals.
- (c) Cleaning compounds, sanitizers, and other toxic substances shall be labeled and used in accordance with the manufacturer's label directions.

History Note: Authority G.S. 113-134; 113-182; 113-221.2; 143B-289.52;
Eff. February 1, 1987;
Readopted Eff. April 1, 2024.

15A NCAC 18A .0419 HARVEST VESSELS AND VEHICLES

- (a) It shall be unlawful to use vessels or vehicles that are engaged in the commercial harvest, handling, or transport of shellstock in such a manner that allows contact of shellstock with bilge water, standing water, or other sources of contamination in the vessel or vehicle.
- (b) It shall be unlawful to allow dogs or other animals on or inside vessels or vehicles that are engaged in the commercial harvest or transport of shellstock.
- (c) It shall be unlawful to discharge human waste overboard from vessels or vehicles used in the harvesting of shellstock.

History Note: Authority G.S. 113-134; 113-182; 113-221.2; 143B-289.52;
Eff. February 1, 1987;
Readopted Eff. (Pending legislative review pursuant to S.L. 2019-198).

15A NCAC 18A .0420 TRANSPORTING SHELLFISH

- (a) All shellfish storage areas in trucks, vessels, trailers, and other conveyances used for transporting shellfish shall be enclosed, tightly constructed to eliminate the entrance of pests, kept clean, and shall be subject to inspection by the Division of Marine Fisheries.
- (b) It shall be unlawful to transport shellstock and in-shell product unless shipped under mechanical refrigeration and the shipping conveyance is pre-chilled and maintained at an ambient temperature of 45°F or below. The storage area of the shipping conveyance shall be equipped with an accurate, operating thermometer.
- (c) It shall be unlawful to transport shucked shellfish unless maintained under temperature control of 45°F or below.

History Note: Authority G.S. 113-134; 113-182; 113-221.2; 143B-289.52;
Eff. February 1, 1987;
Amended Eff. May 1, 1994;
Readopted Eff. (Pending legislative review pursuant to S.L. 2019-198).

15A NCAC 18A .0421 RECORDS

(a) All shellfish dealers who conduct any business of buying, selling, or shipping shellfish shall keep an accurate, daily record that shall show the names of all persons from whom shellfish are received, the address of any shellfish dealer from whom shellfish are received, the location of the source of shellfish, and the names and addresses of all persons to whom shellfish are sold or shipped with the exception of retail sales. For the purpose of this Rule, "retail sale" shall be defined as the sale of shellfish directly to end consumers. These records shall be kept on file for a minimum of one year for fresh shellfish, and a minimum of two years for frozen shellfish. All records shall be open to inspection by the Division of Marine Fisheries at the dealer facility at any time during business hours.

(b) All shellfish dealers who receive shellstock from licensed harvesters shall record the following information at the time of receipt:

- (1) harvester name;
- (2) harvest area;
- (3) time of the start of harvest;
- (4) quantity and type of shellfish received;
- (5) time shellfish were received; and
- (6) time shellfish were mechanically refrigerated.

(c) Each shellfish shipment shipped by a shellfish dealer shall be accompanied by a shipping document that includes:

- (1) name, address, and certification number of shipping dealer;
- (2) name and address of major consignee;
- (3) type and quantity of shellfish product;
- (4) date and time of shipment;
- (5) documentation that shipping conveyance is pre-chilled at 45°F or below prior to shipment; and
- (6) temperature of shellstock recorded by shipping dealer at time of shipment.

(d) A dealer receiving a shellfish shipment from another shellfish dealer shall record the temperature of the shipping conveyance and the temperature of the shellfish product received. These records shall be kept on file for a minimum of one year for fresh shellfish, and a minimum of two years for frozen shellfish. All records shall be open to inspection by the Division at the dealer facility at any time during business hours.

(e) Within 72 hours of any purchase or sale of shellfish, each purchase or sale shall be entered into a permanently bound ledger book, computer record, or any other method that permanently records the information and is organized so that it can be reviewed by the Division.

History Note: Authority G.S. 113-134; 113-182; 113-221.2; 143B-289.52;
Eff. February 1, 1987;
Amended Eff. August 1, 1998;
Readopted Eff. April 1, 2024.

15A NCAC 18A .0422 SHELLSTOCK CLEANING

No person shall offer for sale any shellstock that have not been washed free of harvest area sediments and detritus. Water used for shellstock washing shall be obtained from a water source in accordance with Rule .0413 of this Section or from a growing area in the open status and classified as "approved" or "conditionally approved" as defined in Rule .0901 of this Subchapter.

History Note: Authority G.S. 113-134; 113-182; 113-221.2; 143B-289.52;
Eff. February 1, 1987;
Readopted Eff. April 1, 2024.

15A NCAC 18A .0423 SALE OF LIVE SHELLSTOCK

Only live shellstock shall be offered for sale.

History Note: Authority G.S. 113-134; 113-182; 113-221.2; 143B-289.52;
Eff. February 1, 1987;
Readopted Eff. April 1, 2024.

15A NCAC 18A .0424 SHELLFISH RECEIVING

No shellfish dealer shall receive or accept:

- (1) any shellstock from:
 - (a) a licensed shellfish harvester unless:
 - (i) the container or package bears the harvest tag as required in Rule 15A NCAC 03K .0109 and in accordance with the HACCP plan; and
 - (ii) the shellstock was harvested from a growing area in the open status and classified as "approved" or "conditionally approved" as defined in Rule .0901 of this Subchapter and as indicated on the harvest tag; or
 - (b) another shellfish dealer unless the container or package bears the tag as required in Rule .0425 of this Section or, in the case of a bulk shipment, Rule .0426 of this Section; and
- (2) any shellfish from another shellfish dealer unless:
 - (a) it is accompanied by the documentation required in Rule .0421(c) of this Section; and
 - (b) the shellfish temperature and other critical limits are in compliance with the HACCP plan.

History Note: Authority G.S. 113-134; 113-182; 113-221.2; 143B-289.52;
Eff. February 1, 1987;
Amended Eff. April 1, 1997;
Readopted Eff. April 1, 2024.

15A NCAC 18A .0426 BULK SHIPMENTS BETWEEN SHELLFISH DEALERS

(a) For the purpose of this Rule:

- (1) "bulk shipment" shall mean a shipment of a shellstock lot between shellfish dealers.
- (2) "shellstock lot" shall mean a single type of bulk shellstock or containers of shellstock of no more than one day's harvest from a single growing area harvested by one or more harvesters.

(b) Bulk shipments shall not be made except if the shipment is from only one consignor to one consignee, both of which shall be shellfish dealers.

(c) When a shellstock lot is shipped, if multiple containers are used they shall be on a wrapped pallet, in a tote, in a net bailer, or other container and the unit shall be tagged with a single tag in accordance with Rule .0425 of this Section. The single tag shall also include a statement that "All shellstock containers in this lot have the same harvest date and area of harvest" and shall include the number of individual containers in the unit.

(d) The shellfish dealer shall provide a transaction record that accompanies the bulk shipment that contains the same information required on a dealer's tag in Rule .0425 of this Section and additionally states the name of the consignee, which shall be a shellfish dealer.

(e) Bulk shipments shall be kept above the floor using pallets to prevent the shellstock from becoming contaminated, unless the shipping conveyance has a channeled floor.

History Note: Authority G.S. 113-134; 113-182; 113-221.2; 143B-289.52; Eff. February 1, 1987; Readopted Eff. April 1, 2024.

15A NCAC 18A .0427 SHELLFISH STORAGE

(a) It shall be unlawful to fail to keep shellstock and in-shell product under mechanical refrigeration at a temperature of 45°F or below unless otherwise required by proclamation issued under the authority of 15A NCAC 03K .0110 or otherwise specified in the HACCP plan.

(b) Refrigerated storage areas shall be equipped with an accurate, operating thermometer.

(c) It shall be unlawful to fail to keep shucked shellfish under temperature control at a temperature of 45°F or below.

History Note: Authority G.S. 113-134; 113-182; 113-221.2; 143B-289.52; Eff. February 1, 1987; Amended Eff. May 1, 1994; December 1, 1987; Readopted Eff. (Pending legislative review pursuant to S.L. 2019-198).

15A NCAC 18A .0428 SAMPLING AND TESTING

Samples of shellfish may be taken and examined by the Division of Marine Fisheries at any time or place for routine quality control checks or to evaluate for threats of physical injury or adverse health effects to consumers. This may include bacteriological examination or analysis for poisonous or deleterious substances as listed in the latest approved edition of the National Shellfish

Sanitation Program (NSSP) Guide for the Control of Molluscan Shellfish, Section IV: Guidance Documents, Chapter II: Growing Areas; Action Levels, Tolerances and Guidance Levels for Poisonous or Deleterious Substances in Seafood, which is incorporated by reference, including subsequent amendments and editions. A copy of the reference material can be found at <https://www.fda.gov/food/federalstate-food-programs/national-shellfish-sanitation-program-nssp>, at no cost. Samples of shellfish shall be furnished, upon request of the Division, by operators of plants, trucks, carriers, stores, restaurants, and other places where shellfish are sold.

History Note: Authority G.S. 113-134; 113-182; 113-221.2; 143B-289.52; Eff. February 1, 1987; Readopted Eff. April 1, 2024.

15A NCAC 18A .0429 EMBARGO OR DISPOSAL OF SHELLFISH

(a) When it has been determined by the Division of Marine Fisheries that shellfish have not been grown, harvested, stored, treated, transported, handled, shucked, packed, or offered for sale in compliance with Sections .0300 through .0900 of this Subchapter, those shellfish may be deemed adulterated in accordance with Rule .0438 of this Section, except as required in Rules .0405 and .0430 of this Section.

(b) Shellfish or shellfish products processed or prepared for sale to the public determined to be adulterated or misbranded shall be subject to embargo or disposal by the Division in accordance with G.S. 113-221.4. The authority of marine fisheries inspectors to seize shellfish or shellfish products pursuant to G.S. 113-137 shall not be affected by this Rule.

(c) If voluntary disposal of adulterated or misbranded shellfish or shellfish products is alternatively chosen by the shellfish dealer, responsible individual, or other person or facility specified in Rule .0401 of this Section, the product disposal shall be observed by a Division employee.

History Note: Authority G.S. 113-134; 113-182; 113-221.2; 113-221.4; 143B-289.52; Eff. February 1, 1987; Readopted Eff. April 1, 2024.

15A NCAC 18A .0430 BACTERIOLOGICAL AND CONTAMINATION STANDARDS

Shellfish shucked or in the shell and intended or offered for sale shall be deemed adulterated by the Division of Marine Fisheries if:

- (1) the concentration of *Escherichia coli* exceeds a Most Probable Number (MPN), as defined in Rule .0901 of this Subchapter, of 230 per 100 grams of sample;
- (2) the total bacteria count, as determined by a standard plate count, exceeds 500,000 colony-forming units, as defined in Rule .0901 of this Subchapter. The standard plate count method, as detailed in Recommended Procedures for the Examination of Sea Water and Shellfish 4th Edition, is incorporated by reference, not

including subsequent amendments and editions. The method can be found at <https://www.issc.org/Data/Sites/1/media/-22-com-docs/apha-recommended-procedures-1970-full-text.pdf>, at no cost; or

- (3) the shellfish contain any contaminant that renders it unsafe for human consumption in accordance with the latest approved edition of the National Shellfish Sanitation Program (NSSP) Guide for the Control of Molluscan Shellfish, Section IV: Guidance Documents, Chapter II: Growing Areas; Action Levels, Tolerances and Guidance Levels for Poisonous or Deleterious Substances in Seafood, which is incorporated by reference, including subsequent amendments and editions. A copy of the reference material can be found at <https://www.fda.gov/food/federalstate-food-programs/national-shellfish-sanitation-program-nssp>, at no cost.

History Note: Authority G.S. 113-134; 113-182; 113-221.2; 143B-289.52;
Eff. February 1, 1987;
Readopted Eff. April 1, 2024.

15A NCAC 18A .0432 PUBLIC DISPLAY OF CONSUMER ADVISORY

All shellfish dealers permitted by Rule .0302 of this Subchapter and all other businesses and persons that sell or serve raw shellfish shall post one of the following consumer advisories or an equivalent statement in a place where it may be observed by the public in the area where raw shellfish is sold or served:

- (1) "Consumer Advisory
Eating raw or undercooked oysters, clams, whole scallops, or mussels may cause severe illness. People with the following conditions are at especially high risk: liver disease, alcoholism, diabetes, cancer, stomach or blood disorder, or weakened immune system. Ask your doctor if you are unsure of your risk. If you eat shellfish and become sick, see a doctor immediately."; or
- (2) "Consuming raw or undercooked meats, poultry, seafood, shellfish, or eggs may increase your risk of foodborne illness, especially if you have certain medical conditions."

Nothing in this Rule is intended to supersede regulation of restaurants or other establishments subject to 15A NCAC 18A .2600 or the U.S. Food Code.

History Note: Authority G.S. 113-134; 113-182; 113-221.2; 143B-289.52;
Temporary Adoption Eff. October 12, 1998; February 1, 1998;
Eff. April 1, 1999;
Readopted Eff. April 1, 2024.

15A NCAC 18A .0433 HAZARD ANALYSIS

Each shellfish dealer shall conduct a hazard analysis to determine the food safety hazards that are reasonably likely to occur for each kind of shellfish product processed by that dealer and to identify the preventative measures that the dealer can apply to control those hazards. For the purpose of this Rule, "reasonably likely to occur" shall mean a food safety hazard for which a processor would establish controls because experience, illness data, scientific reports, or other information provide a basis to conclude that there is a reasonable possibility that it will occur in the absence of those controls, as defined in 21 CFR 123.6, which is incorporated by reference, including subsequent amendments and editions. A copy of the reference material can be found at <https://www.ecfr.gov/current/title-21/chapter-I/subchapter-B/part-123>, at no cost.

History Note: Authority G.S. 113-134; 113-182; 113-221.2; 143B-289.52;
Eff. August 1, 2000;
Readopted Eff. April 1, 2024.

15A NCAC 18A .0434 HACCP PLAN

(a) Each shellfish dealer shall have and implement a written HACCP plan specific to each kind of shellfish product processed. The owner or authorized individual shall sign the plan when implemented, which shall signify that the plan has been accepted for implementation by the dealer. The HACCP plan shall also be signed by the owner or authorized individual after any modification or verification of the plan as required by this Rule. The plan shall, at a minimum:

- (1) list the food safety hazards that are reasonably likely to occur;
- (2) list the critical control points for each of the food safety hazards;
- (3) list the critical limits that must be met for each of the critical control points;
- (4) list the procedures, and frequency thereof, that will be used to monitor each of the critical control points to ensure compliance with the critical limits;
- (5) list any corrective action plans to be followed in response to deviations from critical limits at critical control points;
- (6) provide a record keeping system that documents critical control point monitoring; and
- (7) list the verification procedures, and frequency thereof, that the dealer will use.

For the purpose of this Rule, "reasonably likely to occur" shall mean a food safety hazard for which a processor would establish controls because experience, illness data, scientific reports, or other information provide a basis to conclude that there is a reasonable possibility that it will occur in the absence of those controls, as defined in 21 CFR 123.6, which is incorporated by reference, including subsequent amendments and editions. A copy of the reference material can be found at <https://www.ecfr.gov/current/title-21/chapter-I/subchapter-B/part-123>, at no cost.

(b) With the exception of a shellfish dealer that has not been permitted for interstate commerce, the following functions shall be performed by an individual who has successfully completed Segment one and Segment two of a seafood HACCP training course approved by the Seafood HACCP Alliance or an equivalent training course where the curriculum covers the principles of HACCP, conducting a hazard analysis, and developing a HACCP plan for a seafood business:

- (1) developing a HACCP plan;
- (2) reassessing and modifying the HACCP plan; and
- (3) performing the record review specified in Paragraph (d) of this Rule.

(c) If a deviation from a critical limit occurs, the shellfish dealer shall take corrective action in accordance with 21 CFR 123.7, which is incorporated by reference, including subsequent amendments and editions. A copy of the reference material can be found at [https://www.ecfr.gov/current/title-21/chapter-I/subchapter-B/part-123/subpart-A/section-123.7#p-123.7\(b\)](https://www.ecfr.gov/current/title-21/chapter-I/subchapter-B/part-123/subpart-A/section-123.7#p-123.7(b)), at no cost.

(d) At least annually, each shellfish dealer shall verify that the HACCP plan is being implemented to control food safety hazards. Verification procedures shall include:

- (1) a reassessment of the plan when a change occurs that could affect the hazard analysis, and a review of any consumer complaints that have been received; and
- (2) a review, including signing and dating by the trained individual or responsible individual, of the records that document the monitoring of critical control points, the taking of corrective actions, and the calibrating of any process-monitoring instruments. This review shall occur within one week of the day that the records are made.

(e) All records required by this Rule shall be retained at the dealer facility for at least one year after the date they were prepared in the case of refrigerated products, and at least two years after the date they were prepared in the case of frozen products and shall include:

- (1) the name and location of the dealer;
- (2) the date and time of the activity that the record reflects;
- (3) the signature or initials of the individual performing the operation; and
- (4) the identity of the product and the production code, if any.

History Note: Authority G.S. 113-134; 113-182; 113-221.2; 113-221.4; 143B-289.52;
Eff. August 1, 2000;
Readopted Eff. April 1, 2024.

15A NCAC 18A .0435 SANITATION MONITORING REQUIREMENTS

(a) Each shellfish dealer shall monitor the following sanitation items when the plant is operational:

- (1) safety of water;

- (2) condition and cleanliness of food contact surfaces;
- (3) prevention of cross-contamination;
- (4) maintenance of hand washing, hand sanitizing, and toilet facilities;
- (5) protection of shellfish, shellfish packaging materials, and food contact surfaces from becoming adulterated;
- (6) proper labeling, storage, and use of toxic compounds;
- (7) control of employees with adverse health conditions; and
- (8) exclusion of pests from the facility.

(b) Monitoring records of these sanitation items shall be recorded at least daily and shall include the date and time of the activity that the record reflects, and the signature or initials of the individual performing the operation. The records shall be reviewed and signed by the owner or designated individual within one week of recording.

History Note: Authority G.S. 113-134; 113-182; 113-221.2; 143B-289.52;
Eff. August 1, 2000;
Readopted Eff. April 1, 2024.

15A NCAC 18A .0436 MONITORING RECORDS

History Note: Authority G.S. 130A-230;
Eff. August 1, 2002;
Repealed Eff. April 1, 2024.

15A NCAC 18A .0437 IN-SHELL PRODUCT

(a) In-shell product shall be kept under mechanical refrigeration at a temperature of 45°F or below.

(b) In-shell product shall be tagged or labeled to contain the following indelible and legible information listed in sequential order:

- (1) the shellfish dealer's name, address, and certification number assigned by the shellfish control agency in the state of the shellfish dealer's location;
- (2) the original shipper's certification number, except if the in-shell product is depurated, the original shipper's certification number is not required;
- (3) a "SELL BY date" that indicates the shelf-life or the words "BEST IF USED BY" followed by a date when the product would be expected to reach the end of its shelf-life. The date shall include month, day, and year;
- (4) if the in-shell product is depurated, the depuration cycle number or lot number;
- (5) the most precise identification of the harvest location as is practicable, including the initials of the state of harvest, and the state or local shellfish control authority's designation of the growing area by indexing, administrative, or geographic designation. If the authority in another state has not indexed growing areas,

then a geographical or administrative designation shall be used (e.g., Long Bay, shellfish lease or franchise number, or lot number);

- (6) the type and quantity of in-shell product; and
- (7) the following statement in bold type on each tag or label: "THIS TAG IS REQUIRED TO BE ATTACHED UNTIL CONTAINER IS EMPTY OR IS RETAGGED AND THEREAFTER KEPT ON FILE, IN CHRONOLOGICAL ORDER, FOR 90 DAYS." "RETAILERS: DATE WHEN LAST SHELLFISH FROM THIS CONTAINER SOLD OR SERVED (INSERT DATE)_____." OR "THIS LABEL IS REQUIRED TO BE ATTACHED UNTIL CONTAINER IS EMPTY OR IS RELABELED AND THEREAFTER KEPT ON FILE, IN CHRONOLOGICAL ORDER, FOR 90 DAYS." "RETAILERS: DATE WHEN LAST SHELLFISH FROM THIS CONTAINER SOLD OR SERVED (INSERT DATE)_____."

(c) In-shell product shall include one of the following consumer advisories, or equivalent statement:

- (1) "Consumer Advisory
Eating raw or undercooked oysters, clams, whole scallops, or mussels may cause severe illness. People with the following conditions are at especially high risk: liver disease, alcoholism, diabetes, cancer, stomach or blood disorder, or weakened immune system. Ask your doctor if you are unsure of your risk. If you eat shellfish and become sick, see a doctor immediately."
- (2) "Consuming raw or undercooked meats, poultry, seafood, shellfish, or eggs may increase your risk of foodborne illness, especially if you have certain medical conditions."

(d) The statement "Keep Refrigerated" or an equivalent statement shall be included on the tag or label.

(e) If in-shell product for retail sale is packed in individual containers of five pounds or less and shipped in a master container that includes a tag in compliance with Paragraph (b) of this Rule, the individual containers of five pounds or less shall not require tags as specified in Paragraph (b) of this Rule if a lot code number is included on each container that allows traceback of the in-shell product to the master container. A consumer advisory shall be included on each retail package in accordance with Paragraph (c) of this Rule.

History Note: Authority G.S. 113-134; 113-182; 113-221.2; 143B-289.52; Eff. April 1, 2024.

15A NCAC 18A .0438 INSPECTIONS AND COMPLIANCE SCHEDULE

(a) If a critical deficiency is detected during an inspection of a shellfish dealer by a Division of Marine Fisheries inspector:

- (1) the deficiency shall be corrected by the shellfish dealer during that inspection; or
- (2) the shellfish dealer shall immediately cease production affected by the deficiency.

If the shellfish dealer fails to correct the deficiency during the inspection, the Division shall initiate the suspension or revocation process for the Shellfish Dealer Permit and Certificate of Compliance as set forth in 15A NCAC 03O .0504. For the purpose of this Rule, "critical deficiency" shall mean a condition or practice that results in the production of a shellfish product that is adulterated or presents a threat to the health or safety of the consumer.

(b) Shellfish products affected by a critical deficiency shall be controlled to prevent adulterated product from reaching consumers. The Division shall:

- (1) embargo or destroy adulterated shellfish in accordance with Rule .0429 of this Section;
- (2) initiate a recall of adulterated shellfish; and
- (3) notify enforcement officials for the United States Food and Drug Administration, as well as shellfish control authorities in states that are known to have received adulterated shellfish.

(c) If a key or other deficiency is detected during an inspection of a shellfish dealer by a Division inspector, a compliance schedule shall be issued by the Division inspector that provides a time frame by which the deficiency shall be corrected by the shellfish dealer. For the purpose of this Rule, "key or other deficiency" shall mean a deficiency other than a critical deficiency.

(d) If a shellfish dealer fails to meet the compliance schedule, the Division shall proceed with one of the following options:

- (1) revise the existing compliance schedule;
- (2) initiate the suspension or revocation process for the Shellfish Dealer Permit and Certificate of Compliance as set forth in 15A NCAC 03O .0504; or
- (3) seek other administrative remedies.

(e) Nothing in this Rule shall be construed to limit or make null any option for remedy in accordance with Rule 15A NCAC 03O .0504 or other available administrative remedy.

History Note: Authority G.S. 113-134; 113-182; 113-221.2; 113-221.4; 143B-289.52; Eff. April 1, 2024.

15A NCAC 18A .0439 RECALL PROCEDURE

Each shellfish dealer shall adopt and adhere to a written procedure for conducting recalls of adulterated or misbranded shellfish products. This written procedure shall be based on, and complementary to, the FDA Enforcement Policy on Recalls, CFR Title 21, Chapter 1, Subchapter A., Part 7-Enforcement Policy, which is incorporated by reference, including subsequent amendments and editions. A copy of the reference material can be found at <https://www.ecfr.gov/current/title-21/chapter-1/subchapter-A/part-7>, at no cost. This procedure shall include shellfish dealers notifying the Division of Marine Fisheries and

any consignee receiving affected product when a recall begins, as well as removal or correction of the affected product.

History Note: Authority G.S. 113-134; 113-182; 113-221.2; 143B-289.52;
Eff. April 1, 2024.

15A NCAC 18A .0501 REQUIREMENTS FOR SHELLSTOCK PLANTS AND RESHIPPIERS

The rules in Section .0400 and the rules of this Section shall apply for the operation of shellstock plants and reshippers.

History Note: Authority G.S. 113-134; 113-182; 113-221.2; 143B-289.52;
Eff. February 1, 1987;
Readopted Eff. April 1, 2024.

15A NCAC 18A .0502 GRADING SHELLSTOCK AND COMMINGLING

(a) For the purpose of this Rule:

- (1) "commingling" shall mean the act of combining different lots of shellfish harvested on different days in the same growing area or combining different lots of shellstock harvested from different growing areas.
- (2) "lot" shall mean clams from one day's harvest, from a single growing area, harvested by one or more harvesters.

(b) The grading of shellstock by a shellfish dealer shall be conducted only in a permitted shellstock plant.

(c) A grading room or area separate from other processing operations shall be required for the grading of shellstock.

(d) The grader used to grade shellstock, and any other accessories or tables used in the grading operation, shall be constructed to be easily cleanable and shall be kept in good repair.

(e) Shellfish dealers shall not commingle any shellfish, except for clams with prior approval of a commingling plan by the Division of Marine Fisheries. A commingling plan shall be approved by the Division based on limiting the dates of harvest and growing areas and maintaining lot identity so that each individual lot of shellfish can be traced back to its harvest source.

History Note: Authority G.S. 113-134; 113-182; 113-221.2; 143B-289.52;
Eff. February 1, 1987;
Readopted Eff. April 1, 2024.

15A NCAC 18A .0503 GRADER

History Note: Authority G.S. 130A-230;
Eff. February 1, 1987;
Repealed Eff. April 1, 2024.

15A NCAC 18A .0504 RESHIPPIERS

Reshippers shall only purchase shellfish from other shellfish dealers and sell the product to other shellfish dealers, wholesalers, or retailers without repacking or relabeling.

History Note: Authority G.S. 113-134; 113-182; 113-221.2; 143B-289.52;

Eff. February 1, 1987;
Amended Eff. September 1, 1990;
Readopted Eff. April 1, 2024.

15A NCAC 18A .0601 REQUIREMENTS FOR SHUCKING AND PACKING PLANTS AND REPACKING PLANTS

The rules in Section .0400 and the rules of this Section shall apply for the operation of shucking and packing plants and repacking plants.

History Note: Authority G.S. 113-134; 113-182; 113-221.2; 143B-289.52;
Eff. February 1, 1987;
Readopted Eff. April 1, 2024.

15A NCAC 18A .0602 SEPARATION OF OPERATIONS

A shucking and packing plant shall provide separate areas for shellstock storage, shucking, heat shock, and general storage. A packing area that is separate from other processing areas and with a delivery window or shelf as set forth in Rule .0605 of this Section shall be required.

History Note: Authority G.S. 113-134; 113-182; 113-221.2; 143B-289.52;
Eff. February 1, 1987;
Readopted Eff. April 1, 2024.

15A NCAC 18A .0603 HOT WATER SYSTEM

An automatically regulated hot water system shall be provided that has capacity to furnish water at a temperature of at least 130°F during all hours of shucking and packing plant operation.

History Note: Authority G.S. 113-134; 113-182; 113-221.2; 143B-289.52;
Eff. February 1, 1987;
Readopted Eff. April 1, 2024.

15A NCAC 18A .0604 HANDWASHING FACILITIES

History Note: Authority G.S. 130A-230;
Eff. February 1, 1987;
Repealed Eff. April 1, 2024.

15A NCAC 18A .0605 DELIVERY WINDOW OR SHELF

(a) A delivery window or a non-corrosive shelf shall be installed between the shucking area and packing area. If a delivery window is used it shall be equipped with a shelf completely covered with smooth, non-corrosive metal or other impervious material and shall be sloped to drain towards the shucking area.

(b) No shuckers or individuals that are not designated as packers by the owner or responsible individual shall be allowed in the packing area.

History Note: Authority G.S. 113-134; 113-182; 113-221.2; 143B-289.52;
Eff. February 1, 1987;
Readopted Eff. April 1, 2024.

15A NCAC 18A .0606 NON-FOOD CONTACT SURFACES

All non-food contact surfaces of equipment such as cabinets and shelving shall be impervious and constructed to be easily cleanable.

History Note: Authority G.S. 113-134; 113-182; 113-221.2; 143B-289.52;
Eff. February 1, 1987;
Readopted Eff. April 1, 2024.

15A NCAC 18A .0607 SHUCKING BENCHES

Shucking benches, tables, and contiguous walls to a height of at least two feet above the bench top, shall be of smooth concrete, non-corrosive metal, or other durable impervious material, free from cracks and pits, and constructed so that drainage is complete and is directed away from the stored shellfish. Shucking blocks shall be solid, one-piece construction, removable, and easily cleanable. The stands, stalls, and stools shall be of smooth material and shall be painted with a light-colored washable paint, such as white in color, so that unclean surfaces can be detected.

History Note: Authority G.S. 113-134; 113-182; 113-221.2; 143B-289.52;
Eff. February 1, 1987;
Readopted Eff. April 1, 2024.

15A NCAC 18A .0608 EQUIPMENT CONSTRUCTION

(a) All pails, skimmers, measures, tanks, tubs, blowers, paddles, and other equipment, that come into contact with shucked shellfish or with ice used for direct cooling of shellfish, shall be made of smooth, non-corrosive, impervious materials and constructed so as to be easily cleanable and shall be kept clean and in good repair.

(b) All equipment, including external and internal blower lines and hoses below a point two inches above the overflow level of the tank and blower drain valves, shall be constructed as to be easily cleanable in accordance with the "Shellfish Industry Equipment Guide" referenced in Rule .0402 of this Subchapter.

(c) The blower and skimmer drain shall not be directly connected with the sewer. There shall be an air gap between the blower and skimmer outlets. A floor drain shall be provided.

(d) Air-pump intakes shall be located in a place protected from dirt and other contamination, and shall be equipped with filters.

History Note: Authority G.S. 113-134; 113-182; 113-221.2; 143B-289.52;
Eff. February 1, 1987;
Amended Eff. September 1, 1990;
Readopted Eff. April 1, 2024.

15A NCAC 18A .0609 SANITIZING EQUIPMENT

Washing and sanitizing facilities, including a three-compartment wash sink of adequate size to wash the largest utensils used in the shucking and packing plant, shall be provided in a section of the plant so that it can service the work areas. The sink shall be kept in good repair. Permanent hot and cold water connections, with combination supply faucets, shall be installed so that all vats may

receive hot and cold water. Either steam, hot water, or a sanitizing solution shall be used to sanitize utensils and equipment.

History Note: Authority G.S. 113-134; 113-182; 113-221.2; 143B-289.52;
Eff. February 1, 1987;
Amended Eff. December 1, 1987;
Readopted Eff. April 1, 2024.

15A NCAC 18A .0610 EQUIPMENT SANITATION

All utensils and tools, such as opening knives, shucking pails, measures, skimmers, colanders, tanks, tubs, paddles, and containers that come in contact with shellfish shall be thoroughly cleaned and then sanitized by:

- (1) steam in a steam chamber or box equipped with an indicating thermometer located in the coldest zone, by exposure to a temperature of 170°F for at least 15 minutes, or to a temperature of 200°F for at least five minutes;
- (2) immersion in hot water at a temperature of 170°F for at least two minutes;
- (3) immersion for at least one minute in, or exposure for at least one minute to a constant flow of, a solution containing not less than 100 parts per million chlorine residual. Utensils and equipment that must be washed in place shall require washing, rinsing, and sanitizing; or
- (4) other equivalent products and procedures approved in 21 CFR 178.1010, which is incorporated by reference, including subsequent amendments and editions. A copy of the reference material can be found at <https://www.ecfr.gov/current/title-21/chapter-I/subchapter-B/part-178/subpart-B/section-178.1010>, at no cost.

A testing method or equipment shall be available and used to test chemical sanitizers to ensure minimum prescribed strengths.

History Note: Authority G.S. 113-134; 113-182; 113-221.2; 143B-289.52;
Eff. February 1, 1987;
Readopted Eff. April 1, 2024.

15A NCAC 18A .0611 EQUIPMENT STORAGE

Equipment and utensils that have been cleaned and sanitized shall be stored in a manner to prevent contamination.

History Note: Authority G.S. 113-134; 113-182; 113-221.2; 143B-289.52;
Eff. February 1, 1987;
Readopted Eff. April 1, 2024.

15A NCAC 18A .0612 ICE

(a) Ice shall be obtained from a water supply approved by the Division of Marine Fisheries pursuant to Rule .0413 of this Subchapter and shall be stored and handled in a manner to prevent contamination and keep the ice clean.

(b) All equipment used in the handling of ice shall be used for no other purpose and shall be cleaned and sanitized at least once each day the facility is in operation.

History Note: Authority G.S. 113-134; 113-182; 113-221.2; 143B-289.52;

Eff. February 1, 1987;

Readopted Eff. April 1, 2024.

15A NCAC 18A .0613 SHELLFISH SHUCKING

(a) Shellfish shall be shucked in a manner to prevent contamination. Shellstock shall be free of excessive sediment prior to being shucked. Only live shellstock shall be shucked.

(b) Shucking of shellstock shall only be permitted on shucking tables or benches in accordance with Rules .0402 and .0607 of this Subchapter. Floors shall not be used for the storage of shellfish or the retention of shucking pails or other food contact containers.

(c) When shellstock are stored in the shucking room, protection shall be provided for the storage space to prevent the shellstock from becoming adulterated from wash water wastes and from the feet of the employees.

(d) Shucking pails shall be placed so as to exclude the drippings from shells and from the hands of shuckers. The pails shall be rinsed with running tap water before each filling.

(e) Shucked shellfish shall be washed on a skimmer or a container approved by the Division of Marine Fisheries with cold running water from a source in accordance with Rule .0413 of this Subchapter.

(f) The return of excess shucked shellfish from the packing room shall not be allowed. All shucked shellfish shall be packed before it leaves the packing room.

(g) If blowers are used for cleansing, the total time that shellfish are in contact with water after leaving the shucker, including the time of washing, rinsing, and any other contact with water, shall not be more than 30 minutes. In computing the time of contact with water, the length of time that shellfish are in contact with water that is agitated shall be calculated at twice the actual length of time that the shellfish are in contact with the water. Before packing into containers for shipment or delivery for consumption, the shellfish shall be drained. Shellfish shall be packed without any added substance.

History Note: Authority G.S. 113-134; 113-182; 113-221.2; 143B-289.52;

Eff. February 1, 1987;

Amended Eff. September 1, 1990;

Readopted Eff. April 1, 2024.

15A NCAC 18A .0614 CONTAINERS

(a) Containers used for transporting shucked shellfish shall be made from food-safe materials. These containers shall not be reused for packing shellfish.

(b) The shucker-packer's or repacker's name and address and certification number shall be permanently and visibly recorded on the label of each container used for shucked shellfish.

(c) Any container of shucked shellfish that has a capacity of 64 fluid ounces or more shall include the words "DATE SHUCKED" followed by the date shucked permanently recorded on the lid and sidewall or bottom of the container. The date shall consist of either

the abbreviation for the month and number of the day of the month or the Julian format (YDDD), the last digit of the four-digit year and the three-digit number corresponding to the day of the year.

(d) Any container of shucked shellfish that has a capacity of less than 64 fluid ounces shall include the words "SELL BY" or "BEST IF USED BY" followed by a date when the product will reach the end of its projected shelf life. The date shall consist of the abbreviation for the month and number of the day of the month.

(e) For fresh frozen shellfish, the year shall be added to the date for non-Julian format. If fresh frozen, the container shall be labeled as frozen in equal size type immediately adjacent to the type of shellfish. If a frozen container of shucked shellfish is thawed and repacked, the container shall be labeled as previously frozen.

(f) Each container of shucked shellfish shall include a consumer advisory. The following statement, or an equivalent statement, shall be included on all containers: "Consuming raw or undercooked meats, poultry, seafood, shellfish, or eggs may increase your risk of foodborne illness, especially if you have certain medical conditions."

(g) No person shall use containers bearing a certification number other than the number assigned to him or her.

History Note: Authority G.S. 113-134; 113-182; 113-221.2; 143B-289.52;

Eff. February 1, 1987;

Amended Eff. August 1, 1998; February 1, 1997; December 1, 1987;

Readopted Eff. April 1, 2024.

15A NCAC 18A .0615 SHELLFISH COOLING

(a) For shellstock that has not been refrigerated prior to processing, shucked meats and in-shell product shall be chilled to an internal temperature of 45°F or less within three hours of shucking or processing.

(b) For shellstock that has been refrigerated prior to processing, shucked meats and in-shell product shall be chilled to an internal temperature of 45°F or less within four hours after removal from refrigeration.

(c) If heat shock is used, once shellstock is shucked, the shucked shellfish meats shall be cooled to an internal temperature of 45°F or less within two hours from the time of heat shock.

(d) Shucked and packed shellfish shall be stored in covered containers at an ambient temperature of 45°F or less or covered in ice.

History Note: Authority G.S. 113-134; 113-182; 113-221.2; 143B-289.52;

Eff. February 1, 1987;

Amended Eff. April 1, 1997;

Readopted Eff. April 1, 2024.

15A NCAC 18A .0616 SHELLFISH FREEZING

(a) If shellfish are to be frozen, they shall be frozen within three days of shucking and packing. Containers of frozen shellfish shall be labeled in accordance with Rule .0614 of this Section.

(b) A temperature of 0°F or less shall be maintained in the frozen storage rooms.

History Note: Authority G.S. 113-134; 113-182; 113-221.2; 143B-289.52;
Eff. February 1, 1987;
Amended Eff. April 1, 1997; December 1, 1987;
Readopted Eff. April 1, 2024.

15A NCAC 18A .0617 SHIPPING

History Note: Authority G.S. 130A-230;
Eff. February 1, 1987;
Amended Eff. April 1, 1997;
Repealed Eff. April 1, 2024.

15A NCAC 18A .0618 HEAT SHOCK METHOD OF PREPARATION OF SHELLFISH

- (a) If a shucking and packing plant uses the heat shock process, it shall be done in a separate room adjacent to the shellstock storage room and the shucking room.
- (b) The heat shock tank shall be constructed of smooth, non-corrosive metal, designed to drain completely and to be easily cleanable.
- (c) All heat shock tanks shall be equipped with booster heaters that are thermostatically controlled.
- (d) All shellstock subjected to the heat shock process shall be washed with flowing potable water immediately prior to the heat shock operation.
- (e) During the heat shock process the water shall be maintained at not less than 140°F or more than 150°F. An accurate thermometer shall be available and used to determine the temperature during the heat shock process.
- (f) Nothing in this Rule shall be construed to prohibit any other process that has been found by the Division of Marine Fisheries to be equally effective.
- (g) At least eight gallons of heat shock water shall be maintained in the tank for each one-half bushel of shellstock being treated. All water used in the heat shock process shall be from a source approved by the Division in accordance with Rule .0413 of this Subchapter.
- (h) Immediately after the heat shock process, all treated shellstock shall be subjected to a cool-down with flowing potable water. All heat-shocked shellstock shall be handled in a manner to prevent the product from becoming adulterated. Shellfish that have been subjected to the heat shock process shall be cooled to an internal temperature of 45°F or below within two hours after this process and shall be placed in storage at 45°F or below.
- (i) At the close of each day's operation, the heat shock tank shall be completely emptied of all water, mud, and detritus, and cleaned and then rinsed with flowing potable water.
- (j) All heat shock tanks shall be sanitized immediately before starting each day's operation.
- (k) The procedure for the heat shock process shall be posted in a location that can be viewed by employees to help ensure the correct procedure can be followed.

History Note: Authority G.S. 113-134; 113-182; 113-221.2; 143B-289.52;
Eff. February 1, 1987;
Amended Eff. August 1, 2002; August 1, 1998; February 1, 1997;
September 1, 1990;

Readopted Eff. April 1, 2024.

15A NCAC 18A .0619 REPACKING OF SHELLFISH

- (a) If repacking is practiced, it shall be conducted in accordance with all the requirements for shucking and packing plants in the rules of this Section except for requirements related to shucking.
- (b) The shucked shellfish to be repacked shall be received at the repacking plant at a temperature of 45°F or less.
- (c) Shellfish shall not be repacked more than one time.
- (d) The temperature of the shellfish shall not exceed an internal temperature of 45°F for more than two hours during the repacking process.
- (e) Containers of repacked shellfish shall be repacked and labeled in accordance with Rule .0614 of this Section, except that the original date of shucking shall be added to the new repacked container or the original date of shucking shall be used in establishing the "SELL BY" or "BEST IF USED BY" date.
- (f) Repackers shall keep records indicating the source from which shellfish were purchased, the date packed, the date of purchase, and the names and addresses of shellfish dealers to whom shellfish were sold.

History Note: Authority G.S. 113-134; 113-182; 113-221.2; 143B-289.52;
Eff. February 1, 1987;
Amended Eff. December 1, 1987;
Readopted Eff. April 1, 2024.

15A NCAC 18A .0620 SHELLFISH THAWING AND REPACKING

- (a) If frozen shellfish are thawed, they shall be thawed at a temperature of 45°F or less.
- (b) Shellfish held for thawing shall be separated from other shellfish.
- (c) Thawed shellfish shall not exceed 45°F for more than two hours during the repacking process.
- (d) Containers of repacked, thawed shellfish shall be labeled as required in Rule .0619 of this Section and shall also be labeled as "PREVIOUSLY FROZEN", or equivalent.
- (e) Thawed shellfish that remain in original containers shall be labeled as required in Rule .0614 of this Section and shall also be labeled as "PREVIOUSLY FROZEN", or equivalent.

History Note: Authority G.S. 113-134; 113-182; 113-221.2; 143B-289.52;
Eff. April 1, 1997;
Readopted Eff. April 1, 2024.

15A NCAC 18A .0621 RECALL PROCEDURE

History Note: Authority G.S. 130A-230;
Eff. August 1, 1998;
Repealed Eff. April 1, 2024.

15A NCAC 18A .0701 REQUIREMENTS FOR DEPURATION

- (a) In addition to and to the extent not inconsistent with other applicable provisions of North Carolina Marine Fisheries Commission rules, requirements for depuration shall be in

accordance with the 2019 Revision of the National Shellfish Sanitation Program (NSSP) Guide for the Control of Molluscan Shellfish chapter titled "Depuration", which is incorporated by reference, not including subsequent amendments and editions. A copy of the reference material is available online at: <https://www.fda.gov/food/federalstate-food-programs/national-shellfish-sanitation-program-nssp>, at no cost.

(b) All laboratory analyses used to evaluate the effectiveness of the depuration process shall be performed by a laboratory found by a Food and Drug Administration (FDA) Shellfish Laboratory Evaluation Officer or by an FDA-certified State Shellfish Laboratory Evaluation Officer to conform or provisionally conform to the requirements established under the National Shellfish Sanitation Program (NSSP).

(c) If a method is needed for the analysis of depuration process water and shellfish that are used to evaluate the effectiveness of the depuration process and no method approved for use within the NSSP exists, the following may be used:

- (1) a validated Association of Analytical Communities, Bacteriological Analysis Manual, or Environmental Protection Agency method; or
- (2) an Emergency Use Method as set forth in the latest approved edition of the NSSP Guide for the Control of Molluscan Shellfish.

History Note: Authority G.S. 113-134; 113-182; 113-221.2; 143B-289.52;

Eff. February 1, 1987;

Readopted Eff. April 1, 2024.

15A NCAC 18A .0702 FACILITY SUPERVISION
15A NCAC 18A .0703 FACILITY DESIGN AND SANITATION

History Note: Authority G.S. 130A-230;

Eff. February 1, 1987;

Repealed Eff. April 1, 2024.

15A NCAC 18A .0704 LABORATORY PROCEDURES

History Note: Authority G.S. 113-134; 113-182; 113-221.2; 143B-289.52;

Eff. February 1, 1987;

Amended Eff. September 1, 1991; September 1, 1990;

Readopted Eff. May 1, 2021;

Repealed Eff. April 1, 2024.

15A NCAC 18A .0705 FACILITY OPERATIONS
15A NCAC 18A .0706 SHELLFISH SAMPLING PROCEDURES
15A NCAC 18A .0707 DEPURATION PROCESS WATER CONTROL - SAMPLING PROCEDURES
15A NCAC 18A .0708 DEPURATION TREATMENT PROCESS WATER – STANDARDS
15A NCAC 18A .0709 DEPURATION - SHELLFISH MEAT STANDARDS

15A NCAC 18A .0710 ULTRAVIOLET UNIT
15A NCAC 18A .0711 SHELLSTOCK STORAGE
15A NCAC 18A .0712 DEPURATION - TAGGING AND RELEASE OF SHELLFISH
15A NCAC 18A .0713 DEPURATION - RECORDS

History Note: Authority G.S. 130A-230;

Eff. February 1, 1987;

Amended Eff. September 1, 1990; December 1, 1987;

Repealed Eff. April 1, 2024.

15A NCAC 18A .0801 REQUIREMENTS FOR WET STORAGE OF SHELLSTOCK

(a) In addition to and to the extent not inconsistent with other applicable provisions of North Carolina Marine Fisheries Commission Rules, requirements for wet storage shall be in accordance with the 2019 Revision of the National Shellfish Sanitation Program (NSSP) Guide for the Control of Molluscan Shellfish (hereinafter referred to as "Model Ordinance") chapter titled "Wet Storage in Approved and Conditionally Approved Growing Areas", which is incorporated by reference except as provided in Paragraph (b) of this Rule, not including subsequent amendments and editions. A copy of the reference material is available online at: <https://www.fda.gov/food/federalstate-food-programs/national-shellfish-sanitation-program-nssp>, at no cost.

(b) Amendments and exceptions to the Model Ordinance chapter titled "Wet Storage in Approved and Conditionally Approved Growing Areas" incorporated by reference include:

- (1) Section @.01, .04, C(1)(a) is amended to read: "Except for a water source in accordance with Rule .0413 of this Subchapter, the quality of the surface source water prior to treatment shall meet, at a minimum, the bacteriological standards for the conditionally approved classification in the open status. Water classified as prohibited or restricted shall not be used as source water."
- (2) the following sections are not incorporated by reference and shall not apply: Sections @.01, .04, C(2)(a)(ii), @.01, .04, C(2)(b), @.01, .04, C(2)(c), and @.01, .04, C(2)(d).

History Note: Authority G.S. 113-134; 113-182; 113-221.2; 143B-289.52;

Eff. February 1, 1987;

Readopted Eff. April 1, 2024.

15A NCAC 18A .0802 PLANT DESIGN: SANITATION: AND WET STORAGE
15A NCAC 18A .0803 WET STORAGE WATER
15A NCAC 18A .0804 SHELLSTOCK CLEANING
15A NCAC 18A .0805 WET STORAGE TANKS
15A NCAC 18A .0806 SHELLSTOCK CONTAINERS

History Note: Authority G.S. 130A-230;

Eff. February 1, 1987;

Repealed Eff. April 1, 2024.

TITLE 17 - DEPARTMENT OF REVENUE

17 NCAC 07B .3101 RADIO AND TELEVISION RECEIPTS

Receipts of radio and television companies derived from the broadcasting or telecasting of programs are not subject to sales or use tax, unless the receipts are derived from certain digital property, video programming, or satellite digital audio radio service.

History Note: Authority G.S. 105-164.3; 105-164.4; 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. May 1, 2009; October 1, 1993; October 1, 1991; Readopted Eff. February 1, 2024.

17 NCAC 07B .4203 CONTRACTORS FOR THE FEDERAL GOVERNMENT

Sales of items, as the term item is defined in G.S. 105-164.3, to a contractor are exempt from sale and use tax pursuant to G.S. 105-164.13(17), when a contract between the United States Government, or its agencies and instrumentalities, and a contractor contains a title passage clause from the Federal Acquisition Regulation as set out in 48 C.F.R. 1, such that title to items purchased by the contractor for use in performing the contract, pass from the contractor to the United States Government, or its agencies and instrumentalities, prior to any use by the contractor.

History Note: Authority G.S. 105-164.3; 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. September 1, 2006; October 1, 1993; October 1, 1991; Readopted Eff. February 1, 2024.

17 NCAC 07B .4210 NATIVE AMERICAN INDIAN COUNTRY

(a) Sales by Merchants on the Eastern Band of Cherokee Indian (EBCI) Reservation:

- (1) Pursuant to G.S. 105-164.13(25), sales of items, as the term item is defined in G.S. 105-164.3, by merchants on the EBCI Reservation are exempt from sales and use tax when such merchants are authorized to do business on the EBCI Reservation and are paying the tribal gross receipts levy to the Tribal Council. This exemption applies without regard to whether a purchaser is an enrolled member of the EBCI.
- (2) Admission charges to an entertainment activity on the EBCI Reservation are exempt from sales and use tax, pursuant to G.S. 105-164.13(25), provided the retailer that offers the entertainment activity is authorized to do business on the EBCI Reservation and pays the tribal gross receipts levy to the Tribal Council.

This exemption applies without regard to whether a purchaser is an enrolled member of the EBCI.

- (3) For purposes of this Rule, a sale occurs on the EBCI reservation when it is sourced to the reservation pursuant to G.S. 105-164.4B.

(b) Sales to Federally Recognized Native American Nations:

- (1) Items Sourced to a Native American Nation's Indian Country. -- Pursuant to G.S. 105-164.13(17), retail sales of items to a federally recognized Native American nation or an enrolled member of the federally recognized Native American nation residing within that nation's Indian Country, as the term Indian Country is defined in 18 U.S.C. 1151, are exempt from sales and use tax when such items are sourced to the nation's Indian Country.
- (2) Items Sourced Outside a Native American Nation's Indian Country. -- Retail sales of items to a federally recognized Native American nation or to an enrolled member of the federally recognized Native American nation are subject to sales and use tax, pursuant to G.S. 105-164.4, when sourced outside the nation's Indian Country even though such items may be used, or incorporated into improvements within the nation's Indian Country.

(c) Real Property Contracts with Federally Recognized Native American Nations: The sale of items to a real property contractor are exempt from sale and use tax, pursuant to G.S. 105-164.13(17), provided that the items are sourced to a federally recognized Native American nation's Indian Country, the purchase of the item is to fulfill a real property contract with the nation or an enrolled member of the nation, and the item is used or installed within the sourced-nation's Indian Country by the contractor or the contractor's subcontractor.

History Note: Authority G.S. 105-164.3; 105-164.4; 105-164.4B; 105-164.4H; 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. January 1, 1982; Readopted Eff. February 1, 2024.

17 NCAC 07B .4404 EQUIPMENT FURNISHED WITH OPERATOR

(a) A transaction that provides equipment or other tangible personal property with an operator for a fixed or indeterminate period of time, is not a lease or rental, as defined in G.S. 105-164.3(121), but is rendering a service if the operator is necessary for the equipment or other tangible personal property to "perform as designed." The receipts from such services are not subject to the sales or use tax imposed by G.S. 105-164.4 unless the service is a repair, maintenance, and installation service or other taxable service. An operator is necessary for equipment or other tangible personal property to "perform as designed" when the operator's presence, skill, knowledge, and expertise are necessary to bring about the desired effect of the equipment or other tangible

personal property. An operator who only maintains, sets-up, or inspects the equipment or other tangible personal property, or any combination of such actions, is not necessary for the equipment or other tangible personal property to "perform as designed."

(b) For purposes of G.S. 105-164.13, a person that purchases equipment or other tangible personal property to provide a service identified in Paragraph (a) of this Rule is not purchasing the equipment or other tangible personal property for resale and shall pay sales and use tax on the purchase price of the equipment or other tangible personal property, pursuant to G.S. 105-164.4, as the consumer thereof.

(c) A person that leases or rents items of equipment or tangible personal property similar to those items provided by that person in rendering a service pursuant to Paragraph (a) of this Rule shall maintain records that establish the purchase of items used in the provision of a service pursuant to Paragraph (a) from those held for lease or rent. A person who fails to maintain the records as required by this Paragraph shall pay sales and use tax on the purchase of all equipment pursuant to G.S. 105-164.4 notwithstanding that some equipment may be held for lease or rental equipment, and the exemptions provided by G.S. 105-164.13 for items held for resale shall not be applicable. The records shall be maintained until the statute of limitations to request a refund and to be issued a proposed assessment have expired, as set out in G.S. 105-241.6 and G.S. 105-241.8.

(d) A person that provides the type of service described in Paragraph (a) of this Rule that purchases repair parts, lubricants, and other tangible personal property, or repair, maintenance, and installation services to maintain or repair equipment or other tangible personal property shall pay sales and use tax pursuant to G.S. 105-164.4, on the purchase price of such items, as the consumer of the repair parts, lubricants, other tangible personal property, or repair, maintenance, and installation services.

History Note: Authority G.S. 105-164.3; 105-164.4; 105-164.6; 105-164.13; 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. February 1, 2024.

17 NCAC 07B .4503 EQUIPMENT AND SUPPLIES FOR LAUNDRIES; ETC.

(a) Pursuant to G.S. 105-164.13(10), sales to commercial laundries, and pressing and dry cleaning establishments of laundry and dry cleaning machinery used in the direct performance of the laundering or the pressing and cleaning service, as well as parts and accessories attached to such equipment and lubricants applied to such equipment, and tangible personal property listed in G.S. 105-164.13(10)a are exempt from sales and use tax. Examples of items exempt from sales and use tax when purchased by commercial laundries and pressing and dry cleaning establishments include the following:

- (1) water heaters, water softener tanks, central control collection systems, marking machines, packaging machines, and folding machines;
- (2) hydraulic fluids used in laundry and dry cleaning machinery;

- (3) boiler compounds used in boilers furnishing water or steam to the laundering, pressing or cleaning machinery;
- (4) steam hose leading directly from the boiler to the laundering and dry cleaning machinery;
- (5) press pads and covers for laundering and dry cleaning machinery;
- (6) baskets, hampers, casters, or other containers used between the laundering and cleaning processes to transport or contain garments being laundered or cleaned;
- (7) carbon and carbon filters used for reprocessing cleaning compounds;
- (8) lint rolls and refills;
- (9) conveyors used to transport garments along the laundering, cleaning, and pressing line during the process but not conveyors used before the laundering, cleaning, and pressing process begins or after it has been completed;
- (10) boiler room machinery, including valves, fittings and water pumps; and
- (11) transformers located on or adjacent to motors that power machinery used in the direct performance of laundering and cleaning services.

(b) Items not classified as laundering and dry cleaning machinery or parts or accessories are subject to sales and use tax, pursuant to G.S. 105-164.4. Examples of items not classified as laundering and dry cleaning machinery or parts or accessories include the following:

- (1) coin operated musical devices, amusement devices, coin changers, vending machines, and repair or replacement parts for such machines;
- (2) baskets, hampers, casters, or containers used for general purposes such as to pick up soiled garments or deliver clean garments;
- (3) smoke stacks, including any attached steel ladders;
- (4) wiring used in the general wiring system;
- (5) sewing machines used in repairing or altering the customers' property and the replacement or repair parts to the machines;
- (6) tailoring supplies such as buttons, threads, and zippers for use in repairing or altering garments for which no charge is made to the customer;
- (7) letterheads, monthly reports, envelopes and other office supplies;
- (8) protective clothing for employees such as rubber gloves, aprons, protective shoes, etc. whether paid for by the employer or the employee;
- (9) steam hose or pipe used in the general heating system;
- (10) janitorial supplies;
- (11) office furniture, fixtures and equipment, including cash registers;
- (12) uniforms for employees;
- (13) advertising materials;

- (14) structural or building materials, supplies, fixtures and equipment that shall become a part of or be annexed to any building or structure being erected, altered or repaired;
- (15) equipment used in the storage process to revitalize furs;
- (16) conveyors used before or after the laundering, pressing, and cleaning process to transport garments, but not those conveyors used to move the garments along the laundering, pressing, and cleaning line;
- (17) transformers used in connection with general wiring and power supply; and
- (18) water softener chemicals.

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. August 1, 2009; October 1, 1993; October 1, 1991;
January 1, 1982;
Readopted Eff. February 1, 2024.

17 NCAC 07B .4609 FIRE TRUCKS AND EQUIPMENT

- (a) Firefighting Equipment. -- Retail sales of items such as axes, brooms, buckets, shovels, ropes, general purpose tools, gas masks, first aid kits, blankets, portable pumps, and portable fire extinguishers are subject to sales and use tax, pursuant to G.S. 105-164.4. Such items are subject to sales and use tax even if they are sold with fire trucks, as the items are firefighting equipment rather than accessories to the fire truck.
- (b) Privately Owned Fire Trucks. -- Retail sales of privately owned fire trucks or vehicles that have permanently attached firefighting equipment and are used only for firefighting purposes are classified as special mobile equipment, not a motor vehicle as defined in G.S. 105-164.3, and sales thereof are not exempt under G.S. 105-164.13(32), but are subject to sales and use tax, pursuant to G.S. 105-164.4.

History Note: Authority G.S. 105-164.3; 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. September 1, 2006; October 1, 1993; October 1, 1991; July 1, 1990; January 3, 1984;
Readopted Eff. February 1, 2024.

17 NCAC 07B .4614 RECREATIONAL VEHICLES

The definition of motor vehicle in G.S. 105-164.3 includes camper trailers, fifth-wheel trailers, motor homes, and travel trailers, as defined in G.S. 20-4.01, that are designed primarily for use upon the highways. The definition of motor vehicle in G.S. 105-164.3 does not include truck campers, as defined in G.S. 20-4.01.

History Note: Authority G.S. 105-164.3; 105-164.4; 105-164.6; 105-164.13; 105-187.3; 105-262; 105-264;
Eff. February 1, 1976;
Amended Eff. September 1, 2006; October 1, 1993; October 1, 1991; October 1, 1990; July 1, 1990;
Readopted Eff. February 1, 2024.

17 NCAC 07B .4701 COMMERCIAL PRINTERS AND PUBLISHERS

(a) Pursuant to G.S. 105-164.4, retail sales of items, as the term item is defined in G.S. 105-164.3, by commercial printers or publishers are subject to sales and use tax including subscriptions, plates and dies sold to customers, book binding, and other repair, maintenance, and installation services.

(b) Exempt Purchases of Mill Machinery or Mill Machinery Parts or Accessories by Commercial Printers or Publishers. -- Pursuant to G.S. 105-164.13(5e), purchases by commercial printers and publishers of mill machinery or mill machinery parts or accessories for use in the production phase of printing and publishing, are exempt from sales and use tax. For purposes of this Rule, "Production" as a phase of industrial or manufacturing operations shall mean all steps performed in processing and refining rooms, and in other quarters and departments of a plant, where conditioning, treating, or other operations are done on ingredient materials as an actual routine on the assembly or processing line turning out a finished product of manufacture for sale. The "Production" phase also includes the following:

- (1) The movement of raw materials or ingredients from an inventory or a stockpile located on the premises of the manufacturing facility to the assembly or processing line.
- (2) The movement of goods in process along the assembly or processing line.
- (3) The movement of manufactured products from the assembly or processing line into shipping or storage areas and yards located on the premises of the manufacturing facility.
- (4) The work of experimentation and research performed on the manufactured products.

"Production" does not include any activity connected with the movement of raw materials or ingredients into inventory nor does it include "distribution" which is any activity connected with the movement of manufactured products within storage warehouses, shipping rooms, and other such finished product storage areas and the removal of such products therefrom for sale or shipment, or "administration" which is any administrative work of offices, promotion of sales, and collection of accounts. Items that are mill machinery or mill machinery parts or accessories when purchased by a commercial printer or publisher include the following:

- (1) Machinery and equipment and parts or accessories thereto for use directly in the production of newspapers, magazines, and other printed material for sale.
- (2) Custom made plates and dies for use directly in the production of newspapers, magazines, and other printed material for sale when title to the plates and dies does not pass to the printers' customers.

- (3) Tangible personal property such as wood and metal used to fabricate plates and dies for use in the production of printed material for sale when title to the plates and dies does not pass to the printers' customers.
- (4) Machinery, equipment, film, and other tangible personal property that are used or consumed by the printer in the production of the plates and dies that are directly used in the production of newspapers, magazines, and other printed material for sale.
- (5) Lithographic and gravure plates and dies retained by the printer or publisher that are directly used in the production of newspapers, magazines and other printed material for sale.
- (6) Photo engravings, electrotypes, and lithographs for direct use in printing tangible personal property for sale.
- (7) Printing presses for direct use in printing tangible personal property for sale.
- (8) Cushion paper, cover paper, and tissue for use in building up the printing surface of the press for direct use in printing tangible personal property for sale.
- (9) Offset or direct relief duplicating machines and repair parts or accessories for such machines, including offset blankets and plates.
- (10) Positives and negatives for use in preparing plates for use in the printing process.
- (11) Chemicals used to clean printing machinery.
- (12) Metal for making type.
- (13) Computers used in the printing process.
- (14) Mounting tape for use in the preparation of plates.
- (15) Printing machines when the machines are used to produce newspapers or other printed material for sale.
- (16) Photographs to be reproduced in newspapers.

(e) In-House Printers. -- The provisions of Paragraph (b) of this Rule do not apply to sales of printing equipment and supplies to businesses that operate print shops for the production of printed matter for their own use and not for sale.

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. October 1, 2009; April 1, 2001; October 1, 1993; June 1, 1992; October 1, 1991; February 1, 1988;

Readopted Eff. February 1, 2024.

17 NCAC 07B .5002 EYEGLASS FRAMES AND REPAIR PARTS

(a) Eyeglass frames sold in connection with the repair or replacement of corrective eyeglasses for human use are exempt from sales and use tax, pursuant to G.S. 105-164.13(12), as prosthetic devices. Sales of repair or replacement parts for prosthetic devices, such as temples, nose pads, temple hinges,

screws, and ear tips, are also exempt from sales and use tax. A person who sells corrective eyeglass frames and repair parts for corrective eyeglasses for human use shall keep sales records that clearly separate its sales of corrective eyeglass frames and repair parts for corrective eyeglasses for human use from sales of other items.

(b) Pursuant to G.S. 105-164.13(61b), sales of eyeglass frames, repair parts for eyeglasses, cases, optical merchandise, and optical supplies to registered retailers or wholesale merchants for resale are exempt from sales and use tax, when the purchaser complies with the requirements of 17 NCAC 07B .0106.

History Note: Authority G.S. 105-164.3; 105-164.4; 105-164.6; 105-164.13; 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. February 1, 2024.

TITLE 18 - DEPARTMENT OF THE SECRETARY OF STATE

18 NCAC 07B .0201 U.S. CURRENCY

Filers shall tender fees in U.S. dollars and cents.

History Note: Authority G.S. 10B-4;

Eff. April 1, 2007;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;

Transferred from 18 NCAC 07B .0105(a) Eff. June 1, 2023;

Amended Eff. July 1, 2024.

18 NCAC 07B .0202 ONLINE FEE PAYMENT

Filers who tender fees online shall pay by:

- (1) an automated clearinghouse debit account (ACH);
- (2) a credit card; or
- (3) a debit card.

History Note: Authority G.S. 10B-4;

Eff. April 1, 2007;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;

Transferred from 18 NCAC 07B .0105(b) Eff. June 1, 2023;

Amended Eff. July 1, 2024.

18 NCAC 07B .0203 FEES PAID IN PERSON

Filers who tender fees in person shall pay with:

- (1) one of the following types of checks, made payable to the N.C. Department of the Secretary of State:
 - (a) a personal or business check; or
 - (b) a cashier's check;
- (2) cash;
- (3) money order; or
- (4) a credit or debit card.

History Note: Authority G.S. 10B-4;

Eff. July 1, 2024.

18 NCAC 07B .0204 FEES PAID BY USPS OR BY DELIVERY SERVICE

Filers who tender fees through delivery by United States Postal Service (USPS) or by a designated delivery service authorized pursuant to 26 U.S.C. 7502(f)(2) shall pay using one of the following methods, made payable to the N.C. Department of the Secretary of State:

- (1) a personal or business check;
- (2) a money order; or
- (3) a cashier's check.

*History Note: Authority G.S. 10B-4;
Eff. July 1, 2024.*

18 NCAC 07B .0205 FEE FOR DISHONORED PAYMENT

Pursuant to G.S. 25-3-506, the Department may charge a thirty-five dollar (\$35.00) processing fee to a filer if a tendered payment is dishonored by a bank or financial institution.

*History Note: Authority G.S. 10B-4; 25-3-506;
Eff. April 1, 2007;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;
Transferred from 18 NCAC 07B .0105(c) Eff. June 1, 2023;
Amended Eff. July 1, 2024.*

18 NCAC 07B .0206 FILING NOT PROCESSED IF PAYMENT DISHONORED

The Department shall not continue to process a filing for which processing has not been completed if the Department receives notice that a payment has been dishonored.

*History Note: Authority G.S. 10B-4;
Eff. July 1, 2024.*

18 NCAC 07B .0207 DEPARTMENT ACTIONS UPON DISHONORED PAYMENT

If the Department has received notice that a tendered payment has been dishonored, regardless of whether the Department has completed processing the filing:

- (1) the filing shall be deemed incomplete;
- (2) the filing shall be voided if payment is not made in full within 15 calendar days of the dishonor pursuant to Rule .0208 of this Section; and
- (3) if any information has been posted on the Department's website indicating that commissioning, registration, licensure, or approval has occurred, the Department shall:
 - (a) remove the information from the website; or
 - (b) annotate the entry as incomplete or void.

*History Note: Authority G.S. 10B-4;
Eff. July 1, 2024.*

18 NCAC 07B .0208 NOTICE TO FILER OF DISHONORED PAYMENT

Upon receipt of notice of dishonor of a tendered payment, the Department shall notify a filer orally or in writing that:

- (1) the payment the filer tendered has been dishonored; and
- (2) the filing shall:
 - (a) not be processed or deemed completed until the filer has tendered in full the payment and the fee in Rule .0205 of this Section; and
 - (b) be voided if payment and fees are not tendered in full within 15 calendar days of the date the Department orally or in writing notifies the filer of the dishonor.

*History Note: Authority G.S. 10B-4;
Eff. July 1, 2024.*

18 NCAC 07B .0301 FORM USE REQUIRED

In submitting a filing, a filer shall:

- (1) use a form in Section .0400 of this Subchapter; or
- (2) if there is not a form for the filer's purpose in Section .0400 of this Subchapter, provide in writing the information required by G.S. Chapter 10B or the rules in this Chapter.

*History Note: Authority G.S. 10B-4; 10B-14(a),(f); 10B-106; 10B-125; 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23;
Eff. July 1, 2024.*

18 NCAC 07B .0302 MODE OF FILING

Filers shall submit filings electronically by means established by the Department unless paper filing is permitted pursuant to:

- (1) Chapter 10B of the General Statutes; or
- (2) Rule .0303 of this Section.

*History Note: Authority G.S. 10B-4; 10B-6; 10B-106; 10B-125; 10B-134.19; 10B-134.21;
Eff. July 1, 2024.*

18 NCAC 07B .0303 PAPER FILINGS PERMITTED

Paper filings shall be permitted:

- (1) where the Department has not established electronic means for submittal of a filing; or
- (2) in the case of a traditional notary public:
 - (a) initial applications;
 - (b) recommissioning applications; and
 - (c) affidavits, criminal records, and other documents required to be submitted with applications by notary, electronic notary, or notary instructor applicants pursuant to Chapter 10B of the General Statutes or the rules in this Chapter.

History Note: Authority G.S. 10B-4; 10B-5(e);
Eff. July 1, 2024.

18 NCAC 07B .0304 INAPPLICABLE QUESTIONS

If a question or item is not applicable to a filer, the filer shall not leave the question or item blank but shall respond "not applicable" or "N/A."

History Note: Authority G.S. 10B-4; 10B-5(e); 10B-6; 10B-106; 10B-125; 10B-134.19; 10B-134.21;
Eff. July 1, 2024.

18 NCAC 07B .0305 RESPONSE TO QUESTIONS AND REQUESTS FOR INFORMATION

A filer shall respond to departmental requests for information within the time and in the manner specified based upon the Department's consideration of:

- (1) the nature of the information requested;
- (2) the urgency of the Department's need for the information; and
- (3) the ease of production by the recipient of the request.

History Note: Authority G.S. 10B-4; 10B-126; 10B-134.17; 10B-134.19; 10B-134.21;
Eff. July 1, 2024.

18 NCAC 07B .0306 ATTACHMENTS

If a form does not include enough space to provide a complete and accurate response to a question or request for information from the Department, a filer shall include an attachment with the form.

History Note: Authority G.S. 10B-4; 10B-6; 10B-106; 10B-125; 10B-134.19; 10B-134.21;
Eff. July 1, 2024.

18 NCAC 07B .0307 NOTICE OF ATTACHMENT

A filer shall:

- (1) make a note at the location of a question or request for information that an attachment has been added in order to fully respond. Note: An example is "See Attachment 1"; and
- (2) identify on the attachment to which question or request for information the additional information relates.

History Note: Authority G.S. 10B-4; 10B-6; 10B-106; 10B-125; 10B-134.19; 10B-134.21;
Eff. July 1, 2024.

18 NCAC 07B .0308 SIGNATURE FOR ENTITY

(a) If a person is signing a form or other document for a technology provider or other business entity:

- (1) the signer shall be duly authorized by law or the entity to sign; and
- (2) the signer shall state the signer's title, position, and authorization to sign.

(b) For purposes of this Rule, "duly authorized by law" means as required by G.S. 55D-10(b)(5) for an entity, by the owner for a

sole proprietorship, or by a general partner for a general partnership.

History Note: Authority G.S. 10B-4; 10B-6; 10B-106; 10B-125; 10B-134.19; 10B-134.21;
Eff. July 1, 2024.

18 NCAC 07B .0309 FORM PREPARER SIGNATURE REQUIRED

A form preparer signing for a technology provider or other business entity shall:

- (1) sign in the space provided for a preparer's signature on a form; or
- (2) document and note "form preparer" next to the signature in the space provided for a preparer's signature on a form.

History Note: Authority G.S. 10B-4; 10B-125; 10B-126; 10B-134.17; 10B-134.19; 10B-134.21;
Eff. July 1, 2024.

18 NCAC 07B .0310 INCOMPLETE FILINGS

The Department shall consider a filing incomplete for:

- (1) failure to provide information required pursuant to Chapter 10B of the General Statutes or the rules in this Chapter;
- (2) lack of a signature required by Chapter 10B of the General Statutes or the rules in this Chapter; or
- (3) lack of a notarial act where required by Chapter 10B or the rules in this Chapter.

History Note: Authority G.S. 10B-4; 10B-125; 10B-126; 10B-134.17; 10B-134.19; 10B-134.21;
Eff. July 1, 2024.

18 NCAC 07B .0311 REJECTION OF INCOMPLETE FILINGS

The Department shall reject a filing if it is incomplete and not remedied by the filer within the time specified by the Department.

History Note: Authority G.S. 10B-4; 10B-134.19;
Eff. July 1, 2024.

18 NCAC 07B .0312 FILING DATE OF DOCUMENT

A form or document is deemed filed on the day that it is deemed complete and shall not relate back to the date the filing was received.

History Note: Authority G.S. 10B-4;
Eff. July 1, 2024.

18 NCAC 07B .0401 GENERAL

All forms issued pursuant to Chapter 10B of the General Statutes may be found on the Department's website or, where not available through the website, may be obtained by contacting the Department using one of the means set out in Section .0100 of this Subchapter.

History Note: Authority G.S. 10B-4; 10B-5(e); 10B-6; 10B-106; 10B-125; 10B-134.17; 10B-134.21; Eff. April 1, 2007;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;
Transferred from 18 NCAC 07B .0104 Eff. June 1, 2023;
Amended Eff. July 1, 2024.

18 NCAC 07B .0402 CONTACT INFORMATION

For purposes of the rules in this Section, unless otherwise indicated, "contact information" means:

- (1) for an individual who is identified pursuant to G.S. 10B-134.19(c)(2):
 - (a) the full name of the individual;
 - (b) the following addresses:
 - (i) residential address;
 - (ii) business address;
 - (iii) mailing address;
 - (c) business telephone numbers;
 - (d) business email addresses;
 - (e) any other names by which the individual is known, including nicknames;
- (2) for a business entity:
 - (a) the name of the entity on record with the Secretary of State, formation or filing office in its state, federally recognized tribe, or country of formation;
 - (b) the name of the state, federally recognized tribe, or country of formation;
 - (c) the street address, and the mailing address if different, of the entity's principal office;
 - (d) the street address, and the mailing address if different, of the entity's registered office;
 - (e) the principal office telephone number of the entity;
 - (f) the email address of the entity;
 - (g) the URL for the entity's website, if any;
 - (h) the name of an individual who is designated by the entity as the primary contact between the Department and the entity, and for that individual:
 - (i) title and position;
 - (ii) telephone number;
 - (iii) mailing address if different from the addresses provided in Sub-Items (2)(c) and (d) of this Item;
 - (iv) primary email address;
 - (v) secondary email address, if applicable;
 - (i) the name of an individual designated as the secondary contact between the Department and the entity if the

- individual named in Sub-Item (2)(h) of this Item is not available; and
- (j) the information in Sub-Item (2)(h) of this Item for the secondary contact individual named in Sub-Item (i) of this Item; or
- (3) for a registered agent listed on an application filed pursuant to G.S. 10B-134.19:
 - (a) the name of the registered agent;
 - (b) the registered office address for the registered agent and mailing address if different; and
 - (c) a business email address for the registered agent.

History Note: Authority G.S. 10B-4; 10B-134.21; Eff. July 1, 2024.

18 NCAC 07B .0403 CERTIFICATE OF APPOINTMENT FORM

The certificate of appointment form includes:

- (1) space for the entry by the Register of Deeds in the county of the commission to enter:
 - (a) the name of the individual administering the oath;
 - (b) the title of the individual administering the oath;
 - (c) the name of the appointee who appeared before the individual and took the oath; and
 - (d) the signature of the individual who administers the oath; and
- (2) space for the signature of the notary public after the oath has been administered.

History Note: Authority G.S. 10B-4; Eff. July 1, 2024.

18 NCAC 07B .0404 ELECTRONIC NOTARY PUBLIC REGISTRATION FORM

An electronic notary public applicant registration form includes:

- (1) the name on the applicant's commission;
- (2) the applicant's commission number;
- (3) whether the applicant has any changes to report under G.S. 10B-50, G.S. 10B-51, G.S. 10B-52, G.S. 10B-53, G.S. 10B-54, 18 NCAC 07F .0403, 18 NCAC 07F .1106, 18 NCAC 07F .1109, or 18 NCAC 07F .1110;
- (4) for reapplications, a statement with regard to technology providers that:
 - (a) the notary will continue to use:
 - (i) the electronic notarization system of the technology provider for which the notary has previously provided notice; and
 - (ii) the custodian for the electronic journal for which

- the notary has previously provided notice;
- (b) the names of the technology provider that the notary will now use; or
- (c) at this time, the notary does not have a technology provider;
- (5) the signature of the electronic notary applicant; and
- (6) the date on which the applicant signs the form.

History Note: Authority G.S. 10B-4; 10B-106; 10B-134.21; Eff. July 1, 2024.

18 NCAC 07B .0405 FORM NOTIFYING DEPARTMENT OF SELECTION OF TECHNOLOGY PROVIDERS BY ELECTRONIC NOTARIES

The form notifying the Department of the selection of technology providers by an electronic notary public includes:

- (1) the name on the notary's commission;
- (2) the notary's commission number;
- (3) the name of the technology providers selected by the notary to provide:
 - (a) electronic signatures;
 - (b) electronic seals; and
 - (c) electronic journals;
- (4) the name of the custodian selected by the notary to provide custodial services for electronic journals;
- (5) for an electronic notary who plans to perform remote electronic notarial acts, the names of the technology providers selected by the notary to provide platform services;
- (6) the anticipated dates on which the notary will begin using the technology providers;
- (7) the signature of the notary; and
- (8) the date on which the notary signs the form.

History Note: Authority G.S. 10B-4; 10B-106; 10B-125; 10B-126; 10B-127; 10B-134.15; 10B-134.21; 10B-134.23; Eff. July 1, 2024.

18 NCAC 07B .0406 NOTICE TO DEPARTMENT OF CHANGE BY ELECTRONIC NOTARY IN TECHNOLOGY PROVIDER

The notice to the Department of change by an electronic notary in technology provider form includes:

- (1) the name of the technology provider that the electronic notary previously notified the Department the notary would use;
- (2) the type of service the technology provider previously provided to the notary;
- (3) the date on which the notary stopped or will stop using the technology provider to perform electronic notarizations;
- (4) the name of the technology provider that the notary will now use;
- (5) the date on which the notary anticipates beginning to use the new technology provider;
- (6) the signature of the notary; and

- (7) the date on which the notary signs the form.
- History Note:* Authority G.S. 10B-4; 10B-106; 10B-125; 10B-126; 10B-134.21; Eff. July 1, 2024.

18 NCAC 07F .0101 SCOPE

The rules in this Subchapter implement Chapter 10B, Article 2, of the General Statutes, the Electronic Notary Act.

History Note: Authority G.S. 10B-4; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.21; Eff. January 1, 2007; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016; Transferred from 18 NCAC 07C .0101 Eff. June 1, 2023; Amended Eff. July 1, 2024.

18 NCAC 07F .0102 DEFINITIONS

For purposes of Article 2 of Chapter 10B of the General Statutes and this Subchapter:

- (1) "Approved vendor for electronic notarizations," "approved electronic notary solution provider," or "AVEN" means a person approved by the Department to provide an electronic notarization system pursuant to Article 2 of Chapter 10B of the General Statutes.
- (2) "Biometric authentication" means proving the identity of a user by requiring verification of the user's identity through technologies that require measurement and analysis of one or more human physiological or behavioral characteristics of the user in order to access and use an electronic notarization system. Note: Biometric authentication technologies include fingerprint scanning devices, retinal scanning devices, and handwriting analysis devices.
- (3) "Electronic notarization system" means a set of applications, programs, hardware, software, or technology approved by the Department that is designed to enable a notary to perform electronic or remote electronic notarizations.
- (4) "Electronic notary applicant" means a commissioned North Carolina notary public who applies to be registered or reregistered as an electronic notary public.
- (5) "Electronic notary's electronic signature" means:
 - (a) an electronic image of the handwritten signature of the electronic notary public in the name of the notary as it appears on the notary's commission; and
 - (b) the AVEN's or other technology provider's security features attached to the signature in Sub-Item (5)(a) of this Rule.
- (6) "Independently verifiable" means capable of government or third-party authentication of a

notarial act, an electronic notary's identity and current status with the Department.

- (7) "In the presence of the electronic notary at the time of notarization" means that an individual and an electronic notary public are in close physical proximity to one another without using technology to establish personal appearance.
- (8) "Password authentication" means requiring the user to enter a secret word, phrase, or symbol set in order to access and use an electronic notarization system.
- (9) "Token authentication" means requiring use of a physical device in addition to a password or personal identification number ("PIN" number) in order to access and use an electronic notarization system. Note: Physical devices used in token authentication technologies include magnetic cards or "smart cards" and Universal Serial Bus (USB) memory sticks or "USB keys."

History Note: Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.21;
Eff. January 1, 2007;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;
Transferred from 18 NCAC 07C .0102 Eff. June 1, 2023;
Amended Eff. July 1, 2024.

18 NCAC 07F .0103 ELECTRONIC NOTARIES PERFORMING REMOTE ELECTRONIC NOTARIAL ACTS

An electronic notary public shall not perform a remote electronic notarial act until the electronic notary has complied with the requirements of this Chapter.

History Note: Authority G.S. 10B-4; 10B-106; 10B-125; 10B-126; 10B-134.15; 10B-134.17; 10B-134.21;
Eff. July 1, 2024.

18 NCAC 07F .0201 VALID COMMISSION

An electronic notary applicant shall hold a valid North Carolina notary commission and shall affirm that the applicant continues to meet the qualifications to hold the notary commission.

History Note: Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-134.21;
Eff. January 1, 2007;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;
Transferred from 18 NCAC 07C .0201(a) Eff. June 1, 2023;
Amended Eff. July 1, 2024.

18 NCAC 07F .0301 APPROVED COURSE OF STUDY FOR ELECTRONIC NOTARIES PUBLIC

(a) The Department shall develop the training course and testing for applicants for electronic notary public registration.

(b) The Department shall train certified notary instructors to teach the training course and administer testing for electronic notary applicants.

History Note: Authority G.S. 10B-4; 10B-14; 10B-126; 10B-134.21;
Eff. January 1, 2007;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;
Transferred from 18 NCAC 07C .0301 Eff. June 1, 2023;
Amended Eff. July 1, 2024.

18 NCAC 07F .0302 COURSES TO BE TAUGHT BY CERTIFIED NOTARY INSTRUCTORS

Before submitting an application for registration as an electronic notary public, an individual shall attend and successfully complete an electronic notary course taught by a certified notary instructor.

History Note: Authority G.S. 10B-4; 10B-14; 10B-125; 10B-126; 10B-134.21;
Eff. July 1, 2024.

18 NCAC 07F .0303 ELECTRONIC NOTARY COURSE

Before performing a remote electronic notarization, electronic notaries public registered prior to July 1, 2024, shall either:

- (1) successfully complete a remote electronic notarization course module; or
- (2) successfully complete an electronic notary class including training on remote electronic notarization.

History Note: Authority G.S. 10B-4; 10B-14; 10B-125; 10B-126; 10B-134.21;
Eff. July 1, 2024.

18 NCAC 07F .0304 STUDENT IDENTITY

Each electronic notary course student shall:

- (1) be personally known to the certified notary instructor; or
- (2) present satisfactory evidence of identity to the certified notary instructor.

History Note: Authority G.S. 10B-4; 10B-14; 10B-125; 10B-126; 10B-134.21;
Eff. July 1, 2024.

18 NCAC 07F .0305 PASSING SCORE ON EXAMINATION

A passing score on the electronic notary course examination shall be 80 percent or higher.

History Note: Authority G.S. 10B-4; 10B-134.21;
Eff. July 1, 2024.

18 NCAC 07F .0401 SUBMISSION

The electronic notary applicant shall electronically submit the electronic notary registration form, described at 18 NCAC 07B .0404.

History Note: Authority G.S. 10B-4; 10B-106;
Eff. January 1, 2007;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;
Transferred from 18 NCAC 07C .0201(b) Eff. June 1, 2023;
Amended Eff. July 1, 2024.

18 NCAC 07F .0402 TIMING OF APPLICATION

An electronic notary applicant shall submit an application to be registered as an electronic notary public within three months of successfully completing the electronic notary course.

Note: For the purposes of this Rule, "month" shall mean that term as defined in G.S. 12-3(3).

History Note: Authority G.S. 10B-4; 10B-106; 10B-134.21;
Eff. July 1, 2024.

18 NCAC 07F .0403 NOTICE TO DEPARTMENT OF CHANGES

An electronic notary applicant shall have provided all notices to the Department required by Chapter 10B of the General Statutes and the rules in this Chapter before submitting an application.

History Note: Authority G.S. 10B-4; 10B-50; 10B-51; 10B-52; 10B-53; 10B-106; 10B-126(d); 10B-127; 10B-134.15; 10B-134.21;
Eff. July 1, 2024.

18 NCAC 07F .0404 FAILURE TO SUBMIT APPLICATION IN TIME

The Department shall deny an application that does not comply with Rule .0402 of this Section. If the applicant reapplies, the electronic notary applicant shall comply with the following:

- (1) successfully complete the electronic notary course again;
- (2) submit a new application; and
- (3) tender applicable fees.

History Note: Authority G.S. 10B-4; 10B-106; 10B-125; 10B-126; 10B-134.21;
Eff. July 1, 2024.

18 NCAC 07F .0503 NOTICE OF DEPARTMENT'S ACTIONS FOR QUALIFIED ELECTRONIC NOTARY APPLICANTS

The Department shall notify the notary public that the notary is qualified by electronically issuing an electronic notary registration certificate to the electronic notary public.

History Note: Authority G.S. 10B-4; 10B-106; 10B-125; 10B-126; 10B-134.21;
Eff. July 1, 2024.

18 NCAC 07F .0505

18 NCAC 07F .0506

18 NCAC 07F .0507

18 NCAC 07F .0508

DATE

OATHS TIMING

EVIDENCE OF IDENTITY

CERTIFICATE DELIVERY

REGISTRATION EFFECTIVE

History Note: Authority G.S. 10B-125(b), 10B-126(d); 47-16.5; 47-16.7; 147-36; 15 USC 7002;

Eff. January 1, 2007;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;

Transferred from 18 NCAC 07C .0202(a),(b),(c),(d) Eff. June 1, 2023;

Repealed Eff. July 1, 2024.

18 NCAC 07F .0509 REGISTRATION EFFECTIVE DATE

The applicant's electronic notary public registration shall be effective as of the date stated on the registration certificate.

History Note: Authority G.S. 10B-4; 10B-106; 10B-134.21;
Eff. July 1, 2024.

18 NCAC 07F .0512 CONFIRMATION OF ELECTRONIC NOTARY STATUS

Upon electronic request of a technology provider, the Department shall report a notary public's status as an electronic notary public registered to perform electronic and remote electronic notarizations.

History Note: Authority G.S. 10B-4; 10B-106; 10B-134.15; 10B-134.17; 10B-134.21;
Eff. July 1, 2024.

18 NCAC 07F .0513 PERFORMING ELECTRONIC AND REMOTE ELECTRONIC NOTARIAL ACTS

A notary public shall not perform any electronic or remote electronic notarial act until:

- (1) the notary has received the electronic notary registration certificate; and
- (2) the electronic notary public has provided notice to the Department of all technology providers pursuant to Rule .0601 of this Subchapter.

History Note: Authority G.S. 10B-4; 10B-125; 10B-126; 10B-134.15; 10B-134.17; 10B-134.21;
Eff. July 1, 2024.

18 NCAC 07F .0601 NOTICE TO DEPARTMENT OF TECHNOLOGY PROVIDER

An electronic notary public shall use the form described in 18 NCAC 07B .0405 to provide notice to the Department of all technology providers used:

- (1) to affix the electronic notary's electronic signature;
- (2) to affix the electronic notary's seal;
- (3) as the means to create and maintain the electronic notary's electronic journal and a backup copy of the journal;

- (4) as the custodian of the electronic notary's journal; and
- (5) as the platform that the electronic notary will use if the notary intends to perform remote notarial acts.

History Note: Authority G.S. 10B-4; 10B-125; 10B-126; 10B-127; 10B-134.15; 10B-134.17; 10B-134.21;
Eff. July 1, 2024.

18 NCAC 07F .0602 APPROVED TECHNOLOGY PROVIDER

An electronic notary public shall use only technology providers approved or licensed by the Department and listed on the Department's website.

History Note: Authority G.S. 10B-4; 10B-125; 10B-126; 10B-134.15; 10B-134.17; 10B-134.21; 10B-134.23;
Eff. July 1, 2024.

18 NCAC 07F .0701 UNIQUE SIGNATURE

The electronic notary signature shall be independently verifiable and specific to each electronic notary public.

History Note: Authority G.S. 10B-4; 10B-125(b); 10B-126(d); 10B-127; 10B-134.21;
Eff. January 1, 2007;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;
Transferred from 18 NCAC 07C .0401(a) Eff. June 1, 2023;
Amended Eff. July 1, 2024.

18 NCAC 07F .0702 SOLE CONTROL

The electronic notary public shall retain exclusive control of the electronic notary signature such that the electronic signature can be attributed solely to the electronic notary.

History Note: Authority G.S. 10B-4; 10B-125(b); 10B-126(d); 10B-127; 10B-134.21;
Eff. January 1, 2007;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;
Transferred from 18 NCAC 07C .0401(b) Eff. June 1, 2023;
Amended Eff. July 1, 2024.

18 NCAC 07F .0703 EXCLUSIVE

History Note: Authority G.S. 10B-125(b), 10B-126(d); 47-16.5; 47-16.7; 147-36; 15 USC 7002;
Eff. January 1, 2007;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;
Transferred from 18 NCAC 07C .0401(c) Eff. June 1, 2023;
Repealed Eff. July 1, 2024.

18 NCAC 07F .0704 ELECTRONIC SIGNATURE

The electronic notary public's signature shall:

- (1) be applied to and logically associated electronically with the notarized document; and

- (2) link the data in such a manner that any subsequent alterations are observable through visual examination of:
 - (a) the underlying document; or
 - (b) the electronic notary certificate.

History Note: Authority G.S. 10B-4; 10B-125(b); 10B-126(d); 10B-127; 10B-134.21;
Eff. January 1, 2007;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;
Transferred from 18 NCAC 07C .0401(d) Eff. June 1, 2023;
Amended Eff. July 1, 2024.

18 NCAC 07F .0705 APPEARANCE OF ELECTRONIC SIGNATURE

An electronic notary public shall:

- (1) electronically sign the electronic notary certificate; and
- (2) verify that the image of the electronic notary's handwritten electronic signature is an accurate representation of the notary's handwritten signature.

History Note: Authority G.S. 10B-4; 10B-125(b); 10B-126(d); 10B-127; 10B-134.21;
Eff. January 1, 2007;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;
Transferred from 18 NCAC 07C .0401(e) Eff. June 1, 2023;
Amended Eff. July 1, 2024.

18 NCAC 07F .0706 SIGNATURE COMPLIANCE

An electronic notary public shall ensure that the electronic notary's electronic signature complies with Chapter 10B of the General Statutes and the rules in this Subchapter each time it is affixed.

History Note: Authority G.S. 10B-4; 10B-125(b); 10B-126(d); 10B-134.21;
Eff. July 1, 2024.

18 NCAC 07F .0707 SIGNATURE REVIEW BEFORE USE

An electronic notary public shall review the electronic notary's electronic signature for accuracy before the signature is used for the first time.

History Note: Authority G.S. 10B-4; 10B-125(b); 10B-126(d); 10B-134.21;
Eff. July 1, 2024.

18 NCAC 07F .0708 AFFIXING ELECTRONIC SIGNATURE

An electronic notary public shall not affix the electronic notary's electronic signature until:

- (1) the principals have appeared before the electronic notary as required by Article 2 of Chapter 10B of the General Statutes;

- (2) the principals have been identified;
- (3) the oath or affirmation has been administered, if required;
- (4) the principals have affixed their signatures to the electronic document or acknowledged them, if applicable; and
- (5) the journal entry has been made in accordance with the rules in 18 NCAC 07I.

History Note: Authority G.S. 10B-4; 10B-125(b); 10B-126(d); 10B-134.15; 10B-134.21; Eff. July 1, 2024.

18 NCAC 07F .0709 REVIEW AFTER AFFIXING ELECTRONIC SIGNATURE

After the electronic notary public affixes the notary's electronic signature, and before the electronic signature is committed by the notary, the electronic notary shall review the electronic signature to ensure that it:

- (1) is present on the notary certificate;
- (2) is legible; and
- (3) does not obscure:
 - (a) the notary certificate;
 - (b) any content in the notary certificate; or
 - (c) any content in the document being notarized.

History Note: Authority G.S. 10B-4; 10B-125(b); 10B-126(d); 10B-127; 10B-134.21; Eff. July 1, 2024.

18 NCAC 07F .0801 UNIQUE SEAL

The electronic notary seal shall be independently verifiable and specific to each electronic notary public.

History Note: Authority G.S. 10B-4; 10B-125(b); 10B-126(d); 10B-127; 10B-134.21; Eff. January 1, 2007; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016; Transferred from 18 NCAC 07C .0402(a) Eff. June 1, 2023; Amended Eff. July 1, 2024.

18 NCAC 07F .0802 SOLE CONTROL

The electronic notary public shall retain exclusive control of the electronic notary seal such that the electronic notary seal can be attributed solely to the electronic notary.

History Note: Authority G.S. 10B-4; 10B-125(b); 10B-126(d); 10B-127; 10B-134.17; 10B-134.21; Eff. January 1, 2007; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016; Transferred from 18 NCAC 07C .0402(b) Eff. June 1, 2023; Amended Eff. July 1, 2024.

18 NCAC 07F .0803 EXCLUSIVE

History Note: Authority G.S. 10B-125(b); 10B-126(d); 47-16.5; 47-16.7; 147-36; 15 USC 7002; Eff. January 1, 2007; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016; Transferred from 18 NCAC 07C .0402(c) Eff. June 1, 2023; Repealed Eff. July 1, 2024.

18 NCAC 07F .0804 ATTRIBUTES OF ELECTRONIC SEAL

The electronic notary seal shall:

- (1) be attached to, or logically associated with, a notarized document; and
- (2) link the data in such a manner that any subsequent alterations are observable through visual examination of:
 - (a) the underlying document; or
 - (b) the electronic notary certificate.

History Note: Authority G.S. 10B-4; 10B-125(b); 10B-126(d); 10B-127; 10B-134.21; Eff. January 1, 2007; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016; Transferred from 18 NCAC 07C .0402(d) Eff. June 1, 2023; Amended Eff. July 1, 2024.

18 NCAC 07F .0805 APPEARANCE OF ELECTRONIC NOTARY SEAL

An electronic notary public shall:

- (1) electronically affix the electronic notary seal; and
- (2) verify that the image is an accurate representation of the seal.

History Note: Authority G.S. 10B-4; 10B-125(b); 10B-126(d); 10B-134.21; Eff. January 1, 2007; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016; Transferred from 18 NCAC 07C .0402(e) Eff. June 1, 2023; Amended Eff. July 1, 2024.

18 NCAC 07F .0806 PERIMETER

History Note: Authority G.S. 10B-125(b); 10B-126(d); 47-16.5; 47-16.7; 147-36; 15 USC 7002; Eff. January 1, 2007; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016; Transferred from 18 NCAC 07C .0402(f) Eff. June 1, 2023; Repealed Eff. July 1, 2024.

18 NCAC 07F .0807 CONTENTS OF ELECTRONIC NOTARY SEAL

An electronic notary public shall ensure that the electronic notary's electronic notary seal has:

- (1) a visible border:
 - (a) having a physical appearance of the seal that replicates the appearance of an inked seal on paper;
 - (b) with the size and shape required by G.S. 10B-37(c); and
 - (c) that includes an identifier assigned by the Department to the producer of the electronic seal; and
- (2) inside its border:
 - (a) the information required by G.S. 10B-117(1), (2), and (4);
 - (b) the words:
 - (i) "State of North Carolina";
 - (ii) "North Carolina"; or
 - (iii) the abbreviation "N.C.";
 - (c) the name of the county of commission with either:
 - (i) the word "County"; or
 - (ii) the abbreviation "Co."; and
 - (d) the expiration date of the electronic notary's commission.

History Note: Authority G.S. 10B-4; 10B-125(b); 10B-126(d);

Eff. January 1, 2007;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;

Transferred from 18 NCAC 07C .0402(g) Eff. June 1, 2023;

Amended Eff. July 1, 2024.

18 NCAC 07F .0808 USE OF ELECTRONIC NOTARY SEALS

Only the electronic notary public whose commission name and county of commission is incorporated into the electronic seal is permitted to apply the electronic notary's electronic notary seal to an electronic document.

History Note: Authority G.S. 10B-4; 10B-125(b); 10B-126(d);

Eff. January 1, 2007;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;

Transferred from 18 NCAC 07C .0602 Eff. June 1, 2023;

Amended Eff. July 1, 2024.

18 NCAC 07F .0809 SEAL COMPLIANCE

An electronic notary public shall ensure that the electronic notary's electronic seal complies with Chapter 10B of the General Statutes and the rules in this Subchapter each time it is affixed.

History Note: Authority G.S. 10B-4; 10B-125(b); 10B-126(d); 10B-134.21;

Eff. July 1, 2024.

18 NCAC 07F .0810 SEAL LIMITATION

An electronic notary public's electronic seal shall include no information or images other than those required by Rule .0807 of this Subchapter.

History Note: Authority G.S. 10B-4; 10B-125(b); 10B-126(d); 10B-134.21;

Eff. July 1, 2024.

18 NCAC 07F .0811 SEAL REVIEW BEFORE USE

An electronic notary public shall review the electronic notary's electronic seal for compliance with the rules in this Section before the seal is used for the first time.

History Note: Authority G.S. 10B-4; 10B-125(b); 10B-126(d); 10B-134.21;

Eff. July 1, 2024.

18 NCAC 07F .0812 AFFIXING ELECTRONIC SEAL

An electronic notary public shall not affix the electronic notary's electronic seal until:

- (1) the principals have appeared before the electronic notary as required by Article 2 of Chapter 10B of the General Statutes;
- (2) the principals have been identified;
- (3) the oaths or affirmations have been administered, if required;
- (4) the principals have affixed their signatures to the electronic document or acknowledged them if applicable; and
- (5) the journal entry has been made in accordance with the rules in 18 NCAC 07I.

History Note: Authority G.S. 10B-4; 10B-125(b); 10B-126(d); 10B-134.15; 10B-134.21;

Eff. July 1, 2024.

18 NCAC 07F .0813 REVIEW AFTER AFFIXING ELECTRONIC SEAL

After the electronic notary public affixes the electronic notary's electronic seal, and before the electronic notary commits the electronic seal, the electronic notary shall review the notary's electronic seal to ensure that it:

- (1) is present on the notary certificate;
- (2) is legible; and
- (3) does not obscure:
 - (a) the notary certificate;
 - (b) any content in the notary certificate; or
 - (c) any content in the document being notarized.

History Note: Authority G.S. 10B-4; 10B-125(b); 10B-126(d); 10B-134.21;

Eff. July 1, 2024.

18 NCAC 07F .0814 COMMITMENT

After an electronic notary public has complied with the requirements of Sections .0700 and .0800 of this Subchapter with

regard to review of signatures and seals after affixing them, the electronic notary shall:

- (1) ensure that the required journal entry has been made; and
- (2) then commit:
 - (a) the electronic notarial signature;
 - (b) the electronic notarial seal; and
 - (c) the content of the journal entry.

History Note: Authority G.S. 10B-4; 10B-125(b); 10B-126(d); 10B-134.21;
Eff. July 1, 2024.

18 NCAC 07F .0901 REREGISTRATION

An electronic notary public applying to reregister as an electronic notary shall comply with application procedures:

- (1) in Chapter 10B of the General Statutes; and
- (2) in this Subchapter.

History Note: Authority G.S. 10B-4; 10B-106; 10B-125; 10B-126; 10B-134.21;
Eff. January 1, 2007;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;
Transferred from 18 NCAC 07C .0203 Eff. June 1, 2023;
Amended Eff. July 1, 2024.

18 NCAC 07F .0902 TIMING OF REREGISTRATION

An electronic notary public desiring to reregister and who does not apply for reregistration at the same time the notary applies for recommissioning shall comply with Rule .0905 of this Section.

History Note: Authority G.S. 10B-4; 10B-106; 10B-125; 10B-126; 10B-134.21;
Eff. July 1, 2024.

18 NCAC 07F .0903 FORM

An electronic notary public shall use the form described in 18 NCAC 07B .0404 to apply for reregistration as an electronic notary.

History Note: Authority G.S. 10B-4; 10B-106; 10B-125; 10B-126; 10B-134.21;
Eff. July 1, 2024.

18 NCAC 07F .0904 EDUCATION

An applicant for reregistration as an electronic notary public shall successfully complete the electronic notary course again before applying.

History Note: Authority G.S. 10B-4; 10B-125; 10B-126; 10B-134.21;
Eff. July 1, 2024.

18 NCAC 07F .0905 ELECTRONIC NOTARY REREGISTRATION OTHER THAN AT RECOMMISSIONING

An electronic notary public who does not apply for reregistration as an electronic notary at the same time that the notary applies for

recommissioning as a traditional notary and who later desires to reregister as an electronic notary shall:

- (1) successfully complete the electronic notary course again;
- (2) apply for reregistration; and
- (3) pay the applicable fee.

History Note: Authority G.S. 10B-4; 10B-125; 10B-126; 10B-134.21;
Eff. July 1, 2024.

18 NCAC 07F .0906 REGISTRATION

Section .0500 of this Subchapter shall apply to an electronic notary applicant who is reregistered as an electronic notary public.

History Note: Authority G.S. 10B-4; 10B-125; 10B-126; 10B-134.15; 10B-134.17; 10B-134.21;
Eff. July 1, 2024.

18 NCAC 07F .1001 EMPLOYERS OF ELECTRONIC NOTARIES

(a) Neither the employer nor any of the employer's employees or agents shall use or permit the use of an electronic notary seal or electronic notary signature by anyone other than the electronic notary public to whom it is registered.

(b) Upon the cessation of employment of an electronic notary public, the employer of the electronic notary shall:

- (1) have no control of the electronic notary's electronic notary seal; or
- (2) eliminate the ability of any other person to use the former electronic notary employee's electronic notary seal and electronic notary's electronic signature.

History Note: Authority G.S. 10B-4; 10B-125(b); 10B-126(d); 10B-134.15; 10B-134.17; 10B-134.21;
Eff. January 1, 2007;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;
Transferred from 18 NCAC 07C .0603 Eff. June 1, 2023;
Amended Eff. July 1, 2024.

18 NCAC 07F .1002 PROTECTING ACCESS

An electronic notary public shall limit access to the electronic notary signatures, electronic seals, and journals by complying with the provider's requirements for the use of means of authentication approved by the Department.

History Note: Authority G.S. 10B-4; 10B-125; 10B-126; 10B-134.15; 10B-134.17; 10B-134.21;
Eff. January 1, 2007;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;
Transferred from 18 NCAC 07C .0604 Eff. June 1, 2023;
Amended Eff. July 1, 2024.

18 NCAC 07F .1003 RETENTION OF ELECTRONIC JOURNAL

An electronic notary public shall maintain a copy of the electronic notary's electronic journal for 10 years after the last notarial act.

History Note: Authority G.S. 10B-4; 10B-126(d); 10B-134.15; 10B-134.17; 10B-134.21;
Eff. July 1, 2024.

18 NCAC 07F .1004 NOTARY CREDENTIAL SHARING FORBIDDEN

An electronic notary public shall not share the means of authentication that the electronic notary uses to access an electronic notarization system with anyone.

History Note: Authority G.S. 10B-4; 10B-126; 10B-134.15; 10B-134.17; 10B-134.21;
Eff. July 1, 2024.

18 NCAC 07F .1101 PRESENCE REQUIREMENT FOR ELECTRONIC NOTARIZATION

When an electronic notary public performs an electronic notarization, the principal shall be in the presence of the electronic notary at the time of notarization so that:

- (1) the principal and the electronic notary can see, hear, and communicate with each other; and
- (2) the principal can physically provide to the electronic notary identification documents as required under G.S. 10B-3(22).

History Note: Authority G.S. 10B-4; 10B-125(b); 10B-126(d);
Eff. January 1, 2007;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;
Transferred from 18 NCAC 07C .0403 Eff. June 1, 2023;
Amended Eff. July 1, 2024.

18 NCAC 07F .1102 PRESENCE REQUIREMENT FOR REMOTE ELECTRONIC NOTARIZATION

When an electronic notary public performs a remote electronic notarization, the remotely located principal shall appear before the electronic notary at the time of notarization using communication technology.

History Note: Authority G.S. 10B-4; 10B-125(b); 10B-126(d); 10B-134.21;
Eff. January 1, 2007;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;
Transferred from 18 NCAC 07C .0601 Eff. June 1, 2023;
Amended Eff. July 1, 2024.

18 NCAC 07F .1103 INDIVIDUAL PRINCIPAL SIGNATURES FOR ELECTRONIC NOTARIAL ACT

An electronic notary public who performs an electronic or remote electronic notarial act shall require the principal to affix each signature individually.

History Note: Authority G.S. 10B-4; 10B-125(b); 10B-126(d);
Eff. July 1, 2024.

18 NCAC 07F .1104 ADDITIONAL OBLIGATIONS

In addition to complying with the continuing obligations imposed by the rules in 18 NCAC 07D, an electronic notary public shall comply with the requirements of 18 NCAC 07I.

History Note: Authority G.S. 10B-4; 10B-106(f); 10B-125(b); 10B-126(d); 10B-134.15; 10B-134.17; 10B-134.21;
Eff. July 1, 2024.

18 NCAC 07F .1105 NO ELECTRONIC NOTARIZATION OF INK SIGNATURE

An electronic notary public shall not use the electronic notary's electronic signature and electronic seal to notarize an ink signature signed by hand.

History Note: Authority G.S. 10B-4; 10B-125(b); 10B-126(d);
Eff. July 1, 2024.

18 NCAC 07F .1106 NOTICE OF CHANGES

Within 10 business days of an electronic notary public choosing to use a different technology provider, an electronic notary shall notify the Department using the form described in 18 NCAC 07B .0406.

History Note: Authority G.S. 10B-4; 10B-106(f); 10B-125(b); 10B-126(d); 10B-134.15; 10B-134.17; 10B-134.21;
Eff. July 1, 2024.

18 NCAC 07F .1107 TECHNOLOGICAL ISSUE AS REASON TO HALT ELECTRONIC OR REMOTE ELECTRONIC NOTARIAL ACT

An electronic notary public shall not perform an electronic notarial act or a remote notarial act if there is:

- (1) a complete technological failure that impedes the performance of the notarial act; or
- (2) a partial technological failure that the electronic notary decides warrants termination of the transaction.

History Note: Authority G.S. 10B-4; 10B-125(b); 10B-126(d); 10B-134.21;
Eff. July 1, 2024.

18 NCAC 07F .1108 RESOLUTION OF TECHNOLOGICAL ISSUES

An electronic notary public may continue and complete an electronic or remote electronic notarial transaction if the electronic notary concludes that any technological failure:

- (1) has been resolved;
- (2) will not impair performance of the notarial act; and
- (3) will not discredit the integrity of the notary certificate, seal, or journal.

History Note: Authority G.S. 10B-4; 10B-125(b); 10B-126(d); 10B-134.21;
Eff. July 1, 2024.

18 NCAC 07F .1109 CEASING TO USE A TECHNOLOGY PROVIDER

An electronic notary public shall notify the Department within 10 business days of the date on which:

- (1) the electronic notary cancels a contract or subscription with a technology provider; or
- (2) the electronic notary is prevented by the provider from accessing the technology provider's services.

History Note: Authority G.S. 10B-4; 10B-106(f); 10B-125(b); 10B-126(d); 10B-127(b); 10B-134.21;
Eff. July 1, 2024.

18 NCAC 07F .1110 NOTICE OF CANCELLATION BY PROVIDER

An electronic notary public shall notify the Department within 10 business days if the technology provider takes actions that:

- (1) suspend or halt the provider's operations or the availability of its technology; or
- (2) impair the ability of the electronic notary to perform notarial functions.

History Note: Authority G.S. 10B-4; 10B-125(b); 10B-126(d); 10B-127(b); 10B-134.21;
Eff. July 1, 2024.

18 NCAC 07F .1111 CONTENT OF NOTICE

A notice pursuant to Rules .1109 or .1110 of this Section shall include:

- (1) the reason for the notice; and
- (2) any other information the electronic notary public thinks may help the Department to assess the action of the provider.

History Note: Authority G.S. 10B-4; 10B-125(b); 10B-126(d); 10B-127(b); 10B-134.21;
Eff. July 1, 2024.

18 NCAC 07I .0101 NOTARIES SUBJECT TO JOURNALING REQUIREMENTS

- (a) An electronic notary public who performs electronic notarial acts shall maintain an electronic journal in conformity with the rules in this Subchapter.
- (b) A notary public performing a traditional notarial act who maintains a journal in conformity with the rules in this Subchapter shall be deemed to have complied with G.S. 10B-38.

History Note: Authority G.S. 10B-4; 10B-38; 10B-126; 10B-134.15; 10B-134.21;
Eff. July 1, 2024.

18 NCAC 07I .0102 DEFINITIONS

The definitions in this Rule apply to this Subchapter:

- (1) "Canceled act" means an instance where a notary public or a principal begins the notarial transaction process and halts it for any reason. Note: An example of a canceled act would be one where the notary is not able to establish the

identity of the signer as required by G.S. 10B-20.

- (2) "Journal" means a record of notarial acts that is created and maintained by a notary public in compliance with Chapter 10B of the General Statutes and the rules in this Subchapter.
- (3) "Mode of notarial act" means a traditional notarization, an electronic notarization, or a remote electronic notarization.
- (4) "Supplemental information" means information that a notary public enters into a journal:
 - (a) as a separate entry that is not for a notarial act;
 - (b) that relates to a prior notarial act recorded in the journal; and
 - (c) that may be appended to the prior notarial act entry in the electronic journal.

Note: An entry six months after the initial committed entry stating that the notary public received a subpoena for that initial committed journal entry is an example of supplemental information.

History Note: Authority G.S. 10B-4; 10B-38; 10B-126; 10B-134.15; 10B-134.21;
Eff. July 1, 2024.

18 NCAC 07I .0103 JOURNAL REQUIREMENT

For any journal created pursuant to this Subchapter:

- (1) an electronic notary public shall maintain an accurate backup copy of the notary's journal; and
- (2) a traditional notary public who maintains a journal shall retain a copy of a journal or any portion of a journal delivered to a third party.

History Note: Authority G.S. 10B-4; 10B-38; 10B-126; 10B-134.15; 10B-134.21;
Eff. July 1, 2024.

18 NCAC 07I .0104 JOURNAL OWNERSHIP

The information in the notary journal is the private property of the notary public.

History Note: Authority G.S. 10B-4; 10B-38; 10B-126; 10B-134.15; 10B-134.21;
Eff. July 1, 2024.

18 NCAC 07I .0105 ENTRY OF DATA INTO JOURNAL

A notary public shall be the only person to make entries into the notary's journal, unless otherwise permitted for traditional notaries by Chapter 10B of the General Statutes or Rule .0106 of this Section.

History Note: Authority G.S. 10B-4; 10B-38; 10B-126; 10B-134.15; 10B-134.21;
Eff. July 1, 2024.

18 NCAC 07I .0106 EXCEPTIONS TO RULE .0105

Exceptions to Rule .0105 of this Section shall be limited to:

- (1) the signatures of the principals;
- (2) the signatures of credible witnesses; and
- (3) the signatures of the designees of the principals pursuant to G.S. 10B-20(e).

History Note: Authority G.S. 10B-4; 10B-38; 10B-126; 10B-134.15; 10B-134.21; Eff. July 1, 2024.

18 NCAC 07I .0202 FORM OF ELECTRONIC NOTARY JOURNAL

Electronic notarizations and remote electronic notarizations shall be documented in an electronic journal that is maintained as an electronic document.

History Note: Authority G.S. 10B-4; 10B-38; 10B-126; 10B-134.15; 10B-134.21; Eff. July 1, 2024.

18 NCAC 07I .0203 COMBINED JOURNAL

A notary public may maintain an electronic journal that includes entries for any of these acts that the notary is qualified to perform:

- (1) traditional notarial acts;
- (2) electronic notarial acts; and
- (3) remote electronic notarial acts.

History Note: Authority G.S. 10B-4; 10B-38; 10B-126; 10B-134.15; 10B-134.21; Eff. July 1, 2024.

18 NCAC 07I .0204 ENTRIES IN A TANGIBLE JOURNAL

Entries in a tangible journal shall be:

- (1) entered in permanent ink; and
- (2) in chronological order.

History Note: Authority G.S. 10B-4; 10B-38; Eff. July 1, 2024.

18 NCAC 07I .0205 REQUIREMENTS FOR A TANGIBLE JOURNAL

A tangible journal shall:

- (1) be made in a bound journal into which pages cannot be inserted; and
- (2) have on the first page:
 - (a) the name of the notary public as commissioned;
 - (b) the commission date of the notary; and
 - (c) the county of the commission; and
- (3) have sequentially numbered pages.

History Note: Authority G.S. 10B-4; 10B-38; Eff. July 1, 2024.

18 NCAC 07I .0206 PROVISION OF JOURNAL TO DEPARTMENT

When a person responds to a request from the Department for all or part of a notary public's journal, the person shall submit the journal together with a transmittal document containing:

- (1) the name on the notary's commission;
- (2) the most recent commission date of the notary; and
- (3) the dates of the first and last entries in the journal.

History Note: Authority G.S. 10B-4; 10B-38; 10B-126; 10B-134.15; 10B-134.17; 10B-134.21; Eff. July 1, 2024.

18 NCAC 07I .0207 ACTS INCLUDED IN JOURNAL

The journal shall contain entries by the notary public that document all notarial acts completed by the notary or canceled.

History Note: Authority G.S. 10B-4; 10B-38; 10B-126; 10B-134.15; 10B-134.21; Eff. July 1, 2024.

18 NCAC 07I .0208 DESIGNATION OF NOTARIAL ACT

Except as set out in Rule .0209 of this Section, a notary public who maintains a journal shall state in the journal whether each notarial act entered into the journal is:

- (1) traditional;
- (2) electronic; or
- (3) remote electronic.

History Note: Authority G.S. 10B-4; 10B-38; 10B-126; 10B-134.15; 10B-134.21; Eff. July 1, 2024.

18 NCAC 07I .0209 EXCEPTION TO RULE .0208

A notary public who enters only a single mode of notarial act in a journal may:

- (1) make a single notation of the mode of notarial acts at the beginning of the journal; and
- (2) omit the notations required by Rule .0208 of this Section.

Note: An example would be a journal first-page statement that the journal documents only traditional notarial acts.

History Note: Authority G.S. 10B-4; 10B-38; 10B-126; 10B-134.15; 10B-134.21; Eff. July 1, 2024.

18 NCAC 07I .0210 DESIGNATION OF TYPE OF NOTARIAL ACT

A notary public shall designate in the journal whether the type of a notarial act is:

- (1) an acknowledgement;
- (2) the taking of a verification or proof;
- (3) an administration of an oath or affirmation;
- (4) a notarization of an absentee voter application; or

- (5) an inventorying of a safe deposit box pursuant to G.S. 53C-6-18(a).

History Note: Authority G.S. 10B-4; 10B-38; 10B-126; 10B-134.15; 10B-134.21;
Eff. July 1, 2024.

18 NCAC 07I .0211 JOURNAL MAY COMBINE EMPLOYER-RELATED AND NON-EMPLOYER ACTS

If a notary public performs both employer-related and non-employer related notarial acts, the notary may maintain:

- (1) a separate journal for each of the employer-related and non-employer related notarial acts; or
- (2) a single journal reflecting all notarial acts.

History Note: Authority G.S. 10B-4; 10B-38; 10B-126; 10B-134.15; 10B-134.21;
Eff. July 1, 2024.

18 NCAC 07I .0212 JOURNAL RETENTION PERIOD

For at least 10 years after the last notarial act entered into a journal by a notary public, the journal or the backup copy of the journal shall be retained by:

- (1) the notary; or
- (2) a designated custodian.

History Note: Authority G.S. 10B-4; 10B-38; 10B-126; 10B-134.15; 10B-134.21;
Eff. July 1, 2024.

18 NCAC 07I .0301 CONTENTS OF JOURNAL FOR CANCELED ACT

For each canceled act to be recorded in the journal, a notary public shall include:

- (1) the date and time of the canceled act;
- (2) the names of the principals; and
- (3) the reason the act was canceled.

History Note: Authority G.S. 10B-4; 10B-38; 10B-126; 10B-134.15; 10B-134.21;
Eff. July 1, 2024.

18 NCAC 07I .0302 CONTENTS OF JOURNAL

Notaries public shall enter the following information in the journal for each notarial act:

- (1) the date and time at the notary's location that the notarial act occurs;
- (2) the name of each principal;
- (3) the type and mode of notarial act performed;
- (4) the title of the document notarized, if any;
- (5) how the identity of each principal was determined;
- (6) if satisfactory evidence of the principal's identity was presented:
 - (a) the type of satisfactory evidence;
 - (b) the addresses of each principal as shown on any documents used as satisfactory evidence;

- (c) where the satisfactory evidence was based on the sworn statement of a credible witness:

- (i) the name of the credible witness;
- (ii) the contact information of the credible witness;
- (iii) the signature of the credible witness in a traditional notary's journal; or
- (iv) the signature of the credible witness has been added to the electronic journal by the notary;

- (7) the signature of each principal in a tangible journal or the notary's addition of each principal's acknowledged signature to an electronic journal;
- (8) information required by 18 NCAC 07K .0203 for any fees charged; and
- (9) designation of each notarial act as employer-related or non-employer related if the journal includes both categories of notarial acts.

History Note: Authority G.S. 10B-4; 10B-38; 10B-126; 10B-134.15; 10B-134.21;
Eff. July 1, 2024.

18 NCAC 07I .0303 ADDITIONAL JOURNAL CONTENTS FOR REMOTE ELECTRONIC NOTARIZATIONS

In addition to the requirements of Rule .0302 of this Section, for each remote electronic notarial act completed, an electronic notary public shall enter in the journal:

- (1) the locations of the principals and electronic notary at the time of the act;
- (2) the method of establishing the location of the remotely located principals;
- (3) the names of any individuals who are physically present at the same place as the remotely located principals; and
- (4) the names of any individuals in addition to the principals and those listed in Item (3) of this Rule who are present remotely using the communication technology during the notarial transaction process.

History Note: Authority G.S. 10B-4; 10B-38; 10B-126; 10B-134.15; 10B-134.21;
Eff. July 1, 2024.

18 NCAC 07I .0304 EMPLOYER REQUEST FOR INCLUSION OF ADDITIONAL INFORMATION IN JOURNAL

A notary public may include additional information in the journal regarding an employer-related electronic notarial act if:

- (1) the employer so requests;
- (2) the request is made before the notary commits the journal entry; and

- (3) in the judgment of the electronic notary, the information is directly related to the notarial act. Note: A loan origination number or a client number is an example of information directly related to the notarial act.

History Note: Authority G.S. 10B-4; 10B-38; 10B-126; 10B-134.15; 10B-134.21;
Eff. July 1, 2024.

18 NCAC 07I .0305 PARTY REQUEST FOR INCLUSION OF ADDITIONAL INFORMATION IN JOURNAL FOR REMOTE ELECTRONIC NOTARIZATION

An electronic notary public shall include additional information in the journal if:

- (1) the notarial act is a remote electronic notarial act;
- (2) the requestor is a party involved in the transaction;
- (3) the request is made before the notary commits the journal entry; and
- (4) in the judgment of the electronic notary, the information is directly related to the notarial act. Note: A loan origination number or a client number is an example of information directly related to the notarial act.

History Note: Authority G.S. 10B-4; 10B-38; 10B-126; 10B-134.15; 10B-134.21;
Eff. July 1, 2024.

18 NCAC 07I .0306 NOTATION OF REQUESTS FOR INCLUSION OF ADDITIONAL INFORMATION IN JOURNAL

If a notary public receives a request for inclusion of additional information in the journal, the notary shall note in the journal:

- (1) who requested inclusion of the information; and
- (2) if the notary refused to include requested information, the reason the notary refused to do so.

History Note: Authority G.S. 10B-4; 10B-38; 10B-126; 10B-134.15; 10B-134.21;
Eff. July 1, 2024.

18 NCAC 07I .0307 NOTARY SHALL NOT PROVIDE UNRELATED NOTARIAL ACT INFORMATION TO EMPLOYER

A notary public who performs both employer-related and unrelated notarial acts shall not provide the notary's employer with:

- (1) information regarding the notarial acts unrelated to the employer; or
- (2) copies of, or access to, unrelated notarial act entries in the journal.

History Note: Authority G.S. 10B-4; 10B-38; 10B-126; 10B-134.15; 10B-134.21;

Eff. July 1, 2024.

18 NCAC 07I .0308 JOURNAL SUPPLEMENTS

A notary public may add supplemental information to a journal if:

- (1) the notary does not in any way change the original committed journal entry; and
- (2) specifies the journal entry to which the supplemental information relates.

History Note: Authority G.S. 10B-4; 10B-38; 10B-126; 10B-134.15; 10B-134.21;
Eff. July 1, 2024.

18 NCAC 07I .0401 MAINTAIN BACKUP COPY

A notary public shall maintain an exact backup copy of the notary's electronic journal.

History Note: Authority G.S. 10B-4; 10B-38; 10B-126; 10B-134.15; 10B-134.21;
Eff. July 1, 2024.

18 NCAC 07I .0402 FORMAT OF BACKUP COPY

A notary public may maintain the backup copy of the electronic journal:

- (1) on paper; or
- (2) as an electronic document on a separate physical device.

History Note: Authority G.S. 10B-4; 10B-38; 10B-126; 10B-134.15; 10B-134.21;
Eff. July 1, 2024.

18 NCAC 07I .0403 PRINTING OUT OF ELECTRONIC JOURNAL ENTRIES

A notary public shall only use an electronic journal that permits printing the contents.

History Note: Authority G.S. 10B-4; 10B-38; 10B-126; 10B-134.15; 10B-134.21;
Eff. July 1, 2024.

18 NCAC 07I .0404 INCLUDING SIGNATURES IN JOURNAL

A notary public who maintains an electronic journal shall ensure that:

- (1) the principals acknowledge that their electronic signatures have been included in the journal as signed on the documents in the transaction;
- (2) the designee signs the principal's name pursuant to G.S. 10B-20(e) as signed on the documents in the transaction and the notary then includes the signature in the journal; or
- (3) the credible witness signs his or her name and the notary then includes the signature in the journal.

History Note: Authority G.S. 10B-4; 10B-38; 10B-126; 10B-134.15; 10B-134.21;
Eff. July 1, 2024.

18 NCAC 07I .0405 TECHNOLOGICAL ISSUES

A notary public who maintains an electronic journal shall note in the journal complete or partial technological failures that lead the notary to terminate the transaction pursuant to 18 NCAC 07F .1107.

History Note: Authority G.S. 10B-4; 10B-38; 10B-126; 10B-134.15; 10B-134.21;
Eff. July 1, 2024.

**18 NCAC 07I .0406 PRE-POPULATED DATA TO BE
CONFIRMED BY NOTARY PUBLIC**

A notary public may enter the information listed in Rules .0302 and .0303 of this Subchapter in an electronic journal by:

- (1) reviewing each individual item of information offered as an option or by pre-population; and
- (2) confirming that offered information is accurate by selecting:
 - (a) the offered information; or

- (b) the accurate item from among other options offered.

History Note: Authority G.S. 10B-4; 10B-38; 10B-126; 10B-134.15; 10B-134.21;
Eff. July 1, 2024.

**18 NCAC 07I .0407 STEPS BEFORE COMMITTING
AN ELECTRONIC JOURNAL ENTRY**

Before committing an electronic journal entry, a notary public shall:

- (1) review the information entered for accuracy; and
- (2) correct any errors in the entry.

History Note: Authority G.S. 10B-4; 10B-38; 10B-126; 10B-134.15; 10B-134.21;
Eff. July 1, 2024.

RULES REVIEW COMMISSION

This Section contains information for the meeting of the Rules Review Commission January 31, 2024 at 1711 New Hope Church Road, RRC Commission Room, Raleigh, NC. Anyone wishing to submit written comment on any rule before the Commission should submit those comments to the RRC staff, the agency, and the individual Commissioners. Specific instructions and addresses may be obtained from the Rules Review Commission at 984-236-1850. Anyone wishing to address the Commission should notify the RRC staff and the agency no later than 5:00 p.m. of the 2nd business day before the meeting. Please refer to RRC rules codified in 26 NCAC 05.

RULES REVIEW COMMISSION MEMBERS

Appointed by Senate

Jeanette Doran (Chair)
Jay R. Hemphill
Jeff Hyde
Brandon Leebrick
Bill Nelson

Appointed by House

Barbara A. Jackson (1st Vice-Chair)
Randy Overton (2nd 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
Travis Wiggs	984-236-1929

RULES REVIEW COMMISSION MEETING DATES

March 27, 2024	May 29, 2024
April 30, 2024	June 26, 2024

RULES REVIEW COMMISSION MEETING MINUTES January 31, 2024

The Rules Review Commission met on Wednesday, January 31, 2024, in the Commission Room at 1711 New Hope Church Road, Raleigh, North Carolina, and via WebEx.

Commissioners Wayne R. Boyles III, Jeanette Doran, Jeff Hyde, Bill Nelson, and Jake Parker were present in the Commission Room. Commissioners Jay Hemphill, Barbara Jackson, Brandon Leebrick, and Randy Overton were present via WebEx.

Staff member Alexander Burgos, Commission Counsel Seth Ascher, Brian Liebman, Bill Peaslee, and Travis Wiggs were present in the room.

The meeting was called to order at 10:00 a.m. with Chair Doran presiding.

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

The Chair introduced new Commission Counsel Travis Wiggs to the Commission.

The Chair notified the Commissioners that the following items on the agenda would be taken up out of order at the end of the agenda: Follow-up matter Tab A for Department of Administration and Temporary Rules for Board of Elections.

APPROVAL OF MINUTES

The Chair asked for any discussion, comments, or corrections concerning the minutes of the December 14, 2023, meeting. There were none and the minutes were approved as distributed.

Upon the call of the Chair, the minutes were approved by roll-call vote, ayes 8, noes 0 as follows: Voting in the affirmative: Wayne R. Boyles III, Jay Hemphill, Jeff Hyde, Barbara Jackson, Brandon Leebrick, Bill Nelson, Randy Overton, and Jake Parker – 8. Voting in the negative: None.

FOLLOW UP MATTERS

Department of Administration

Upon the call of the Chair, the Commission voted to object to 01 NCAC 06B .0307 by roll-call vote, ayes 2, noes 6 as follows: Voting in the affirmative: Jeff Hyde and Bill Nelson – 2. Voting in the negative: Wayne R. Boyles III, Jay Hemphill, Barbara Jackson, Brandon Leebrick, Randy Overton, and Jake Parker – 6. The motion failed.

Upon the call of the Chair, 01 NCAC 06B .0307 was approved by roll-call vote, ayes 6, noes 2 as follows: Voting in the affirmative: Wayne R. Boyles III, Jay Hemphill, Barbara Jackson, Brandon Leebrick, Randy Overton, and Jake Parker – 6. Voting in the negative: Jeff Hyde and Bill Nelson - 2.

Chris McLennan, representing the Department of Administration, addressed the Commission.

Medical Care Commission

Upon the call of the Chair, 10A NCAC 13F .0703, .0704, .1103, .1104, .1106; 13G .0702, .0703, .0704, .1102, .1103, and .1106 were approved by roll-call vote, ayes 8, noes 0 as follows: Voting in the affirmative: Wayne R. Boyles III, Jay Hemphill, Jeff Hyde, Barbara Jackson, Brandon Leebrick, Bill Nelson, Randy Overton, and Jake Parker – 8. Voting in the negative: None.

Criminal Justice Education and Training Standards Commission

12 NCAC 09A .0205, .0206; 09B .0103, .0235, .0236, .0301; 09C .0306; 09E .0103; 09F .0103, .0104, .0105; and 09G .0307 – The Commission extended the period of review for these Rules at the December meeting. No action was required by the Commission.

Department of Public Safety

Upon the call of the Chair, the Commission voted to waive 26 NCAC 05 .0107 and allow the consideration of the revised versions of Rules 14B NCAC 03 .0502 and .0507 as submitted by the agency beyond the deadline by roll-call vote, ayes 8, noes 0 as follows: Voting in the affirmative: Wayne R. Boyles III, Jay Hemphill, Jeff Hyde, Barbara Jackson, Brandon Leebrick, Bill Nelson, Randy Overton, and Jake Parker – 8. Voting in the negative: None.

Upon the call of the Chair, 14B NCAC 03 .0501, .0502, .0503, .0504, .0505, .0506, .0507, .0508, and .0509 were approved by roll-call vote, ayes 8, noes 0 as follows: Voting in the affirmative: Wayne R. Boyles III, Jay Hemphill, Jeff Hyde, Barbara Jackson, Brandon Leebrick, Bill Nelson, Randy Overton, and Jake Parker – 8. Voting in the negative: None.

Department of Revenue

Upon the call of the Chair, 17 NCAC 07B .3101 was approved by roll-call vote, ayes 8, noes 0 as follows: Voting in the affirmative: Wayne R. Boyles III, Jay Hemphill, Jeff Hyde, Barbara Jackson, Brandon Leebrick, Bill Nelson, Randy Overton, and Jake Parker – 8. Voting in the negative: None.

Upon the call of the Chair, 17 NCAC 07B .1601, .1605, and .2204 were returned to the agency by roll-call vote, ayes 8, noes 0 as follows: Voting in the affirmative: Wayne R. Boyles III, Jay Hemphill, Jeff Hyde, Barbara Jackson, Brandon Leebrick, Bill Nelson, Randy Overton, and Jake Parker – 8. Voting in the negative: None.

Department of Revenue

Upon the call of the Chair, 17 NCAC 07B .4203, .4210, .4404, .4503, .4609, .4614, .4701, and .5002 were approved by roll-call vote, ayes 8, noes 0 as follows: Voting in the affirmative: Wayne R. Boyles III, Jay Hemphill, Jeff Hyde, Barbara Jackson, Brandon Leebrick, Bill Nelson, Randy Overton, and Jake Parker – 8. Voting in the negative: None.

Upon the call of the Chair, 17 NCAC 07B .4415 and .4707 were returned to the agency by roll-call vote, ayes 8, noes 0 as follows: Voting in the affirmative: Wayne R. Boyles III, Jay Hemphill, Jeff Hyde, Barbara Jackson, Brandon Leebrick, Bill Nelson, Randy Overton, and Jake Parker – 8. Voting in the negative: None.

Department of the Secretary of State

Upon the call of the Chair, 18 NCAC 07B .0201, .0202, .0203, .0204, .0205, .0206, .0207, .0208, .0301, .0302, .0303, .0304, .0305, .0306, .0307, .0308, .0309, .0310, .0311, .0312, .0401, .0402, .0403, .0404, .0405, and .0406 were approved by roll-

call vote, ayes 8, noes 0 as follows: Voting in the affirmative: Wayne R. Boyles III, Jay Hemphill, Jeff Hyde, Barbara Jackson, Brandon Leebrick, Bill Nelson, Randy Overton, and Jake Parker – 8. Voting in the negative: None.

Department of the Secretary of State

Upon the call of the Chair, 18 NCAC 07F .0101, .0102, .0103, .0201, .0301, .0302, .0303, .0304, .0305, .0401, .0402, .0403, .0404, .0503, .0505, .0506, .0507, .0508, .0509, .0512, .0513, .0601, .0602, .0701, .0702, .0703, .0704, .0705, .0706, .0707, .0708, .0709, .0801, .0802, .0803, .0804, .0805, .0806, .0807, .0808, .0809, .0810, .0811, .0812, .0813, .0814, .0901, .0902, .0903, .0904, .0905, .0906, .1001, .1002, .1003, .1004, .1101, .1102, .1103, .1104, .1105, .1106, .1107, .1108, .1109, .1110, and .1111 were approved by roll-call vote, ayes 8, noes 0 as follows: Voting in the affirmative: Wayne R. Boyles III, Jay Hemphill, Jeff Hyde, Barbara Jackson, Brandon Leebrick, Bill Nelson, Randy Overton, and Jake Parker – 8. Voting in the negative: None.

Department of the Secretary of State

Upon the call of the Chair, 18 NCAC 07I .0101, .0102, .0103, .0104, .0105, .0106, .0107, .0201, .0202, .0203, .0204, .0205, .0206, .0207, .0208, .0209, .0210, .0211, .0212, .0301, .0302, .0303, .0304, .0305, .0306, .0307, .0308, .0401, .0402, .0403, .0404, .0405, .0406, and .0407 were approved by roll-call vote, ayes 8, noes 0 as follows: Voting in the affirmative: Wayne R. Boyles III, Jay Hemphill, Jeff Hyde, Barbara Jackson, Brandon Leebrick, Bill Nelson, Randy Overton, and Jake Parker – 8. Voting in the negative: None.

Board of Nursing

21 NCAC 36 .0120, .0220, .0233, .0302, .0303, .0309, .0317, .0318, .0320, .0321, .0322, .0323 – The Commission extended the period of review for these Rules at the December meeting. No action was required by the Commission.

Board of Examiners in Optometry

Upon the call of the Chair, 21 NCAC 42D .0102 was approved by roll-call vote, ayes 8, noes 0 as follows: Voting in the affirmative: Wayne R. Boyles III, Jay Hemphill, Jeff Hyde, Barbara Jackson, Brandon Leebrick, Bill Nelson, Randy Overton, and Jake Parker – 8. Voting in the negative: None.

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 – The rules were returned at the request of the agency. No action was required by the Commission.

Building Code Council

Upon the call of the Chair, the 2024 NC Administrative Code and Policies 221213 Item B-1, and 2024 NC Administrative Code and Policies Appendix B were approved by roll-call vote, ayes 8, noes 0 as follows: Voting in the affirmative: Wayne R. Boyles III, Jay Hemphill, Jeff Hyde, Barbara Jackson, Brandon Leebrick, Bill Nelson, Randy Overton, and Jake Parker – 8. Voting in the negative: None.

230314 Item B-13, 2024 NC Plumbing Code, 230314 Item B-1, 2024 NC Residential Code, Chapters 1-10, 25-33, 45, 46, and Appendices - The Commission extended the period of review for these Rules at the December meeting. No action was required by the Commission.

LOG OF FILINGS (PERMANENT RULES)**State Board of Elections**

Upon the call of the Chair, 08 NCAC 04 .0308 was approved by roll-call vote, ayes 8, noes 0 as follows: Voting in the affirmative: Wayne R. Boyles III, Jay Hemphill, Jeff Hyde, Barbara Jackson, Brandon Leebrick, Bill Nelson, Randy Overton, and Jake Parker – 8. Voting in the negative: None.

Social Services Commission

Upon the call of the Chair, 10A NCAC 06T .0201 was approved by roll-call vote, ayes 8, noes 0 as follows: Voting in the affirmative: Wayne R. Boyles III, Jay Hemphill, Jeff Hyde, Barbara Jackson, Brandon Leebrick, Bill Nelson, Randy Overton, and Jake Parker – 8. Voting in the negative: None.

Sheriffs' Education and Training Standards Commission

Upon the call of the Chair, 12 NCAC 10B .0303 and .0408 were approved by roll-call vote, ayes 8, noes 0 as follows: Voting in the affirmative: Wayne R. Boyles III, Jay Hemphill, Jeff Hyde, Barbara Jackson, Brandon Leebrick, Bill Nelson, Randy Overton, and Jake Parker – 8. Voting in the negative: None.

Alarm Systems Licensing Board

Upon the call of the Chair, 14B NCAC 17 .0202 and .0208 were approved by roll-call vote, ayes 8, noes 0 as follows: Voting in the affirmative: Wayne R. Boyles III, Jay Hemphill, Jeff Hyde, Barbara Jackson, Brandon Leebrick, Bill Nelson, Randy Overton, and Jake Parker – 8. Voting in the negative: None.

Upon the call of the Chair, the Commission voted to extend the period of review for 14B NCAC 17 .0502 by roll-call vote, ayes 8, noes 0 as follows: Voting in the affirmative: Wayne R. Boyles III, Jay Hemphill, Jeff Hyde, Barbara Jackson, Brandon Leebrick, Bill Nelson, Randy Overton, and Jake Parker – 8. Voting in the negative: None.

Wildlife Resources Commission

Upon the call of the Chair, 15A NCAC 10F .0305, .0316, .0338, .0380; 10K .0101, .0102, and .0103 were approved by roll-call vote, ayes 8, noes 0 as follows: Voting in the affirmative: Wayne R. Boyles III, Jay Hemphill, Jeff Hyde, Barbara Jackson, Brandon Leebrick, Bill Nelson, Randy Overton, and Jake Parker – 8. Voting in the negative: None.

Marine Fisheries Commission

Upon the call of the Chair, 15A NCAC 18A .0301, .0305, .0401, .0402, .0403, .0404, .0405, .0406, .0407, .0408, .0409, .0410, .0411, .0412, .0413, .0414, .0415, .0416, .0417, .0418, .0419, .0420, .0421, .0422, .0423, .0424, .0426, .0427, .0428, .0429, .0430, .0432, .0433, .0434, .0435, .0436, .0437, .0438, .0439, .0501, .0502, .0503, .0504, .0601, .0602, .0603, .0604, .0605, .0606, .0607, .0608, .0609, .0610, .0611, .0612, .0613, .0614, .0615, .0616, .0617, .0618, .0619, .0620, .0621, .0701, .0702, .0703, .0704, .0705, .0706, .0707, .0708, .0709, .0710, .0711, .0712, .0713, .0801, .0802, .0803, .0804, .0805 and .0806 were approved by roll-call vote, ayes 8, noes 0 as follows: Voting in the affirmative: Wayne R. Boyles III, Jay Hemphill, Jeff Hyde, Barbara Jackson, Brandon Leebrick, Bill Nelson, Randy Overton, and Jake Parker – 8. Voting in the negative: None.

Building Code Council

Upon the call of the Chair, the Commission voted to extend the period of review for 2023 NC Electrical Code (230613 Item B-3) by roll-call vote, ayes 8, noes 0 as follows: Voting in the affirmative: Wayne R. Boyles III, Jay Hemphill, Jeff Hyde, Barbara Jackson, Brandon Leebrick, Bill Nelson, Randy Overton, and Jake Parker – 8. Voting in the negative: None.

LOG OF FILINGS (TEMPORARY RULES)**State Board of Elections**

Upon the call of the Chair, 08 NCAC 20 .0101, .0102, and .0103 were approved by roll-call vote, ayes 8, noes 0 as follows: Voting in the affirmative: Wayne R. Boyles III, Jay Hemphill, Jeff Hyde, Barbara Jackson, Brandon Leebrick, Bill Nelson, Randy Overton, and Jake Parker – 8. Voting in the negative: None.

Paul Cox with the Department of Justice and representing the agency, addressed the Commission.

Jim Womack with the North Carolina Election Integrity Team addressed the Commission.

Jay Delancey with the North Carolina Election Integrity Team addressed the Commission.

The Chair called the meeting into a brief recess at 10:55 a.m.

The meeting resumed at 11:05 a.m.

Medical Care Commission

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

Upon the call of the Chair, 10A NCAC 13S .0101, .0104, .0111, .0112, .0114, .0201, .0202, .0207, .0209, .0210, .0211, .0212, .0315, .0318, .0319, .0320, .0321, .0322, .0323, .0324, .0325, .0326, .0327, .0328, .0329, .0330, and .0331 were approved by roll-call vote, ayes 8, noes 0 as follows: Voting in the affirmative: Wayne R. Boyles III, Jay Hemphill, Jeff Hyde, Barbara Jackson, Bill Nelson, Randy Overton, and Jake Parker – 7. Voting in the negative: None.

State Board of Education

Upon the call of the Chair, 16 NCAC 06D .0510 and 06G .0701 were approved by roll-call vote, ayes 8, noes 0 as follows: Voting in the affirmative: Wayne R. Boyles III, Jay Hemphill, Jeff Hyde, Barbara Jackson, Brandon Leebrick, Bill Nelson, Randy Overton, and Jake Parker – 8. Voting in the negative: None.

EXISTING RULE REVIEW

Request for Extension of the Readoption Deadline

Upon the call of the Chair, the Commission voted to extend the readoption deadline for 15A NCAC 10G .0401, .0402, .0403, and .0405 to December 31, 2025, by roll-call vote, ayes 8, noes 0 as follows: Voting in the affirmative: Wayne R. Boyles III, Jay Hemphill, Jeff Hyde, Barbara Jackson, Brandon Leebrick, Bill Nelson, Randy Overton, and Jake Parker – 8. Voting in the negative: None.

REVIEW OF THE 2024 STATE MEDICAL FACILITIES PLAN

Upon the call of the Chair, the 2024 State Medical Facilities Plan was found in compliance with S.L. 2023-229 and approved by roll-call vote, ayes 8, noes 0 as follows: Voting in the affirmative: Wayne R. Boyles III, Jay Hemphill, Jeff Hyde, Barbara Jackson, Brandon Leebrick, Bill Nelson, Randy Overton, and Jake Parker – 8. Voting in the negative: None.

COMMISSION BUSINESS

The Chair announced that the Commission will be holding a special meeting to review follow-up matters that were extended at the December 2023 meeting to be held on February 22, 2024, at 10:00 a.m. in the Commission room.

At 11:38 a.m., upon a motion by Chair Doran and a second by Commissioner Jackson, the Commission voted to call the public meeting of the Rules Review Commission into recess and enter into a closed session pursuant to G.S. 143-318.11(a)(1) to review and approve the general account of the December 14, 2023 closed session which may be withheld from public inspection pursuant to G.S. 143-318.10(e) and to consult with counsel regarding CRC v. RRC, EMC v. RRC, and other potential litigation pursuant to G.S. 143.11(a)(3), by roll-call vote, ayes 8, noes 0 as follows: Voting in the affirmative: Wayne R. Boyles III, Jay Hemphill, Jeff Hyde, Barbara Jackson, Brandon Leebrick, Bill Nelson, Randy Overton, and Jake Parker – 8. Voting in the negative: None.

At 12:14 p.m., upon a motion by the Chair and a second by Commissioner Jackson, the Commission voted to come out of closed session and reconvene the public meeting of the Rules Review Commission by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Wayne R. Boyles III, Jeff Hyde, Barbara Jackson, Brandon Leebrick, Bill Nelson, Randy Overton, and Jake Parker – 7. Voting in the negative: None.

Commissioner Hemphill did not vote.

The meeting was adjourned at 12:17 p.m.

The next regularly scheduled meeting of the Commission is Wednesday, February 28, 2024, at 10:00 a.m.

Alexander Burgos, Paralegal

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

January 31, 2024

Rules Review Commission
Meeting
Please Print Legibly

Name	Agency
Malahah Waller	Office of the Gov. - Gen. Counsel (Intern)
Gail Pittman	N/A - NCCCIA
Rhonda Allen	N/A - NCCCIA
JOSEPH BANBIE ENI	
Ed Henderson	N/A - NCCCIA
Ted B. Williams	N/A - NCCIA
Josh Hagwood	N/A - USLS
Emily Wiley	NCDOT
Misty Pickens-McWilliams	NC DHHS - DAAS
David Rittlinger	NC Office of State Fire Marshal
Brent Woodcup	NCGA
Glenda Artis	NCDHHS-DAAS
Paris Remy	NC DHHS
Christopher McLennan	NCDOT
CHARS MILES	NEXSA
Danya Strong	NCDORA
NATUANA COLE	NCDOT/NCBCC
Anna Hayworth	WCDACS
Bill Toole	NC SDS
David Harrington	
Heather Vickers	nke

December 14, 2023

Rules Review Commission
Meeting
Please **Print** Legibly

Name	Agency
ANN ELMORE	NC SOS
Chris McLennan	NC DOJ
Ann Wall	NC SOS
Christine Goebel	NC DEQ
Julie Peck	NC DCEE
RAT PREMAKUMAR	NC DHHS
Mary Lucass	NC DOJ
Anna Hayworth	NCDACS
Laura Hansford	NCDOR
Elly Young	NC DOJ
Danya Strong	NC DOA
Mark Teague	NC DOJ
Will Pullin	NC DPS
Nathan Cephus	BCC/NC DOJ
Michael Mitchell	NC DHHS
Denise Mazze	OSHR
Amber Davis	DCDFE
Taylor Corpening	NC DHHS
Denise Baker	NC OMH/AD/BS

Rules Review Commission Meeting January 31, 2024
Via WebEx

Name	Agency
Ozie Stallworth	SOSNC
Ryan Collins	DPI
Michael Maier	DEQ
Joelle Burleson	DEQ
Jennifer Everett	DEQ
Lindsey Wakely	NCSBE
Karen Holder	DOI
Dana McGhee	OAH
Arthur Harrell	OAH
Ashley Snyder	OAH
Shannon Jenkins	DEQ
Frederick Nelson	DEQ
Jay Delancy	
Deanna De'liberto	
Melissa Bowman	DOJ
Ruhlman, Carrie A	WRC
Jim Womack	
On Post Public Safety Protection	
April G.	
James F. Davis	brmemc.net
Dawn Dolpp	
Michael Brunner	
Hope Ascher	
Bryan Dudley	
Beth Secosky	
Susanna Birdsong	ppsat.org
Brown, Elizabeth K	DHHS
Tina Dupree	SOSNC
Daniel Matthews	
Candace Raines	
Janice Peterson	Optometry Board
Brent Woodcox	ncleg.gov
Ed Santos	wilsonfirearmsacademy.com
Wade Walcott	
Bethany Burgon	DOJ
Chris Millis	nchba.org
Wade Walcott	
Laura Rowe	nctreasurer.com
Daniel Young	
Tyler Daye	commoncause.org
Christine Ryan	DOJ

RULES REVIEW COMMISSION

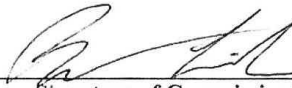
Chris D. Sexton Sr.	bop.gov
Tara Fields	benchmarksnc.org
Brandi Salmon	DEQ
Raj Premakumar	DHHS
Leo Gordon	
Anne Coan	ncfb.org
Art Sperling	
Richard Squires	SHETS
Jason Walsh	DEQ
Aranda Holley	dac.nc.gov
Chris Cecil	
Sirena Jones	DOJ
Brian Barnes	ncdps.gov
Madison Alligood	
Betsy Haywood	WRC
John Link	
Jill Cramer	labor.nc.gov
Seavers, Dennis	Barbers
Ronnie Lovick	
Terrie Deal	DHHS
Virginia Reed	americavotes.org
Bruce Garner	SOSNC
Josh Johnson	
Bryan Vickery	greensboro-nc.gov
J.R. Griffin II	ncdps.gov
Dauna Bartley	Dental Board
Blum, Catherine	DEQ
Chief Peaks	townofwilliamston.com
Johnny Loper	Optometry
Jimmie Williams	
Bud Cesena	
Katelyn Love	ncsbe.gov
Matt Ship	
Robert Hand Rt4	raleighnc.gov
Chad Thompson	
Robert Park	
Harvey Morse	wecancarry.com
Phyllis Pickett	ncleg.gov
Cliff Isaac	nchba.org
Ian Clark	DHHS
William Rafferty	Optometry
AP Dillon	northstatejournal.com
Ann Webb	commoncause.org

MEMORANDUM OF ABSTENTION FROM
PARTICIPATION IN OFFICIAL ACTION
RULES REVIEW COMMISSION

In accordance with N.C. General Statute G.S. 138A-15(c), I have abstained from taking any verbal or written action, including voting, on the agenda item regarding III, B. Medical Care Commission.

I have abstained because potential conflict of interest

This the 31 day of January, 2023.



Signature of Commission Member

No public servant authorized to perform an official action requiring the exercise of discretion shall knowingly participate in an official action by the board if the public servant, a member of the public servant's extended family, or a business with which the public servant is associated has an economic interest in, or a reasonably foreseeable benefit from, the matter under consideration, which would impair the public servant's independence of judgment or from which it could be reasonably inferred that the interest or benefit would influence the public servant's participation. A potential benefit includes a detriment to a business competitor or (1) the public servant; (2) a member or the public servant's extended family, or (3) a business with which the public servant is associated. The public servant shall abstain from taking any verbal or written action and shall submit in writing to the board the reasons for the abstention.

LIST OF APPROVED PERMANENT RULES

January 31, 2024 Meeting

ADMINISTRATION, DEPARTMENT OF

Leases at State Fairgrounds and WNC AG Center 01 NCAC 06B .0307

ELECTIONS, STATE BOARD OF

Authorized Access to Voting System Information in Escrow 08 NCAC 04 .0308

SOCIAL SERVICES COMMISSION

Nature and Purpose of State Adult Day Care Fund 10A NCAC 06T .0201

MEDICAL CARE COMMISSION

Tuberculosis Test, Medical Examination and Immunizations 10A NCAC 13F .0703

Resident Contract, Information on Facility, and Resident ... 10A NCAC 13F .0704

Authorized Representative 10A NCAC 13F .1103

Accounting for Resident's Personal Funds 10A NCAC 13F .1104

Settlement of Cost of Care 10A NCAC 13F .1106

Tuberculosis Test and Medical Examination, and Immunizations 10A NCAC 13G .0702

Resident Register 10A NCAC 13G .0703

Resident Contract, Information on Facility, and Resident ... 10A NCAC 13G .0704

Authorized Representative 10A NCAC 13G .1102

Accounting for Resident's Personal Funds 10A NCAC 13G .1103

Settlement of Cost of Care 10A NCAC 13G .1106

SHERIFFS' EDUCATION AND TRAINING STANDARDS COMMISSION

Fingerprint Criminal History Records Check 12 NCAC 10B .0303

Verification of Records to the Division 12 NCAC 10B .0408

PUBLIC SAFETY, DEPARTMENT OF

Purpose 14B NCAC 03 .0501

Abbrev 14B NCAC 03 .0502

Dispatch of a Regional Response Team 14B NCAC 03 .0503

On-Site Operations of a Program Resource 14B NCAC 03 .0504

Standards for Administration of a Contract Response Team,... 14B NCAC 03 .0505

Recovering the Costs of a Search and Rescue Team 14B NCAC 03 .0506

Procedures for Bidding and Contracting for Regional Respo... 14B NCAC 03 .0507

Criteria for Evaluating Bids for Contract Response Team 14B NCAC 03 .0508

Personnel, Training, and Equipment Standards for Regional... 14B NCAC 03 .0509

ALARM SYSTEMS LICENSING BOARD

Experience Requirements for License 14B NCAC 17 .0202

Training Requirements for Alarm Licensees 14B NCAC 17 .0208

WILDLIFE RESOURCES COMMISSION

Brunswick County 15A NCAC 10F .0305

Forsyth: Rockingham And Stokes Counties 15A NCAC 10F .0316

Caldwell County 15A NCAC 10F .0338

Town of Rhodiss 15A NCAC 10F .0380

<u>Course Requirements</u>	15A NCAC	10K	.0101
<u>Issuance of Certificate of Competency</u>	15A NCAC	10K	.0102
<u>Instructor Certification</u>	15A NCAC	10K	.0103

MARINE FISHERIES COMMISSION

<u>Definitions</u>	15A NCAC	18A	.0301
<u>Appeals Procedure</u>	15A NCAC	18A	.0305
<u>Applicability of Rules</u>	15A NCAC	18A	.0401
<u>General Requirements for Operation</u>	15A NCAC	18A	.0402
<u>Supervision and Training</u>	15A NCAC	18A	.0403
<u>Construction</u>	15A NCAC	18A	.0404
<u>Facility Flooding</u>	15A NCAC	18A	.0405
<u>Floors</u>	15A NCAC	18A	.0406
<u>Walls and Ceilings</u>	15A NCAC	18A	.0407
<u>Lighting</u>	15A NCAC	18A	.0408
<u>Ventilation</u>	15A NCAC	18A	.0409
<u>Pest Control</u>	15A NCAC	18A	.0410
<u>Rodent and Animal Control</u>	15A NCAC	18A	.0411
<u>Plumbing and Hand Washing Facilities</u>	15A NCAC	18A	.0412
<u>Water Supply</u>	15A NCAC	18A	.0413
<u>Toilet Facilities</u>	15A NCAC	18A	.0414
<u>Premises</u>	15A NCAC	18A	.0415
<u>Personal Hygiene</u>	15A NCAC	18A	.0416
<u>Employees' Personal Articles</u>	15A NCAC	18A	.0417
<u>Supply Storage</u>	15A NCAC	18A	.0418
<u>Harvest Vessels and Vehicles</u>	15A NCAC	18A	.0419
<u>Transporting Shellfish</u>	15A NCAC	18A	.0420
<u>Records</u>	15A NCAC	18A	.0421
<u>Shellstock Cleaning</u>	15A NCAC	18A	.0422
<u>Sale of Live Shellstock</u>	15A NCAC	18A	.0423
<u>Shellfish Receiving</u>	15A NCAC	18A	.0424
<u>Bulk Shipments between Shellfish Dealers</u>	15A NCAC	18A	.0426
<u>Shellfish Storage</u>	15A NCAC	18A	.0427
<u>Sampling and Testing</u>	15A NCAC	18A	.0428
<u>Embargo or Disposal of Shellfish</u>	15A NCAC	18A	.0429
<u>Bacteriological and Contamination Stands</u>	15A NCAC	18A	.0430
<u>Public Display of Consumer Advisory</u>	15A NCAC	18A	.0432
<u>Hazard Analysis</u>	15A NCAC	18A	.0433
<u>HACCP Plan</u>	15A NCAC	18A	.0434
<u>Sanitation Monitoring Requirements</u>	15A NCAC	18A	.0435
<u>Monitoring Records</u>	15A NCAC	18A	.0436
<u>In-Shell Product</u>	15A NCAC	18A	.0437
<u>Inspections and Compliance Schedule</u>	15A NCAC	18A	.0438
<u>Recall Procedure</u>	15A NCAC	18A	.0439
<u>Requirements for Shellstock Plants and Reshippers</u>	15A NCAC	18A	.0501
<u>Grading Shellstock and Commingling</u>	15A NCAC	18A	.0502
<u>Grader</u>	15A NCAC	18A	.0503
<u>Reshippers</u>	15A NCAC	18A	.0504

<u>Requirements for Shucking and Packing Plants and Repackin...</u>	15A NCAC	18A	.0601
<u>Separation of Operations</u>	15A NCAC	18A	.0602
<u>Hot Water System</u>	15A NCAC	18A	.0603
<u>Handwashing Facilities</u>	15A NCAC	18A	.0604
<u>Delivery Window or Shelf</u>	15A NCAC	18A	.0605
<u>Non-Food Contact Surfaces</u>	15A NCAC	18A	.0606
<u>Shucking Benches</u>	15A NCAC	18A	.0607
<u>Equipment Construction</u>	15A NCAC	18A	.0608
<u>Sanitizing Equipment</u>	15A NCAC	18A	.0609
<u>Equipment Sanitation</u>	15A NCAC	18A	.0610
<u>Equipment Storage</u>	15A NCAC	18A	.0611
<u>Ice</u>	15A NCAC	18A	.0612
<u>Shellfish Shucking</u>	15A NCAC	18A	.0613
<u>Containers</u>	15A NCAC	18A	.0614
<u>Shellfish Cooling</u>	15A NCAC	18A	.0615
<u>Shellfish Freezing</u>	15A NCAC	18A	.0616
<u>Shipping</u>	15A NCAC	18A	.0617
<u>Heat Shock Method of Preparation of Shellfish</u>	15A NCAC	18A	.0618
<u>Repacking of Shellfish</u>	15A NCAC	18A	.0619
<u>Shellfish Thawing and Repacking</u>	15A NCAC	18A	.0620
<u>Recall Procedure</u>	15A NCAC	18A	.0621
<u>Requirements for Depuration</u>	15A NCAC	18A	.0701
<u>Facility Supervision</u>	15A NCAC	18A	.0702
<u>Facility Design and Sanitation</u>	15A NCAC	18A	.0703
<u>Laboratory Procedures</u>	15A NCAC	18A	.0704
<u>Facility Operations</u>	15A NCAC	18A	.0705
<u>Shellfish Sampling Procedures</u>	15A NCAC	18A	.0706
<u>Depuration Process Water Control - Sampling Procedures</u>	15A NCAC	18A	.0707
<u>Requirements for Wet Storage of Shellstock</u>	15A NCAC	18A	.0708
<u>Depuration - Shellfish Meat Standards</u>	15A NCAC	18A	.0709
<u>Ultraviolet Unit</u>	15A NCAC	18A	.0710
<u>Shellstock Storage</u>	15A NCAC	18A	.0711
<u>Depuration - Tagging and Release of Shellfish</u>	15A NCAC	18A	.0712
<u>Depuration Records</u>	15A NCAC	18A	.0713
<u>Requirements for Wet Storage of Shellstock</u>	15A NCAC	18A	.0801
<u>Plant Design: Sanitation: and Wet Storage</u>	15A NCAC	18A	.0802
<u>Wet Storage Water</u>	15A NCAC	18A	.0803
<u>Shellstock Cleaning</u>	15A NCAC	18A	.0804
<u>Wet Storage Tanks</u>	15A NCAC	18A	.0805
<u>Shellstock Containers</u>	15A NCAC	18A	.0806

REVENUE, DEPARTMENT OF

<u>Radio, Television, Movie Theatres Receipts</u>	17 NCAC	07B	.3101
<u>Contractors for the Federal Government</u>	17 NCAC	07B	.4203
<u>Native American Indian Country</u>	17 NCAC	07B	.4210
<u>Equipment Furnished with Operator</u>	17 NCAC	07B	.4404
<u>Equipment and Supplies for Laundries, etc.</u>	17 NCAC	07B	.4503
<u>Fire Trucks and Equipment</u>	17 NCAC	07B	.4609

<u>Recreational Vehicles</u>	17 NCAC 07B .4614
<u>Commercial Printers and Publishers</u>	17 NCAC 07B .4701
<u>Eyeglass Frames and Repair Parts</u>	17 NCAC 07B .5002
SECRETARY OF STATE, DEPARTMENT OF THE	
<u>U.S. Currency</u>	18 NCAC 07B .0201
<u>Online Fee Payment</u>	18 NCAC 07B .0202
<u>Fees Paid in Person</u>	18 NCAC 07B .0203
<u>Fees Paid by USPS or by Delivery Service</u>	18 NCAC 07B .0204
<u>Fee for Dishonored Payment</u>	18 NCAC 07B .0205
<u>Filing not Processed if Payment Dishonored</u>	18 NCAC 07B .0206
<u>Department Actions upon Dishonored Payment</u>	18 NCAC 07B .0207
<u>Notice to Filer of Dishonored Payment</u>	18 NCAC 07B .0208
<u>Form Use Required</u>	18 NCAC 07B .0301
<u>Mode of Filing</u>	18 NCAC 07B .0302
<u>Paper Filings Permitted</u>	18 NCAC 07B .0303
<u>Inapplicable Questions</u>	18 NCAC 07B .0304
<u>Response to Questions and Requests for Information</u>	18 NCAC 07B .0305
<u>Attachments</u>	18 NCAC 07B .0306
<u>Notice of Attachment</u>	18 NCAC 07B .0307
<u>Signature for Entity</u>	18 NCAC 07B .0308
<u>Form Preparer Signature Required</u>	18 NCAC 07B .0309
<u>Incomplete Filings</u>	18 NCAC 07B .0310
<u>Rejection of Incomplete Filings</u>	18 NCAC 07B .0311
<u>Filing Date of Document</u>	18 NCAC 07B .0312
<u>General</u>	18 NCAC 07B .0401
<u>Contact Information</u>	18 NCAC 07B .0402
<u>Certificate of Appointment Form</u>	18 NCAC 07B .0403
<u>Electronic Notary Public Registration Form</u>	18 NCAC 07B .0404
<u>Form Notifying Department of Selection of Technology Prov...</u>	18 NCAC 07B .0405
<u>Notice to Department of Change by Electronic Notary in Te...</u>	18 NCAC 07B .0406
<u>Scope</u>	18 NCAC 07F .0101
<u>Definitions</u>	18 NCAC 07F .0102
<u>Electronic Notaries Performing Remote Electronic Notary Acts</u>	18 NCAC 07F .0103
<u>Valid Commission</u>	18 NCAC 07F .0201
<u>Approved Course of Study for Electronic Notaries Public</u>	18 NCAC 07F .0301
<u>Course to be Taught by Certified Notary Instructors</u>	18 NCAC 07F .0302
<u>Electronic Notary Course</u>	18 NCAC 07F .0303
<u>Student Identity</u>	18 NCAC 07F .0304
<u>Passing Score on Examination</u>	18 NCAC 07F .0305
<u>Submission</u>	18 NCAC 07F .0401
<u>Timing of Application</u>	18 NCAC 07F .0402
<u>Notice to Department of Changes</u>	18 NCAC 07F .0403
<u>Failure to Submit Application in Time</u>	18 NCAC 07F .0404
<u>Notice of Department's Actions for Qualified Electronic N...</u>	18 NCAC 07F .0503
<u>Oaths Timing</u>	18 NCAC 07F .0505
<u>Evidence of Identity</u>	18 NCAC 07F .0506
<u>Certificate Delivery</u>	18 NCAC 07F .0507

<u>Registration Effective Date</u>	18 NCAC 07F .0508
<u>Registration Effective Date</u>	18 NCAC 07F .0509
<u>Confirmation of Electronic Notary Status</u>	18 NCAC 07F .0512
<u>Performing Electronic and Remote Electronic Notarial Acts</u>	18 NCAC 07F .0513
<u>Notice to Department of Technology Provider</u>	18 NCAC 07F .0601
<u>Approved Technology Provider</u>	18 NCAC 07F .0602
<u>Unique Signature</u>	18 NCAC 07F .0701
<u>Sole Control</u>	18 NCAC 07F .0702
<u>Exclusive</u>	18 NCAC 07F .0703
<u>Attributes of Electronic Signature</u>	18 NCAC 07F .0704
<u>Appearance of Electronic Signature</u>	18 NCAC 07F .0705
<u>Signature Compliance</u>	18 NCAC 07F .0706
<u>Signature Review Before Use</u>	18 NCAC 07F .0707
<u>Affixing Electronic Signature</u>	18 NCAC 07F .0708
<u>Review After Affixing Electronic Signature</u>	18 NCAC 07F .0709
<u>Unique Seal</u>	18 NCAC 07F .0801
<u>Sole Control</u>	18 NCAC 07F .0802
<u>Exclusive</u>	18 NCAC 07F .0803
<u>Attributes of Electronic Seal</u>	18 NCAC 07F .0804
<u>Appearance of Electronic Notary Seal</u>	18 NCAC 07F .0805
<u>Perimeter</u>	18 NCAC 07F .0806
<u>Contents of Electronic Notary Seal</u>	18 NCAC 07F .0807
<u>Electronic Notary Seals are Private Property</u>	18 NCAC 07F .0808
<u>Seal Compliance</u>	18 NCAC 07F .0809
<u>Seal Limitation</u>	18 NCAC 07F .0810
<u>Seal Review Before Use</u>	18 NCAC 07F .0811
<u>Affixing Electronic Seal</u>	18 NCAC 07F .0812
<u>Review After Affixing Electronic Seal</u>	18 NCAC 07F .0813
<u>Commitment</u>	18 NCAC 07F .0814
<u>Reregistration</u>	18 NCAC 07F .0901
<u>Timing of Reregistration</u>	18 NCAC 07F .0902
<u>Form</u>	18 NCAC 07F .0903
<u>Education</u>	18 NCAC 07F .0904
<u>Electronic Notary Reregistration Other than at Recommissi...</u>	18 NCAC 07F .0905
<u>Registration</u>	18 NCAC 07F .0906
<u>Employers of Electronic Notaries</u>	18 NCAC 07F .1001
<u>Protecting Access</u>	18 NCAC 07F .1002
<u>Retention of Electronic Journal</u>	18 NCAC 07F .1003
<u>Notary Credential Sharing Forbidden</u>	18 NCAC 07F .1004
<u>Presence Requirement for Electronic Notarization</u>	18 NCAC 07F .1101
<u>Presence Requirement for Remote Electronic Notarization</u>	18 NCAC 07F .1102
<u>Individual Principal Signatures for Electronic Notarial Act</u>	18 NCAC 07F .1103
<u>Additional Obligations</u>	18 NCAC 07F .1104
<u>No Electronic Notarization of Ink Signature</u>	18 NCAC 07F .1105
<u>Notice of Changes</u>	18 NCAC 07F .1106
<u>Technological Issue as Reason to Halt Electronic or Remot...</u>	18 NCAC 07F .1107
<u>Resolution of Technological Issues</u>	18 NCAC 07F .1108

RULES REVIEW COMMISSION

<u>Ceasing to Use a Technology Provider</u>	18 NCAC 07F .1109
<u>Notice of Cancellation by Provider</u>	18 NCAC 07F .1110
<u>Content of Notice</u>	18 NCAC 07F .1111
<u>Notaries Subject to Journaling Requirements</u>	18 NCAC 07I .0101
<u>Definitions</u>	18 NCAC 07I .0102
<u>Journal Requirement</u>	18 NCAC 07I .0103
<u>Journal Ownership</u>	18 NCAC 07I .0104
<u>Entry of Data into Journal</u>	18 NCAC 07I .0105
<u>Exceptions to Rule .0105</u>	18 NCAC 07I .0106
<u>Access to the Journal</u>	18 NCAC 07I .0107
<u>Form of Traditional Notary Journal</u>	18 NCAC 07I .0201
<u>Form of Electronic Notary Journal</u>	18 NCAC 07I .0202
<u>Combined Journal</u>	18 NCAC 07I .0203
<u>Entries in a Tangible Journal</u>	18 NCAC 07I .0204
<u>Requirements for a Tangible Journal</u>	18 NCAC 07I .0205
<u>Provision of Journal to Department</u>	18 NCAC 07I .0206
<u>Acts Included in Journal</u>	18 NCAC 07I .0207
<u>Designation of Notarial Act</u>	18 NCAC 07I .0208
<u>Exception to Rule .0208</u>	18 NCAC 07I .0209
<u>Designation of Type of Notarial Act</u>	18 NCAC 07I .0210
<u>Journal may Combine Employer-Related and Non-Employer Acts</u>	18 NCAC 07I .0211
<u>Journal Retention Period</u>	18 NCAC 07I .0212
<u>Contents of Journal for Canceled Act</u>	18 NCAC 07I .0301
<u>Contents of Journal</u>	18 NCAC 07I .0302
<u>Additional Journal Contents for Remote Electronic Notariz...</u>	18 NCAC 07I .0303
<u>Employer Request for Inclusion of Additional Information ...</u>	18 NCAC 07I .0304
<u>Party Request for Inclusion of Additional Information in ...</u>	18 NCAC 07I .0305
<u>Notation of Requests for Inclusion of Additional Informat...</u>	18 NCAC 07I .0306
<u>Notary shall not Provide Unrelated Notarial Act Informati...</u>	18 NCAC 07I .0307
<u>Journal Supplements</u>	18 NCAC 07I .0308
<u>Maintain a Backup Copy</u>	18 NCAC 07I .0401
<u>Format of Backup Copy</u>	18 NCAC 07I .0402
<u>Printing out of Electronic Journal Entries</u>	18 NCAC 07I .0403
<u>Including Signatures in Journal</u>	18 NCAC 07I .0404
<u>Technological Issues</u>	18 NCAC 07I .0405
<u>Pre-Populated Data to be Confirmed by Notary Public</u>	18 NCAC 07I .0406
<u>Steps Before Committing an Electronic Journal Entry</u>	18 NCAC 07I .0407

BUILDING CODE COUNCIL

<u>2024 NC Administrative Code and Policies Appendix B</u>	230314 Item B-13
<u>2024 NC Administrative Code and Policies</u>	221213 Item B-1

LIST OF APPROVED TEMPORARY RULES
January 31, 2024 Meeting**ELECTIONS, STATE BOARD OF**

<u>Challenge to Appointment of an Observer</u>	08 NCAC 20 .0101
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<u>Appeal of Removal of an Observer from a Voting Site</u>	08 NCAC 20 .0102
<u>Identification of Observers</u>	08 NCAC 20 .0103

MEDICAL CARE COMMISSION

<u>Definitions</u>	10A NCAC 13S .0101
<u>Plans</u>	10A NCAC 13S .0104
<u>Inspections</u>	10A NCAC 13S .0111
<u>Alterations</u>	10A NCAC 13S .0112
<u>Approval</u>	10A NCAC 13S .0114
<u>Building Code Requirements</u>	10A NCAC 13S .0201
<u>Sanitation</u>	10A NCAC 13S .0202
<u>Area Requirements</u>	10A NCAC 13S .0207
<u>Elevator</u>	10A NCAC 13S .0209
<u>Corridors</u>	10A NCAC 13S .0210
<u>Doors</u>	10A NCAC 13S .0211
<u>Elements and Equipment</u>	10A NCAC 13S .0212
<u>Housekeeping</u>	10A NCAC 13S .0315
<u>Governing Authority</u>	10A NCAC 13S .0318
<u>Policies and Procedures and Administrative Records</u>	10A NCAC 13S .0319
<u>Admission and Discharge</u>	10A NCAC 13S .0320
<u>Medical Records</u>	10A NCAC 13S .0321
<u>Personnel Records</u>	10A NCAC 13S .0322
<u>Nursing Service</u>	10A NCAC 13S .0323
<u>Quality Assurance</u>	10A NCAC 13S .0324
<u>Laboratory Services</u>	10A NCAC 13S .0325
<u>Emergency Back-Up Services</u>	10A NCAC 13S .0326
<u>Surgical Services</u>	10A NCAC 13S .0327
<u>Medications and Anesthesia</u>	10A NCAC 13S .0328
<u>Post-Operative Care</u>	10A NCAC 13S .0329
<u>Cleaning of Materials and Equipment</u>	10A NCAC 13S .0330
<u>Food Service</u>	10A NCAC 13S .0331

EDUCATION, STATE BOARD OF

<u>Three-Year Graduation</u>	16 NCAC 06D .0510
<u>Parental Concern Hearing</u>	16 NCAC 06G .0701