

NORTH CAROLINA REGISTER

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August 1, 2025

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PUBLISHED BY

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Contact List for Rulemaking Questions or Concerns

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

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

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alexander.burgos@oah.nc.gov

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116 West Jones Street

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984-236-0694

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919-733-4910

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919-715-2893

215 North Dawson Street

Raleigh, North Carolina 27603

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amy.bason@ncacc.org

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919-715-2925

424 Fayetteville Street, Suite 1900

Raleigh, North Carolina 27601

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bwells@nclm.org

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545 Legislative Office Building

300 North Salisbury Street

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Chris Saunders, Staff Attorney

Aaron McGlothlin, Staff Attorney

NORTH CAROLINA REGISTER
Publication Schedule for January 2025 – December 2025

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
39:13	01/02/25	12/06/24	01/17/25	03/03/25	03/20/25	04/24/2025	05/01/25	09/29/25
39:14	01/15/25	12/19/24	01/30/25	03/17/25	03/20/25	04/24/2025	05/01/25	10/12/25
39:15	02/03/25	01/10/25	02/18/25	04/04/25	04/20/25	05/29/2025	06/01/25	10/31/25
39:16	02/17/25	01/27/25	03/04/25	04/21/25	05/20/25	06/26/2025	07/01/25	11/14/25
39:17	03/03/25	02/10/25	03/18/25	05/02/25	05/20/25	06/26/2025	07/01/25	11/28/25
39:18	03/17/25	02/24/25	04/01/25	05/16/25	05/20/25	06/26/2025	07/01/25	12/12/25
39:19	04/01/25	03/11/25	04/16/25	06/02/25	06/20/25	07/30/2025	08/01/25	12/27/25
39:20	04/15/25	03/25/25	04/30/25	06/16/25	06/20/25	07/30/2025	08/01/25	01/10/26
39:21	05/01/25	04/09/25	05/16/25	06/30/25	07/20/25	08/28/2025	09/01/25	01/26/26
39:22	05/15/25	04/24/25	05/30/25	07/14/25	07/20/25	08/28/2025	09/01/25	02/09/26
39:23	06/02/25	05/09/25	06/17/25	08/01/25	08/20/25	09/25/2025	10/01/25	02/27/26
39:24	06/16/25	05/23/25	07/01/25	08/15/25	08/20/25	09/25/2025	10/01/25	03/13/26
40:01	07/01/25	06/10/25	07/16/25	09/02/25	09/20/25	10/30/2025	11/01/25	03/28/26
40:02	07/15/25	06/23/25	07/30/25	09/15/25	09/20/25	10/30/2025	11/01/25	04/11/26
40:03	08/01/25	07/11/25	08/16/25	09/30/25	10/20/25	11/20/2025	12/01/25	04/28/26
40:04	08/15/25	07/25/25	08/30/25	10/14/25	10/20/25	11/20/2025	12/01/25	05/12/26
40:05	09/02/25	08/11/25	09/17/25	11/03/25	11/20/25	12/18/2025	01/01/26	05/30/26
40:06	09/15/25	08/22/25	09/30/25	11/14/25	11/20/25	12/18/2025	01/01/26	06/12/26
40:07	10/01/25	09/10/25	10/16/25	12/01/25	12/20/25	*01/29/2026	02/01/26	06/28/26
40:08	10/15/25	09/24/25	10/30/25	12/15/25	12/20/25	*01/29/2026	02/01/26	07/12/26
40:09	11/03/25	10/13/25	11/18/25	01/02/26	01/20/26	*02/26/2026	03/01/26	07/31/26
40:10	11/17/25	10/24/25	12/02/25	01/16/26	01/20/26	*02/26/2026	03/01/26	08/14/26
40:11	12/01/25	11/05/25	12/16/25	01/30/26	02/20/26	*03/26/2026	04/01/26	08/28/26
40:12	12/15/25	11/20/25	12/30/25	02/13/26	02/20/26	*03/26/2026	04/01/26	09/11/26

*Dates not approved by 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 Human Resources 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

JOSH STEIN
GOVERNOR

June 27, 2025

EXECUTIVE ORDER NO. 17

EXTENDING THE FOOD SAFETY AND DEFENSE TASK FORCE

WHEREAS, the Food Safety and Defense Task Force ("Task Force") is a public body originally established by executive order on September 12, 2003 and most recently reestablished by Executive Order No. 259 (May 24, 2022); and

WHEREAS, the Task Force was first established by executive order on September 12, 2003 to identify, evaluate, and address vulnerabilities in North Carolina's food-supply system and agricultural industry; and

WHEREAS, the Task Force is comprised of state and local government officers and staff, academic professionals, and agricultural industry stakeholders; and

WHEREAS, the Task Force has assisted North Carolina in its navigation of multiple wide-spread food safety emergencies and food-borne illness outbreaks in the last few decades; and

WHEREAS, for example, in 2007 the Task Force, in collaboration with other state agencies, helped remove more than 30,000 recalled canned food products from circulation and prevented the spread of botulism in the state; and

WHEREAS, the United States Food and Drug Administration ("FDA") extensively reviewed the Task Force's response efforts during the 2007 recall, which have since become a model for similar recall efforts nationwide; and

WHEREAS, the Task Force also provided vital assistance to the North Carolina Department of Health and Human Services ("DHHS") during the adoption of the 2009 and 2017 FDA Food Codes, which have significantly enhanced and improved the State's retail food safety inspection process; and

WHEREAS, the Task Force coordinated recall efforts in the 2021 salmonella outbreak linked to onions as well as the apple cinnamon fruit puree recall for lead in 2023; and

WHEREAS, the Task Force organized tabletop exercises for emergencies in both 2024 and 2025 and provided coordination for food safety efforts during Hurricane Helene in western North Carolina; and

WHEREAS, the Task Force's emergency response plans have been incorporated into the North Carolina Emergency Operations Plan; and

WHEREAS, the Task Force continues to support necessary updates to food safety regulations based on available science and continues to provide training and support to

personnel across the food-supply system; and

WHEREAS, since its inception in 2003, the Task Force has subsequently been extended or reestablished by executive orders issued by previous Governors; and

WHEREAS, the most recent Executive Order directing the continuation of the Task Force's important work expires on June 30, 2025.

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. Extending Executive Order No. 259

Pursuant to N.C. Gen. Stat. § 147-16.2, Executive Order No. 259, which reestablished the Task Force, is hereby extended as modified below.

Section 2. Purpose

The purpose of the Task Force is to coordinate interagency and public-private collaborative efforts to enhance protection of the State's food-supply system and agricultural industry.

Section 3. Membership

- a. The Governor shall appoint members to the Task Force as follows:
 1. The Secretary of DHHS, or designee;
 2. The Secretary of the North Carolina Department of Environmental Quality ("DEQ"), or designee;
 3. The Secretary of the North Carolina Department of Public Safety, or designee;
 4. The Commissioner of Agriculture, or designee;
 5. Representatives from the University of North Carolina System; and
 6. Representatives from other government agencies, private industry, and other public members associated with the State's food-supply system or agricultural industry (representatives from this Section 3(a)(6) collectively referred to as "Appointed Members").
- b. The Secretary of DHHS, the Secretary of DEQ, and the Commissioner of Agriculture or their respective designees, shall serve as Co-Chairs of the Task Force.

Section 4. Meetings

The Task Force shall meet at least six (6) times a year. A simple majority of the members shall constitute a quorum for the purpose of transacting business.

Section 5. Committees

The Task Force may establish such committees or other work groups as necessary to carry out its duties.

Section 6. Duties

The Task Force, by and through its committees, shall have the following duties:

- a. Conduct focused studies on the vulnerability of the State's food system and make recommendations that would, if implemented, accomplish or address the following:
 1. Improve the safety and defense of the food system by, among other things, reducing the potential threat and impact of terrorism on the food system; and
 2. Improve food safety and defense mitigation and response plans; and

3. Implement and coordinate the training for key stakeholders in the State's food supply system that incorporates the findings from these studies.
- b. Recommend legislation and policy aimed at improving the ability of state departments and agencies to protect the State's food supply and agricultural industry base, including legislation that would protect sensitive and proprietary information pertaining to the State's food-supply system, safety and defense vulnerability data, and defense plans that, if compromised, would increase the State's food-supply system's exposure to criminal or terrorist acts.
- c. Recommend necessary adjustments to improve the ability and capacity of state departments and agencies to protect the State's food-supply system and agricultural industry.
- d. Submit an annual report to the Governor no later than December 1st each year that includes recommendations or proposals for changes in laws, rules, policies, and programs that the Task Force determines are appropriate to enhance food safety and defense in the state.

Section 7. No Private Right of Action

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

Section 8. Miscellaneous

- a. The Task Force's expenditures, if any, shall comply with state law and with the rules and policies of the Office of State Budget and Management.
- b. DHHS shall provide administrative and staff support services to the Task Force.

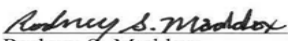
Section 9. Effect and Duration

This Executive Order shall be effective immediately. It shall remain in effect until June 30, 2027, pursuant to N.C. Gen. Stat. § 147-16.2, or until rescinded, whichever occurs first.

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 27th day of June in the year of our Lord two thousand and twenty-five.


Josh Stein
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: KEYSTONE RV COMPANY

Applicant's Address: 2642 HACKBERRY DRIVE

Application Date: 07102025

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

JEFFREY RUNELS– CEO

DAVID CHUPP - COO

ERIC A. MYER – VP OF FINANCE

JEREMY AVILA – VP OF MANUFACTURING

JERI EDWARDS – PRESIDENT OF MANUFACTURING QUALITY

GARETT CAROLUS – SENIOR VP OF SERVICE

MICHAEL FERRO – VP OF PURCHASING

NICHOLAS JOHNSON – VP OF MARKETING

BRADD GIGGY – VP OF ENGINEERING

ROBERT R. PETTIT – VP OF SUPPORT SERVICE

DAVID G. THOMAS – SENIOR VP OF ADMIN/GENERAL COUNSEL/ SECRETARY

COLLEEN ZUHL – TREASURER

CHRISTOPHER L. LAWRENCE – ASSISTANT TREASURER

DUTCHMEN MANUFACTURING & CROSSROADS RV – DIVISIONAL PRES – MICAH

AARON YOUNG

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: LIVEWIRE EV, LLC

Applicant's Address: 3700 W JUNEAU AVE., MILWAUKEE, WI 53208

Application Date: 07/09/2025

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

LIVEWIRE GROUP, INC, SOLE STOCKHOLDER

KARIM DONNEZ, MEMBER

ALLEN GERRARD, MEMBER

JOCHEN ZEITZ, MEMBER

BILL CORNOG, MEMBER

KJELL GRUNER, MEMBER

GLEN KOVAL, MEMBER

PAUL KRAUSE, MEMBER

LUKE MANSFILED, MEMBER

HIROMICHI MIZUNO, MEMBER

JONATHAN ROOT, MEMBER

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: Load Rite Trailers, LLC

Applicant's Address: 265 Lincoln Highway, Fairless Hills, PA, 19030

Application Date: 06/23/2025

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

Thomas Morrison, President

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: VINFAST USA DUSTRIBUTION LLC

Applicant's Address: 9881 IRVINE CENTER DRIVE
IRVINE, CA 92618

Application Date: 7/08/2025

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

VINGROUP USA LLC, SOLE MEMBER

HUONG GIANG NGUYEN, CHIEF EXECUTIVE OFFICER

JOHN F. HARRIS, GENERAL COUNSEL AND SECRETARY

HAI VAN NGUYENM SECRETARY

North Carolina License and Theft Bureau

PUBLIC NOTICE

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

Applicant's Name: Yamaha Motor Corporation, U.S.A.

Applicant's Address: 6555 Katella Avenue, Cypress, CA, 90630

Application Date: June 26, 2025

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

S. Michael Grbic, Sr. Vice-President, AS

Tom Kawaguchi, Vice-President, AT

Nobuhiko Saito, Sr. Vice-President, S/T

Michael Chrzanowski, President & CEO

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 02 – DEPARTMENT OF AGRICULTURE AND
CONSUMER SERVICES**

Notice is hereby given in accordance with G.S. 150B-21.2 that the Board of Agriculture intends to amend the rules cited as 02 NCAC 37 .0201-.0203.

Link to agency website pursuant to G.S. 150B-19.1(c):
<https://www.ncagr.gov/divisions/legal-affairs/legal-affairs-rules>

Proposed Effective Date: December 1, 2025

Instructions on How to Demand a Public Hearing: *(must be requested in writing within 15 days of notice): Any person may request a public hearing on the proposed rules by submitting a request in writing no later than August 16th, 2025 to Anna Hayworth, mailing address 1002 Mail Service Center, Raleigh, NC 27699.*

Reason for Proposed Action: *These rules (02 NCAC 37 .0201-soil testing; 02 NCAC 37 .0202 - plant analysis to include analysis of waste, solutions, and media; and 02 NCAC 37 .0203 - nematode assay) mandate the delivery of agronomic laboratory advisory services to all NC residents for the purpose of increasing agricultural productivity, promoting responsible land management, and safeguarding environmental quality. These proposed amendments are for fees associated with this service, which have not been updated in approximately 20 years.*

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

Comment period ends: September 30, 2025

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 37 - AGRONOMIC SERVICES

SECTION .0200 - PROGRAMS

02 NCAC 37 .0201 SOIL TESTING SERVICE

~~The Agronomic Services Division shall analyze all samples for volume weight, pH, BpH, humic matter, phosphorus, potassium, calcium, magnesium, manganese, copper and zinc. The Agronomic Services Division shall make nutrient and management recommendations to correct deficiencies or toxicities by the application of lime, fertilizer, and other soil amendments.~~

(a) The Agronomic Services Division shall analyze all samples for volume weight, pH, BpH, humic matter, phosphorus, potassium, calcium, magnesium, sulfur, sodium, manganese, copper and zinc. The Agronomic Services Division shall make nutrient and management recommendations to correct deficiencies or toxicities by the application of lime, fertilizer, and other soil amendments.

(b) Fees for these services shall be as follows:

- (1) Routine soil analysis during peak season - five dollars (\$5.00).
- (2) Expedited soil testing – two hundred fifty dollars (\$250.00).
- (3) Special services:
 - (A) Heavy metals – thirty dollars (\$30.00).
 - (B) Research – ten dollars (\$10.00).

Authority G.S. 106-22(17).

02 NCAC 37 .0202 PLANT ANALYSIS SERVICE

(a) The Agronomic Services Division shall analyze all samples for nitrogen, phosphorus, potassium, calcium, magnesium, manganese, copper, zinc, boron and other elements, as needed to make recommendations for corrective action. Results of the test and recommendations for corrective action shall be provided by the Agronomic Services Division. For the purposes of this Rule, "plant analyses" shall include analysis of wastes, soilless media, and other solutions for agronomic purposes.

(b) Fees for these services, to be paid at the time of submission, shall be as follows:

- (1) Routine plant analysis - ~~\$5.00~~ ten dollars (\$10.00).

- (2) Routine solution analysis - ~~\$5.00.~~ ten dollars (\$10.00).
- (3) Routine soilless media analysis - ~~\$5.00.~~ ten dollars (\$10.00).
- (4) Routine waste analysis - ~~\$8.00.~~ fifteen dollars (\$15.00).
- (5) Research plant, waste, soilless media, and solution analysis – twelve dollars (\$12.00).
- (6) Nonresident plant, waste, soilless media, and solution analysis – twenty-five dollars (\$25.00).
- (7) Special services:
 - (A) Heavy metals - ~~\$20.00.~~ forty dollars (\$40.00).
 - (B) Waste-N breakout - ~~\$10.00.~~ fifteen dollars (\$15.00).
 - (C) Waste-liming equivalent – ten dollars (\$10.00).
 - (D) Plant-chloride - ~~\$2.00.~~ five dollars (\$5.00).
 - (E) Molybdenum - ~~\$2.00.~~ five dollars (\$5.00).
 - (F) Plant-petiole nitrates - ~~\$2.00.~~ five dollars (\$5.00).
 - (G) Bulk density – ten dollars (\$10.00).

Authority G.S. 106-22(17).

02 NCAC 37 .0203 NEMATODE ADVISORY SERVICE

(a) Individuals desiring nematode analysis may obtain sample containers and instructions from the Agronomic Services Division, county extension office, farm supply dealers, Agronomic Division Regional Agronomists, or other local agricultural advisors. If plant-destructive nematodes are found, the best method of control will be recommended.

(b) Per sample fees for those services, to be paid at the time of submission, are as follows:

- (1) Routine nematode assay - ~~\$3.00.~~ ten dollars (\$10.00).
- (2) Research nematode assay - ~~\$10.00.~~ fifteen dollars (\$15.00).
- (3) Pinewood nematode assay - ~~\$10.00.~~ fifteen dollars (\$15.00).
- (4) Nematode species identification by molecular diagnosis - ~~\$20.00.~~ thirty dollars (\$30.00).
- (5) Out-of-state surcharge – ten dollars (\$10.00).
- (6) Regulatory assay – twenty dollars (\$20.00).

Authority G.S. 106-22(17).

TITLE 12 – DEPARTMENT OF JUSTICE

Notice is hereby given in accordance with G.S. 150B-21.2 that the Sheriffs' Education and Training Standards Commission intends to adopt the rule cited as 12 NCAC 10B .0412, amend the rules cited as 12 NCAC 10B .1002, .1006, .1202, .1206, .1402, .1406, .1602, .1606, .1901, and repeal the rules cited as 12 NCAC 10B .1004, .1005, .1204, .1205, .1404, .1405, .1604, and .1605.

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

Link to agency website pursuant to G.S. 150B-19.1(c):
<https://ncdoj.gov/law-enforcement-training/sheriffs/all-certification-forms-publications/proposed-rule-amendments/>

Proposed Effective Date: December 1, 2025

Public Hearing:

Date: August 19, 2025

Time: 10:00 a.m.

Location: 1700 Tryon Park Dr. Raleigh NC 27610

Reason for Proposed Action:

12 NCAC 10B .0412- This new rule sets forth the requirements of G.S. 17E - 16 for agencies to report critical incidents to the Division to be maintained in a database.

12 NCAC 10B .1002 - This amended rule updates the Professional certificate program for sheriffs by pulling information from .1004 and .1005.

12 NCAC 10B .1006 - This amended rule updates the Professional certificate program for sheriffs by specifying how to apply.

12 NCAC 10B .1202 - This amended rule updates the Professional certificate program for sheriffs by pulling information from .1204 and .1205.

12 NCAC 10B .1206 - This amended rule updates the Professional certificate program for sheriffs by specifying how to apply.

12 NCAC 10B .1402 - This amended rule updates the Professional certificate program for sheriffs by pulling information from .1404 and .1405.

12 NCAC 10B .1406 - This amended rule updates the Professional certificate program for sheriffs by specifying how to apply.

12 NCAC 10B .1602 - This amended rule updates the Professional certificate program for sheriffs by pulling information from .1604 and .1605.

12 NCAC 10B .1606 - This amended rule updates the Professional certificate program for sheriffs by specifying how to apply.

12 NCAC 10B .1901 - This amended rule updates the military transferee rules to streamline the language regarding when the applicant submits documentation to the Division.

The following rules are repealed since the relevant information has been incorporated into the above listed proposed amended rules.

12 NCAC 10B .1004, .1005, .1204, .1205, .1404, .1405, .1604, .1605.

Comments may be submitted to: Robin Pendergraft, 1700 Tryon Park Dr., Raleigh, NC 27610; phone (919) 779-8213; email rpendergraft@ncdoj.gov

Comment period ends: September 30, 2025

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 10 - SHERIFFS' EDUCATION AND TRAINING STANDARDS COMMISSION

SUBCHAPTER 10B - N.C. SHERIFFS' EDUCATION AND TRAINING STANDARDS COMMISSION

SECTION .0400 - CERTIFICATION OF JUSTICE OFFICERS

12 NCAC 10B .0412 DEPARTMENT HEAD RESPONSIBILITIES: CRITICAL INCIDENT REPORTING

(a) For all law enforcement agencies in the State that employ personnel certified by the North Criminal Sheriffs' Education and Training Standards Commission, the Department Head shall submit the Critical Incident Report, Form F-27, to the Sheriff's Standards Division no later than 30 days after making the determination that an incident involving any use of force by a law enforcement officer that resulted in death or serious bodily injury to a person has occurred. The Critical Incident Report (F-27) shall contain the following:

- (1) date and time of incident;
- (2) location of incident;
- (3) officer involved;
- (4) whether the incident involved serious bodily injury or death; and
- (5) notice that the officer has 30 days after receipt to request a hearing in superior court for a determination of whether the officer's involvement was properly placed in the database and that if a copy of that filing is not provided to the Division within the 30 days, the officer's name will be placed in the database.

(b) Information contained in the submitted Critical Incident Report, (F-27), that is confidential under state or federal law shall remain confidential.

(c) The Division shall develop and maintain a statewide database for use by law enforcement agencies that tracks all critical incident data in North Carolina that is reported to the Division.

Authority G.S. 17E-15.

SECTION .1000 - PROFESSIONAL CERTIFICATE PROGRAM FOR SHERIFFS AND DEPUTY SHERIFFS

12 NCAC 10B .1002 GENERAL PROVISIONS ELIGIBILITY FOR PROFESSIONAL CERTIFICATES

(a) In order to be eligible for one or more of the professional awards, certificates, a sheriff or deputy sheriff shall first meet the following preliminary qualifications:

- (1) be an elected or appointed sheriff or be a deputy sheriff who holds valid ~~General~~ general or ~~Grandfather~~ Certification. grandfather certification as defined in G.S. 17E-7(a). A deputy sheriff serving under a probationary certification is not eligible for consideration. Any justice officer subject to suspension or revocation ~~proceedings~~ proceedings, or under investigation for possible decertification ~~action~~ action, by the Commission or the North Carolina Criminal Justice Education and Training Standards Commission under a period of active revocation of their certification, or under probation or suspended sanction, by the Commission or the North Carolina Criminal Justice Education and Training Standards Commission, is not eligible for professional awards certificates for the pendency of the ~~proceeding~~ proceedings or period of probation, suspension, or revocation;
- (2) be familiar with and subscribe to the Law Enforcement Code of Ethics as promulgated by the International Association of Chiefs of Police; and meet and maintain the requirements of certification pursuant to Rule .0301 and Section .0500 of this Subchapter; and
- (3) if the applicant is a deputy sheriff, the applicant shall be a full-time sworn law enforcement officer of a North Carolina Sheriff's Office, as certified in writing by the sheriff; sheriff's office. or be a full-time law enforcement officer of an agency who must be sworn by the sheriff in order to perform his duties as certified in writing by the Sheriff.

(b) Employees of a North Carolina Sheriff's Office who have previously held general or grandfather law enforcement officer certification but are presently, by virtue of promotion or transfer, serving in non-sworn positions not subject to certification are eligible to participate in the Professional Certificate Program. Eligibility for this exception requires continuous employment with the sheriff's office from the date of promotion or transfer from a sworn, certified position to the date of application for a professional certificate.

PROPOSED RULES

(c) Only training or experience gained in an officer's area of expertise as described in Paragraph (d) of this Rule is eligible for application to this program.

(d) Certificates shall be awarded based upon a formula that combines formal education, law enforcement training, and ~~actual~~ experience as in a sworn law enforcement officer position as defined in Rule .0103(19) of this Subchapter. These professional certificates ~~are appropriate~~ shall be for sworn sheriffs and full-time deputy sheriffs. Points are computed in the following manner:

- (1) each semester hour of college credit shall equal one education point and each quarter hour shall equal two-thirds of an education point. No correspondence or vocational courses shall be credited towards education points unless an accredited institution, as set out in ~~12 NCAC 10B .1004(b)~~, Rule .1004(b) of this Section, credits the ~~course(s)~~ course(s) towards a degree;
- (2) ~~twenty 20 classroom~~ 20 classroom hours of ~~commission-~~ approved law enforcement training shall equal one training point; and
- (3) experience as a sworn law enforcement officer as defined in Rule .0103(19) of this Subchapter is acceptable for consideration.

(e) In addition to the qualifications set forth in Paragraphs (a), (b), (c), and (d) of this Rule, applicants for the Intermediate Law Enforcement Certificate shall have acquired the following combination of educational points or degrees, law enforcement training points, and years of law enforcement experience:

<u>Educational Degrees</u>	<u>None</u>	<u>None</u>	<u>None</u>	<u>Associate</u>	<u>Bachelor</u>
<u>Years of Law Enforcement Experience</u>	<u>8</u>	<u>6</u>	<u>4</u>	<u>4</u>	<u>2</u>
<u>Minimum Law Enforcement Training Points</u>	<u>20</u>	<u>35</u>	<u>50</u>	<u>24</u>	<u>23</u>
<u>Minimum Total Education and Training Points</u>	<u>39</u>	<u>69</u>	<u>99</u>	<u>24</u>	<u>23</u>

(f) In addition to the qualifications set forth in Paragraphs (a), (b), (c), and (d) of this Rule, applicants for the Advanced Law Enforcement Certificate shall have acquired the following combination of educational points or degrees, law enforcement training points, and years of law enforcement experience:

<u>Educational Degrees</u>	<u>None</u>	<u>None</u>	<u>Associate</u>	<u>Bachelor</u>	<u>Doctoral, Professional or Master</u>
<u>Years of Law Enforcement Experience</u>	<u>12</u>	<u>9</u>	<u>9</u>	<u>6</u>	<u>4</u>
<u>Minimum Law Enforcement Training Points</u>	<u>35</u>	<u>50</u>	<u>33</u>	<u>27</u>	<u>23</u>
<u>Minimum Total Education and Training Points</u>	<u>69</u>	<u>99</u>	<u>33</u>	<u>27</u>	<u>23</u>

(g) Educational points or degrees claimed shall have been earned at a technical institute, technical college, community college, junior college, college or university accredited as such by the Department of Education of the state in which the institution is located, a national or regional accrediting body, or the state university of the state in which the institution is located. No credit shall be given for any correspondence or vocational courses unless credited towards a degree by an accredited institution.

(h) No more than 160 hours of training obtained by completing an accredited basic law enforcement training program required to serve in a sworn law enforcement position as defined in Rule .0103(19) of this Subchapter shall be credited toward training points.

Authority G.S. 17E-4.

12 NCAC 10B .1004 INTERMEDIATE LAW ENFORCEMENT CERTIFICATE

(a) ~~In addition to the qualifications set forth in Rule .1002 of this Section, applicants for the Intermediate Law Enforcement Certificate shall possess or be eligible to possess the Basic Law Enforcement Certificate and shall have acquired the following combination of educational points or degrees, law enforcement training and years of law enforcement training experience:~~

<u>Educational Degrees</u>	<u>None</u>	<u>None</u>	<u>None</u>	<u>Associate</u>	<u>Bachelor</u>
<u>Years of Law Enforcement Experience</u>	<u>8</u>	<u>6</u>	<u>4</u>	<u>4</u>	<u>2</u>

Minimum Law Enforcement Training Points	20	35	50	24	23
Minimum Total Education and Training Points	39	69	99	24	23

~~(b) Educational points and degrees claimed shall have been earned at a technical institute, technical college, community college, junior college, college or university accredited as such by the Department of Education of the state in which the institution is located, a national or regional accrediting body, or the state university of the state in which the institution is located. No credit shall be given for any correspondence, on line or vocational~~

~~courses unless credited towards a degree by an accredited institution.~~
~~(c) No more than 160 hours of training obtained by completing the commission mandated basic law enforcement training course shall be credited toward training points.~~

Authority G.S. 17E-4(b)(1); 17E-4(b)(12).

12 NCAC 10B .1005 ADVANCED LAW ENFORCEMENT CERTIFICATE

~~(a) In addition to the qualifications set forth in Rule 1002 of this Section, applicants for the Advanced Law Enforcement Certificate shall possess or be eligible to possess the Intermediate Law Enforcement Certificate and shall have acquired the following combination of educational points or degrees, law enforcement training points and years of law enforcement experience:~~

Educational Degrees	None	None	Associate	Bachelor	Doctoral, Professional or Master
Years of Law Enforcement Experience	12	9	9	6	4
Minimum Law Enforcement Training Points	35	50	33	27	23
Minimum Total Education and Training Points	69	99	33	27	23

~~(b) Educational points or degrees claimed shall have been earned at a technical institute, technical college, community college, junior college, college or university accredited as such by the Department of Education of the state in which the institution is located, a national or regional accrediting body, or the state university of the state in which the institution is located. No credit shall be given for any correspondence, on line or vocational courses unless credited towards a degree by an accredited institution.~~

~~(c) No more than 160 hours of training obtained by completing the commission mandated basic law enforcement training course shall be credited toward training points.~~

Authority G.S. 17E-4(b)(1); 17E-4(b)(12).

12 NCAC 10B .1006 HOW TO APPLY

(a) All applicants for an award of the ~~basic~~, intermediate or advanced professional certificates for sheriffs and deputy sheriffs shall complete an "Application: Professional Certificate/Service Award", (F-6). ~~the "Application for Professional Certificate/Service Award," Form F-6.~~

(b) Documentation of education shall be provided by copies of transcripts, diplomas, or certified letters from the accredited institution.

(c) Documentation of training shall be provided by copies of training records signed by the agency's training officer or

department head, or by providing certificates of completion. ~~Military Police Officers shall provide a military DD-214 form DD214, Certificate of Release from Active Duty form, for verification of service. Federal government employees (law enforcement agencies), shall provide certified letters of verification of employment or copies of federal oaths of office.~~

(d) Military Police Officers shall provide a military DD214, Certificate of Release from Active Duty form, for verification of service. Federal government employees with service in a sworn law enforcement position, as defined in Rule .0103(19) of this Subchapter, shall provide letters of verification of dates of employment on the agency letterhead signed by the department head or their designee.

~~(d)(c)~~ Documentation of the applicant's length of service in North Carolina shall be based upon the Division's certification records, however, oaths of office may be requested of the ~~applicant~~. applicant if confirmation of dates of service is required. Documentation shall be provided by ~~certified~~ letters of verification of employment from present or former out-of-state employers ~~(law enforcement agencies) where the applicant served in a sworn law enforcement position, as defined in Rule .0103(19) of this Subchapter.~~

~~(e)(f)~~ The ~~applicant~~ shall submit the "Application: Professional Certificate/Service Award", (F-6) "Application for Professional Certificate/Service Award," Form F-6, shall be signed by the department head and forwarded to the Division. to the agency

~~head who shall attach his recommendation and forward the application to the Division. Certificates shall be issued to the agency department head for award to the applicant.~~

Authority G.S. 17E-4.

**SECTION .1200 - PROFESSIONAL CERTIFICATE
PROGRAM FOR DETENTION OFFICERS**

**12 NCAC 10B .1202 GENERAL PROVISIONS
ELIGIBILITY FOR PROFESSIONAL CERTIFICATES**

(a) In order to be eligible for one or more of the detention officer professional ~~awards~~, certificates, a detention officer shall first meet the following preliminary qualifications:

- (1) ~~be a full-time detention officer who holds a valid general or grandfather certification, certification as defined in G.S. 17E-7(a). A detention officer serving under a probationary certification is not eligible for consideration. Any detention officer subject to suspension or revocation proceedings or under investigation for possible decertification action by the Commission or the North Carolina Criminal Justice Education and Training Standards Commission is not eligible for any detention officer professional awards for the pendency of the proceeding.~~
- (2) ~~any detention officer subject to suspension or revocation proceedings, under investigation for possible decertification action, under a period of active revocation of their certification, or under probation or suspended sanction, by the Commission or the North Carolina Criminal Justice Education and Training Standards Commission, shall not be eligible for any professional certificates for the pendency of the proceedings or period of probation, suspension, or revocation;~~
- (2)(3) ~~be familiar with and subscribe to the Law Enforcement Code of Ethics as promulgated by the International Association of Chiefs of Police including any subsequent editions or modifications thereto. A copy of the Code of Ethics may be obtained at no cost from the Sheriffs' Standards Division, North Carolina Department of Justice, Post Office Box 629, Raleigh, North Carolina 27602-0629. meet and maintain the requirements of certification pursuant to Rule .0301 and Section .0600 of this Subchapter.~~

(b) Employees of a North Carolina ~~Sheriffs Office~~ sheriff's office who have previously held a general or grandfather detention officer ~~certification~~ certification, but are presently, by virtue of promotion or transfer, serving in positions not subject to ~~certification~~ certification, are eligible to participate in the Professional Certificate Program. Eligibility for this exception requires continuous employment with ~~the~~ a sheriff's office from the date of promotion or transfer from a certified position to the date of application for a professional certificate.

(c) Only training and experience gained in an officer's area of ~~expertise~~ expertise, as described in Paragraph (d) of this Rule, shall be eligible for application to this program.

(d) Certificates shall be awarded based upon a formula contained herein which that combines formal education, training, and ~~actual~~ experience as a detention officer. Points are computed in the following manner:

- (1) each semester hour of college credit shall equal one education point and each quarter hour of college credit shall equal two thirds of an education point. No correspondence or vocational courses shall be credited towards education points unless an accredited institution, as set out in ~~12 NCAC 10B .1204(b)~~, Paragraph (g) of this Rule, credits the ~~course(s)~~ courses towards a degree;
- (2) ~~twenty 20 classroom~~ hours of ~~commission-approved~~ detention officer training shall equal one training point; and
- (3) experience as a member of a correctional or detention facility in North ~~Carolina~~ Carolina, as defined in Rule .0103(6) of this ~~Subchapter is acceptable for consideration;~~ Subchapter.

(e) In addition to the qualifications set forth in Paragraphs (a), (b), (c), and (d) of this Rule, applicants for the Intermediate Detention Officer Professional Certificate shall have acquired the following combination of educational points or degrees, detention officer or corrections training points, and years of detention officer experience:

<u>Educational Degrees</u>	<u>None</u>	<u>None</u>	<u>None</u>	<u>Associate</u>	<u>Bachelor</u>
<u>Years of Detention Officer Experience Minimum</u>	<u>8</u>	<u>6</u>	<u>4</u>	<u>4</u>	<u>2</u>
<u>Detention Officer Training Points Minimum</u>	<u>6</u>	<u>12</u>	<u>16</u>	<u>24</u>	<u>23</u>
<u>Education and Training Points</u>	<u>13</u>	<u>23</u>	<u>33</u>	<u>24</u>	<u>23</u>

(f) In addition to the qualifications set forth in Paragraphs (a), (b), (c), and (d) of this Rule, applicants for the Advanced Detention Officer Professional Certificate shall possess or be eligible to possess the Intermediate Detention Officer Professional Certificate and shall have acquired the following combination of educational points or degrees, detention officer or corrections training points, and years of detention officer experience:

<u>Education al Degrees</u>	<u>Non e</u>	<u>Non e</u>	<u>Associat e</u>	<u>Bachelo r</u>	<u>Doctoral, Profession al</u>
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PROPOSED RULES

<u>Years of Detention Officer Experience</u>	<u>12</u>	<u>9</u>	<u>9</u>	<u>6</u>	<u>or Master 4</u>
<u>Minimum Detention Officer Training Points</u>	<u>12</u>	<u>16</u>	<u>27</u>	<u>26</u>	<u>26</u>
<u>Minimum Total Education and Training Points</u>	<u>23</u>	<u>33</u>	<u>27</u>	<u>26</u>	<u>26</u>

(g) Educational points or degrees claimed shall have been earned at a technical institute, technical college, community college, junior college, college or university accredited as such by the Department of Education of the state in which the institution is located, or a national or regional accrediting body. No credit shall be given for any correspondence or vocational courses unless credited towards a degree by an accredited institution.

(h) No more than 80 hours of training obtained by completing the detention officer certification course, as set out in Rule .0601 of this Subchapter, shall be credited toward training points.

Authority G.S. 17E-4.

12 NCAC 10B .1204 INTERMEDIATE DETENTION OFFICER PROFESSIONAL CERTIFICATE

(a) In addition to the qualifications set forth in Rule .1202 of this Section, applicants for the Intermediate Detention Officer Professional Certificate shall possess or be eligible to possess the Basic Detention Officer Professional Certificate and shall have acquired the following combination of educational points or degrees, detention officer or corrections training points and years of detention officer experience:

<u>Educational Degrees</u>	<u>None</u>	<u>None</u>	<u>None</u>	<u>Associate</u>	<u>Bachelor</u>
<u>Years of Detention Officer Experience</u>	<u>8</u>	<u>6</u>	<u>4</u>	<u>4</u>	<u>2</u>
<u>Minimum Detention Officer Training Points</u>	<u>6</u>	<u>12</u>	<u>16</u>	<u>24</u>	<u>23</u>
<u>Minimum Total Education and Training Points</u>	<u>13</u>	<u>23</u>	<u>33</u>	<u>24</u>	<u>23</u>

~~(b) Educational points and degrees claimed shall have been earned at a technical institute, technical college, community college, junior college, college or university accredited as such by the Department of Education of the state in which the institution is located, a national or regional accrediting body, or the state university of the state in which the institution is located. No credit shall be given for any correspondence, on-line or vocational courses unless credited towards a degree by an accredited institution.~~

~~(c) No more than 80 hours of training obtained by completing the commission-mandated detention certification course shall be credited toward training points.~~

Authority G.S. 17E-4(b)(1); 17E-4(b)(12).

12 NCAC 10B .1205 ADVANCED DETENTION OFFICER PROFESSIONAL CERTIFICATE

(a) In addition to the qualifications set forth in Rule .1202 of this Section, applicants for the Advanced Detention Officer Professional Certificate shall possess or be eligible to possess the Intermediate Detention Officer Professional Certificate and shall have acquired the following combination of educational points or degrees, detention officer or corrections training points, and years of detention officer experience:

<u>Education al Degrees</u>	<u>Non e</u>	<u>Non e</u>	<u>Associat e</u>	<u>Bachelo r</u>	<u>Doctoral, Profession al or Master 4</u>
<u>Years of Detention Officer Experience</u>	<u>12</u>	<u>9</u>	<u>9</u>	<u>6</u>	<u>4</u>
<u>Minimum Detention Officer Training Points</u>	<u>12</u>	<u>16</u>	<u>27</u>	<u>26</u>	<u>26</u>
<u>Minimum Total Education and Training Points</u>	<u>23</u>	<u>33</u>	<u>27</u>	<u>26</u>	<u>26</u>

~~(b) Educational points and degrees claimed shall have been earned at a technical institute, technical college, community college, junior college, college or university accredited as such by the Department of Education of the state in which the institution is located, a national or regional accrediting body, or the state university of the state in which the institution is located. No credit shall be given for any correspondence, on-line or vocational courses unless credited towards a degree by an accredited institution.~~

~~(c) No more than 80 hours of training obtained by completing the commission-mandated detention certification course shall be credited toward training points.~~

Authority G.S. 17E-4(b)(1); 17E-4(b)(12).

12 NCAC 10B .1206 HOW TO APPLY

- (a) All applicants for an award of the ~~detention officer Basic, Intermediate intermediate or Advanced Certificates~~ advanced professional certificates shall complete an ~~"Application: Professional Certificate/Service Award", (F-6); the "Application for Professional Certificate/Service Award,"~~ Form F-6.
- (b) Documentation of education shall be provided by copies of transcripts, diplomas, or certified letters from the accredited institution.
- (c) Documentation of training shall be provided by copies of training records signed by the agency's training officer or department head, or by providing certificates of completion. No out-of-state training shall be accepted, ~~unless, unless~~ the officer is employed in North Carolina as a justice officer as defined in 17E-2 during the time of training.
- (d) Documentation of the applicant's length of service in North Carolina shall be based upon the Division's certification records, however, certified letters of verification of employment from present or former employers may be requested of ~~an applicant; applicant if confirmation of dates of service is required.~~ No out-of-state length of service shall be applicable to this certificate program.
- (e) The ~~applicant shall submit the "Application: Professional Certificate/Service Award", (F-6) "Application for Professional Certificate/Service Award,"~~ Form F-6, shall be signed by ~~to his sheriff the department head who shall attach his recommendation and forward the application to the Commission; and forwarded to the Division.~~ Certificates ~~will shall~~ be issued to the ~~sheriff department head~~ for award to the applicant.

Authority G.S. 17E-4.

SECTION .1400 - PROFESSIONAL CERTIFICATE FOR RESERVE DEPUTY SHERIFFS

**12 NCAC 10B .1402 GENERAL PROVISIONS
ELIGIBILITY FOR PROFESSIONAL CERTIFICATES**

- (a) In order to be eligible for one or more of the professional certificates, a reserve deputy sheriff shall first meet the following preliminary qualifications:
- (1) be an appointed reserve deputy sheriff who holds a valid ~~General general or Grandfather Certification; grandfather certification as defined in G.S. 17E-7(a).~~ A reserve deputy sheriff serving under a probationary certification is not eligible for consideration. ~~Any deputy sheriff subject to suspension or revocation proceedings or under investigation for possible decertification action by the Commission or the North Carolina Criminal Justice Education and Training Standards Commission shall not be eligible for any deputy sheriff professional awards for the pendency of the proceeding;~~
 - (2) any reserve deputy sheriff subject to suspension or revocation proceedings, under investigation for possible decertification action, under a

- period of active revocation of their certification, or under probation or suspended sanction, by the Commission or the North Carolina Criminal Justice Education and Training Standards Commission, shall not be eligible for any professional certificates for the pendency of the proceedings or period of probation, suspension, or revocation;
- (2)(3) ~~be familiar with and subscribe to the Law Enforcement Code of Ethics as promulgated by the International Association of Chiefs of Police to include any subsequent editions or modifications thereto. A copy of the Code of Ethics may be obtained at no cost from the Sheriffs' Standards Division, North Carolina Department of Justice, Post Office Box 629, Raleigh, North Carolina 27602-0629; meet and maintain the requirements of certification pursuant to Rule .0301 and Section .0500 of this Subchapter;~~
- (3)(4) ~~the applicant shall be a sworn law enforcement officer officer, as defined in Rule .0103(19) of this Subchapter, of a North Carolina Sheriffs Office, as certified in writing by the sheriff; or be a sworn law enforcement officer of an agency who must be appointed by the sheriff in order to perform his duties as certified in writing by the Sheriff; and sheriff's office.~~
- (4) ~~only training or experience gained in an officer's area of expertise will be eligible for application to this program. All training must be completed during the time of service as a sworn law enforcement officer, with the exception of Basic Law Enforcement Training.~~
- (b) Only training or experience gained in an officer's area of expertise, as described in Paragraph (c) of this Rule, shall be eligible for application to this program.
- ~~(b)(c) Certificates are shall be awarded based upon a formula which that combines law enforcement training and actual participation experience as a reserve deputy sheriff in a law enforcement functions; position, as defined in Rule .0103(19) of this Subchapter. Points are computed in the following manner:~~
- (1) a minimum of ~~ninety six (96)~~ 96 hours ~~achieved worked~~ as a reserve deputy sheriff over a one-year period ~~of participation in law enforcement functions, by having been called into reserve duty by the appointing sheriff,~~ shall equal one year of reserve service;
 - (2) ~~twenty 20~~ hours of ~~commission approved~~ law enforcement training shall equal one law enforcement training point; and
 - (3) service as a reserve deputy sheriff in a sworn law enforcement position, as defined in Rule .0103(19) of this Subchapter. shall be acceptable for consideration. An officer who is otherwise ineligible to receive an equivalent certificate through the Professional Certificate Program for ~~Sheriffs sheriffs and Deputy Sheriffs deputy sheriffs,~~ as set out in 12 NCAC

~~40B .1000~~ Section .1000 of this Subchapter, may receive a certificate under this ~~program,~~
~~program, in which case one~~ One year of full-time service may be substituted for one year of reserve service in computing eligibility under this Section.

(d) In addition to the qualifications set forth in Paragraphs (a), (b), and (c) of this Rule, applicants for the Intermediate Reserve Deputy Sheriff Professional Certificate shall have acquired the following law enforcement training points and years of service as a reserve law enforcement officer:

- (1) 8 years of reserve officer law enforcement experience; and
- (2) 35 minimum law enforcement training points.

(e) In addition to the qualifications set forth in Paragraphs (a), (b), and (c) of this Rule, applicants for the Advanced Deputy Sheriff Professional Certificate shall possess or be eligible to possess the Intermediate Reserve Deputy Sheriff Professional Certificate and shall have acquired the following law enforcement training points and years of service as a reserve law enforcement officer:

- (1) 12 years of reserve officer law enforcement experience; and
- (2) 50 minimum law enforcement training points.

(f) No more than 160 hours of training obtained by completing an accredited basic law enforcement training program required to serve in a sworn law enforcement position, as defined in Rule .0103(19) of this Subchapter, shall be credited toward training points for the Intermediate or Advanced Reserve Deputy Sheriff Professional Certificate.

Authority G.S. 17E; G.S. 17E-4.

12 NCAC 10B .1404 INTERMEDIATE RESERVE DEPUTY SHERIFF CERTIFICATE

~~In addition to the qualifications set forth in Rule .1402 in this Section, applicants for the Intermediate Reserve Deputy Sheriff Certificate shall possess or be eligible to possess the Basic Reserve Deputy Sheriff Certificate and shall have acquired the following law enforcement training points and years of service as a reserve law enforcement officer:~~

- ~~(1) 8 years of reserve officer law enforcement experience; and~~
- ~~(2) 35 points minimum reserve officer law enforcement training. No more than 160 hours of training obtained by completing the commission mandated basic law enforcement training course shall be credited toward training points.~~

Authority G.S. 17E.

12 NCAC 10B .1405 ADVANCED RESERVE DEPUTY SHERIFF CERTIFICATE

~~In addition to the qualifications set forth in Rule .1402 of this Section, applicants for the Advanced Deputy Sheriff Certificate shall possess or be eligible to possess the Intermediate Reserve Deputy Sheriff Certificate and shall have acquired the following~~

~~law enforcement training points and years of service as a reserve law enforcement officer:~~

- ~~(1) 12 years of reserve officer law enforcement experience; and~~
- ~~(2) 50 points minimum total of reserve officer law enforcement training. No more than 160 hours of training obtained by completing the commission mandated basic law enforcement training course shall be credited toward training points.~~

Authority G.S. 17E.

12 NCAC 10B .1406 HOW TO APPLY

~~(a) All applicants for an award of the basic, intermediate or advanced reserve officer professional certificates shall complete an "Application: Reserve Deputy Sheriff Professional Certificate/Service Recognition", (F-6R). the "Application for Professional Certificate/Service Award," Form F-6R.~~

~~(b) Documentation of training shall be provided by copies of training records signed by the agency's training officer or department head, or by providing certificates of completion.~~

~~(c) Verification of the applicant's length of service as a reserve deputy sheriff sheriff, as required in 12 NCAC 10B .1402(b)(1) Rule .1402(c)(1) of this Section, shall be documented by providing certified letters, signed by the employing sheriff or his/her his or her authorized designee.~~

~~(d) The applicant shall submit the application "Application for Professional Certificate/Service Award," Form F-6R, to the agency head who shall attach his/her recommendation and forward the application shall be signed by the department head and forwarded to the Division. Certificates shall be issued to the agency department head for award to the applicant.~~

Authority G.S. 17E; G.S. 17E-4.

SECTION .1600 - PROFESSIONAL CERTIFICATE PROGRAM FOR TELECOMMUNICATORS

12 NCAC 10B .1602 GENERAL PROVISIONS ELIGIBILITY FOR PROFESSIONAL CERTIFICATES

~~(a) In order to be eligible for one or more of the telecommunicator professional awards, certificates, a telecommunicator shall first meet the following preliminary qualifications:~~

- ~~(1) be a full-time telecommunicator who holds a valid general or grandfather certification certification, as defined in G.S. 17E-7(a), under the North Carolina Sheriffs' Education and Training Standards Commission. A telecommunicator serving under a probationary certification is not eligible for consideration;~~
- ~~(2) any telecommunicator subject to suspension or revocation proceedings, under investigation for possible decertification action, under a period of active revocation of their certification, or under probation or suspended sanction, by the Commission or the North Carolina Criminal Justice Education and Training Standards Commission, shall not be eligible for any~~

(2)(3) ~~telecommunicator professional certificates for the pendency of the proceedings or period of probation, suspension, or revocation; and be familiar with and subscribe to the Telecommunicator Code of Ethics as published by the Association of Public Safety Communications Officials and the National Emergency Number Association including any subsequent editions or modifications thereto. A copy of the Code of Ethics may be obtained at no cost from the Sheriffs' Standards Division, North Carolina Department of Justice, Post Office Box 629, Raleigh, North Carolina 27602-0629. meet and maintain the requirements of certification pursuant to Rule .0301 and Section .1300 of this Subchapter.~~

(b) ~~employees~~ Employees of a North Carolina Sheriff's Office sheriff's office or other agency who have previously held general or grandfather telecommunicator certification under the North Carolina Sheriffs' Education and Training Standards Commission Commission, but are presently, by virtue of promotion or transfer, serving in positions not subject to ~~certification~~ certification, are eligible to participate in the Professional Certificate Program. Eligibility for this exception requires continuous employment with the sheriff's office or agency from the date of promotion or transfer from a certified position to the date of application for a professional certificate.

(c) Only training and experience gained in a telecommunicator's area of ~~expertise~~ expertise, as described in Paragraph (d) of this Rule, ~~will~~ be eligible for application to this program.

(d) Certificates shall be awarded based upon a formula ~~contained herein which~~ combines formal education, training, and ~~actual~~ experience as a telecommunicator. Points are computed in the following manner:

- (1) each semester hour of college credit shall equal one ~~education~~ point and each quarter hour of college credit shall equal two thirds of a ~~point~~; an education point. No correspondence or vocational courses shall be credited towards education points unless an accredited institution, as set out in Paragraph (g) of this Rule, credits the courses towards a degree;
- (2) ~~twenty~~ 20 classroom hours of ~~commission-approved~~ telecommunicator training shall equal one training point; and
- (3) ~~only~~ experience as a full-time telecommunicator telecommunicator, as defined in Rule .0103(20) of this Subchapter, ~~certified through the Commission shall be acceptable for consideration.~~

(e) In addition to the qualifications set forth in Paragraphs (a), (b), (c), and (d) of this Rule, applicants for the Intermediate Telecommunicator Professional Certificate shall have acquired the following combination of educational points or degrees, telecommunicator training points, and years of telecommunicator experience:

<u>Educational Degrees</u>	<u>Non e</u>	<u>Non e</u>	<u>Non e</u>	<u>Associat e</u>	<u>Bachelo r</u>
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<u>Years of Telecommunicator or Experience Minimum</u>	<u>8</u>	<u>6</u>	<u>4</u>	<u>4</u>	<u>2</u>
<u>Telecommunicator Training Points Minimum Total</u>	<u>5</u>	<u>10</u>	<u>14</u>	<u>12</u>	<u>10</u>
<u>Education and Training Points</u>	<u>12</u>	<u>20</u>	<u>28</u>	<u>12</u>	<u>10</u>

(f) In addition to the qualifications set forth in Paragraphs (a), (b), (c), and (d) of this Rule, applicants for the Advanced Telecommunicator Professional Certificate shall possess or be eligible to possess the Intermediate Telecommunicator Professional Certificate and shall have acquired the following combination of educational points or degrees, telecommunicator training points, and years of telecommunicator experience:

<u>Educational Degrees</u>	<u>Non e</u>	<u>Non e</u>	<u>Associ ate</u>	<u>Bachel or</u>	<u>Doctoral, Professio nal or Master</u>
<u>Years of Telecommunicator or Experience Minimum</u>	<u>12</u>	<u>9</u>	<u>9</u>	<u>6</u>	<u>4</u>
<u>Telecommunicator Training Points Minimum Total</u>	<u>10</u>	<u>12</u>	<u>17</u>	<u>14</u>	<u>12</u>
<u>Education and Training Points</u>	<u>20</u>	<u>23</u>	<u>17</u>	<u>14</u>	<u>12</u>

(g) Educational points or degrees claimed shall have been earned at a technical institute, technical college, community college, junior college, college or university accredited as such by the Department of Education of the state in which the institution is located, or a national or regional accrediting body. No credit shall be given for any correspondence or vocational courses unless credited towards a degree by an accredited institution.

(h) No more than 40 hours of training obtained by completing the telecommunicator certification course, as set out in Rule .1302 of this Subchapter, shall be credited toward training points.

Authority G.S. 17E-4.

12 NCAC 10B .1604 INTERMEDIATE TELECOMMUNICATOR CERTIFICATE

(a) In addition to the qualifications set forth in Rule .1602 of this Section, applicants for the Intermediate Telecommunicator Certificate shall possess or be eligible to possess the Basic Telecommunicator Certificate and shall have acquired the following combination of educational points or degrees,

telecommunicator training points and years of telecommunicator training experience:

Educational Degrees	Non e	Non e	Non e	Associat e	Bachelo r
Years of Telecommunicat or Experience	8	6	4	4	2
Minimum Telecommunicat or Training Points	5	10	14	12	10
Minimum Total Education and Training Points	12	20	28	12	10

~~(b) Educational points and degrees claimed shall have been earned at a technical institute, technical college, community college, junior college, college or university accredited as such by the Department of Education of the state in which the institution is located, a national or regional accrediting body, or the state university of the state in which the institution is located. No credit shall be given for any correspondence, on line or vocational courses unless credited towards a degree by an accredited institution.~~

~~(c) No more than 40 hours of training obtained by completing the commission mandated telecommunicator certification course shall be credited toward training points.~~

Authority G.S. 17E-4(b)(1); 17E-4(b)(12).

12 NCAC 10B .1605 ADVANCED TELECOMMUNICATOR CERTIFICATE

~~(a) In addition to the qualifications set forth in Rule .1602 of this Section, applicants for the Advanced Telecommunicator Certificate shall possess or be eligible to possess the Intermediate Telecommunicator Certificate and shall have acquired the following combination of educational points or degrees, telecommunicator training points and years of telecommunicator experience:~~

Educational Degrees	Non e	Non e	Associat e	Bachelo r	Doctoral, Professio nal or Master
Years of Telecommunicat or Experience	12	9	9	6	4
Minimum Telecommunicat or Training Points	10	12	17	14	12
Minimum Total Education and Training Points	20	23	17	14	12

~~(b) Educational points and degrees claimed shall have been earned at a technical institute, technical college, community college, junior college, college or university accredited as such by the Department of Education of the state in which the institution is located, a national or regional accrediting body, or the state university of the state in which the institution is located. No credit shall be given for any correspondence, on line or vocational courses unless credited towards a degree by an accredited institution.~~

~~(c) No more than 40 hours of training obtained by completing the commission mandated telecommunicator certification course shall be credited toward training points.~~

Authority G.S. 17E-4(b)(1); 17E-4(b)(12).

12 NCAC 10B .1606 HOW TO APPLY

(a) All applicants for an award of the telecommunicator basic, intermediate or advanced professional certificates shall complete an "Application: Professional Certificate/Service Award", (F-6). the "Application for Professional Certificate/Service Award," Form F-6.

(b) Documentation of education shall be provided by copies of transcripts, diplomas, or certified letters from the accredited institution.

(c) Documentation of training shall be provided by copies of training records signed by the agency's training officer or department head, or by providing certificates of completion. No out-of-state training shall be accepted, unless the officer is employed in North Carolina as a justice officer as defined in 17E-2 during the of training.

(d) Documentation of the applicant's length of service in North Carolina shall be based upon the Division's certification records, however, certified letters of verification of employment from present or former employers may be requested of ~~the applicant.~~ an applicant if confirmation of dates of service is required. No out-of-state length of service shall be applicable to this certificate program.

(e) The applicant shall submit the "Application: Professional Certificate/Service Award", (F-6) "Application for Professional Certificate/Service Award," Form F-6, shall be signed by the department head t o the agency head who shall attach his recommendation and forward the application and forwarded to the Division. Certificates shall be issued to the agency department head for award to the applicant.

Authority G.S. 17E-4.

SECTION .1900 – MILITARY TRAINED APPLICANT AND MILITARY SPOUSE

12 NCAC 10B .1901 MILITARY AND MILITARY SPOUSE TRANSFEREES

(a) An individual who applies for seeking justice officer certification as a military trained applicant pursuant to G.S. 93B-15.1 who applies to the Division for a certification issued by the Commission must shall meet and submit, along with other documentation required in Rule .0408, documentation verifying his or her compliance with the following requirements:

- (1) Been awarded a military occupational specialty that is substantially equivalent to or exceeds the training requirements required for certification and performed in the occupational specialty;
- (2) Completed a military program of training, completed testing or equivalent training and experience as determined by Paragraph (c) of this Rule;
- (3) Engaged in the active practice of that occupation for at least two of the five years prior to the date of appointment; and
- (4) Not committed any act in any jurisdiction that would have constituted grounds for refusal, suspension of or revocation of a license to practice that occupation in this State at the time the act was committed. ~~The military trained applicant shall submit documentation to the Division verifying his or her compliance with the above listed criteria.~~

(b) An individual who applies for seeking justice officer certification as a military spouse pursuant to G.S. 93B-15.1 ~~who applies to the Division for a certification issued by the Commission must shall~~ meet and submit, along with other documentation required in Rule .0408 of this Subchapter, the following requirements:

- (1) Hold a current license, certification or registration from another jurisdiction which is substantially equivalent to or exceeds the training requirements required for certification;
- (2) Be in good standing with the issuing agency and not have been disciplined by the agency that has the jurisdiction to issue the license, certification or permit; and
- (3) Demonstrate competency in the occupation by:
 - (A) Having completed continuing education comparable to the education and training required for the type of certification for which application is being made, as determined by Paragraph (c) of this Rule; or
 - (B) Having engaged in the active practice of that occupational specialty for at least two of the five years prior to the date of appointment.

~~The military spouse shall submit documentation to the Division verifying his or her compliance with the above listed criteria.~~

(c) The Division shall review the documents received to determine if any additional training is required to satisfy the certification requirements ~~of this Subchapter.~~ as set out in Rule .0504 of this Subchapter. Where training provided by the military or in other states require approval of prior training, such approval by the appropriate entity ~~must~~ shall also be documented.

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

(e) Where certifications issued by the Commission require satisfactory performance on a written examination as part of the

training, the Commission shall require such examinations for the ~~certification.~~ certification of military trained and military spouse applicants.

Authority G.S. 17E-4; 17E-7; 93B-15.1.

TITLE 15A – DEPARTMENT OF ENVIRONMENTAL QUALITY

Notice is hereby given in accordance with G.S. 150B-21.2 that the Department of Environmental Quality intends to adopt the rules cited as 15A NCAC 01W .0101-.0105.

Link to agency website pursuant to G.S. 150B-19.1(c):
<https://www.deq.nc.gov/accessdeq/rules-regulations/deq-proposed-rules/proposed-rules>

Proposed Effective Date: *December 1, 2025*

Public Hearing:

Date: *August 21, 2025*

Time: *1:00 p.m.*

Location: *1st Floor in the Coastal Plains Rm (#1107), DEQ Green Square Office Building, 217 West Jones Street, Raleigh, NC 27603, or virtually using Cisco WebEx. <https://ncgov.webex.com/ncgov/j.php?MTID=mab1b17ec6f592646ac9e0cde4909771a> Webinar number (access code): 2433 393 6495 Webinar password NCDEQ (62337 when dialing from a phone or video system) Audio conference: To receive a call back, provide your phone number when you join the event, or call the number below and enter the access code. US TOLL +1-415-655-0003, Access code: 2433 393 6495, Pass code: 62337 If you wish to speak at the digital public hearing, you must register, provide the required information, and follow instructions on ways to join the public hearing. Registration must be completed by 5:00 PM on August 19, 2025. To register, please use the following link: <https://forms.office.com/g/kC72Absnzz> *For instructions on ways to join the public hearing, please refer to the following link: <https://www.deq.nc.gov/about/boards-and-commissions/how-attend-webex-meeting-0>*

Reason for Proposed Action: *The adoption of proposed rules 15A NCAC 01W .0101-.0105, "Emergency Infrastructure Bridge Loan Program for Commercial UST" is in response to the requirement for DEQ to adopt rules in compliance with Session Law 2024-53, Section 4C.8.(l). The Department adopted emergency rules effective February 14, 2025, and adopted temporary rules to replace the emergency rules effective April 8, 2025. The Department is proposing these permanent rules to replace the temporary rules. The proposed rules provide clarification of the Session Law requirements, including applicability of the program and key definitions. The proposed rules outline the application requirements and establish December 31, 2025, as the application submission deadline. The proposed rules also clarify the eligibility criteria, describe the Department's application review process, the contents of the loan agreement, and the procedure for appealing a loan denial. The*

proposed rules also detail the loan terms, limitations, and conditions and include clarification on loan usage.

Comments may be submitted to: *Carin Kromm, 1646 Mail Service Center, Raleigh, NC 27699-1646; email dwm.publiccomments@deq.nc.gov*

Comment period ends: *September 30, 2025*

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 01 - DEPARTMENTAL RULES

SUBCHAPTER 01W - EMERGENCY INFRASTRUCTURE BRIDGE LOAN PROGRAM FOR COMMERCIAL USTS

SECTION .0100 - EMERGENCY INFRASTRUCTURE BRIDGE LOAN PROGRAM FOR COMMERCIAL USTS

15A NCAC 01W .0101 APPLICABILITY AND DEFINITIONS

(a) Applicability. The rules of this Subchapter shall apply to emergency infrastructure bridge loans for commercial underground storage tanks as established by S.L. 2024-53, s. 4C.8 for short-term financial liquidity necessary to immediately conduct emergency services in the affected area, pending federal disaster relief or payment or reimbursement by insurance. The requirements of S.L. 2024-53, s. 3.1.(b), (c), and (d) are applicable to the rules of this Subchapter, including subsequent amendments or editions. 15A NCAC 02N is incorporated by reference including subsequent amendments or editions.

(b) Documents and payments required to be submitted to the Division by the rules of this Subchapter may be submitted to the Division's Underground Storage Tank Section at the Division's

mailing address at 1646 Mail Service Center, Raleigh, NC 27699-1646.

(c) Definitions. The definitions found in Part 2A of Article 21A of Chapter 143 of the General Statutes, the definitions in 15A NCAC 02N, the definitions in Sections 1.4 and 4C.8 of S.L. 2024-53 shall apply to the rules of this Subchapter. For the purposes of this Subchapter, "applicant" means the owner or operator of a commercial underground storage tank permitted by the Division in accordance with 15A NCAC 02N that is located in the affected area, and that is submitting an application for an emergency infrastructure bridge loan.

Authority S.L. 2024-53, s. 4C.8.(l).

15A NCAC 01W .0102 LOAN APPLICATION

(a) An owner or operator of a commercial underground storage tank permitted by the Division in accordance with 15A NCAC 02N that is located in the affected area may apply for an emergency infrastructure bridge loan in accordance with S.L. 2024-53, s. 4C.8 and the rules of this Subchapter. The application shall be submitted on a form provided by the Division, which can be found on the Division's website at <https://www.deq.nc.gov/about/divisions/waste-management/underground-storage-tanks-section/bridge-loan-program>. The application shall include the following information and attachments:

- (1) the owner's contact information, including the name, phone number, email address, and mailing address for the contact person or authorized representative for the owner, and the business name if the owner is a business;
- (2) the operator's contact information, including the name, phone number, email address, and mailing address for the contact person or authorized representative for the operator, and the business name if the operator is a business;
- (3) the UST facility name, UST facility identification number for the operating permit issued by the Division in accordance with 15A NCAC 02N, and the physical address and the county in which the UST system is located;
- (4) a description of the impacts and damage to the UST system from Hurricane Helene, including photographs of the impacts or damage;
- (5) a description of the testing and repairs and the scope of work for which the applicant is requesting funds;
- (6) a list of contractors the applicant is proposing to use for completion of the scope of work;
- (7) the project costs, including costs expended at the time of application and estimated future costs;
- (8) a description and the amount of federal disaster relief funds and private insurance reimbursement that the applicant has applied for and the source of those funds;
- (9) a description and the amount of disaster relief funds that the applicant has already received

from other sources as of the date of the application;

- (10) copies of repair cost estimates, contracts, or receipts that comply with Paragraphs (d), (e), and (f) of this Rule;
- (11) a description of the attachments included with the application; and
- (12) a certification signed by the applicant or the applicant's authorized representative certifying that the application and documentation provided to the Division are true and accurate to the best of the applicant's knowledge.

(b) The application shall be submitted by December 31, 2025.

(c) The Division shall review the submitted application and provide a response in writing stating either that the application is complete and under review, or that the application is incomplete and stating the information or attachments that are required to be submitted for the application to meet the requirements of Paragraph (a) of this Rule. The owner or operator shall submit any additional information requested by the Division in the response within 30 days following the date the Division's response was issued.

(d) The UST system testing and repairs for which the loan is being requested shall comply with S.L. 2024-53 and the rules of this Subchapter.

(e) Copies of receipts from testing or repairs in accordance with Paragraph (d) of this Rule that have been completed and paid for at the time the application is submitted shall be submitted with the application. The receipts shall include the name and contact information for the contractor, a description of the testing or repair, and the actual cost for the testing or repair.

(f) Copies of cost estimate documentation such as quotes, invoices, contracts, or similar documents for testing and repairs in accordance with Paragraph (d) of this Rule shall be submitted with the application for testing or repairs that are proposed or in progress and have not been paid for at the time the application is submitted. The testing or repair estimates shall include the name and contact information for the contractor, a description of the proposed testing or repair, and the estimated cost of the proposed testing or repair.

Authority S.L. 2024-53, s. 4C.8.(l).

15A NCAC 01W .0103 APPLICATION REVIEW AND LOAN ELIGIBILITY

(a) The Division shall review an application submitted that complies with Rule .0102 of this Section and determine whether the loan is eligible for approval. The Division may determine that the loan is not eligible for approval, that the loan is eligible for the amount requested, or that the loan is eligible for a portion of the amount requested. In making the determination for loan approval and the amount approved, the Division may consider the following criteria:

- (1) the information submitted in the application;
- (2) the remaining amount of loan funds available;
- (3) the location of the UST system within the affected areas as defined in S.L. 2024-53, with priority given to the areas with the greatest impacts from Hurricane Helene;

(4) whether the costs included in the scope of work are significantly different from a range of expected or reasonable costs for such work, as determined by the Division;

(5) federal disaster relief or private insurance reimbursement received for Hurricane Helene response prior to submittal of the application;

(6) the level of need for other submitted applications under review by the Division that have not yet been awarded pursuant to S.L. 2024-53, s. 4C.8.(h);

(7) the type of work included in the scope of work, with funding priority given to the specific examples of repairs and testing listed in the definition of emergency services in S.L. 2024-53, s. 4C.8.(b); and

(8) the operational status of the UST system and the status of the scope of work submitted.

(b) If the Division determines that the loan is eligible for approval, either for the requested amount or a portion of the requested amount, the Division shall send the applicant a letter of intent to award the loan in accordance with S.L. 2024-53, s. 4C.8.(i) with a copy of the loan agreement developed in accordance with Rule .0104 of this Section within 60 days after receipt of the application. Within 30 days after the offer is issued, the recipient shall:

- (1) accept the offer by executing a loan agreement in accordance with Rule .0104(c) of this Section and returning it to the Division; or
- (2) provide a written response to the Division rejecting the offer.

(c) If the applicant has not accepted or rejected the offer in accordance with Paragraph (b) of this Rule within 30 days after the offer is issued, the Division may rescind the offer to award the loan by providing written notice to the applicant. The awarding of new loans shall cease on June 30, 2028.

(d) If the Division determines that the loan is not eligible for approval because it does not comply with S.L. 2024-53 or the rules of this Subchapter, the Division shall send the applicant a letter via certified mail outlining the reasons that the applicant is not eligible within 60 days after receipt of the application.

(e) If the applicant disagrees with the Division's determination, the applicant may elect to submit an informal appeal to the Division supplying additional supporting information. The appeal must be submitted within 30 days of the date the Division issued the notification of the Division's determination. The Division shall review the additional information and shall issue a final written agency decision via certified mail. Pursuant to S.L. 2024-53, s. 4C.8.(h), the Division's determination of need is conclusive.

Authority S.L. 2024-53, s. 4C.8.(l).

15A NCAC 01W .0104 LOAN AGREEMENT

(a) Within 10 business days after an applicant elects to accept a loan after it is awarded in accordance with S.L. 2024-53, s. 4C.8.(i), the recipient shall submit a signed NC Substitute W-9 form to the Division. The Substitute W-9 form may be obtained from the NC Office of the State Controller website at: <https://www.osc.nc.gov/state-north-carolina-sub-w-9>.

(b) Loan Agreement. If an applicant elects to accept a loan after it is awarded in accordance with S.L. 2024-53, s. 4C.8.(i), a loan agreement shall be executed between the Division and the recipient. The loan agreement shall include the terms and conditions of the agreement such as:

- (1) the conditions for issuance of the loan, including the requirements in Paragraph (a) of this Rule;
- (2) information regarding the intended use of the loan proceeds;
- (3) a deadline by which the applicant shall have entered into a construction contract to begin testing and repairs;
- (4) conditions under which the loan will be repaid, including any payment plan schedules if a payment plan is required by Rule .0105(a) of this Section, or requested by the applicant;
- (5) the rights and responsibilities of the parties;
- (6) the loan identification number assigned by the Division; and
- (7) any other applicable terms and conditions of the loan as outlined in Rule .0105 of this Section.

(c) The recipient shall sign the loan agreement, the signature shall be notarized by a notary public, and the original signed and notarized copy shall be returned to the Division. The Division shall also sign the loan agreement, and the signature shall be notarized by a notary public, to execute the agreement. The agreement shall be effective on the date the agreement is signed by the Division.

(d) After the loan agreement is executed, the applicant may submit a request in writing for an amendment to the loan amount or the terms of the loan agreement. The request shall include the amendment being requested and supporting evidence for the request, including supporting documentation such as updates to any information that was provided in the application that has changed since the application was submitted. The Division shall review and respond to the request in accordance with Rule .0103 of this Section. If approved, the agreement shall be revised accordingly and shall be signed and notarized by the Division and the recipient. No amendments to awarded loans shall be approved after June 30, 2028.

Authority S.L. 2024-53, s. 4C.8.(l).

15A NCAC 01W .0105 LOAN TERMS, LIMITATIONS, AND CONDITIONS

(a) In addition to the loan terms in S.L. 2024-53, s. 4C.8 and the applicable requirements of S.L. 2024-53, s. 3.1, a bridge loan from the program is subject to the following terms and conditions:

- (1) The total amount awarded for the loan shall be repaid in full by the maturity date as defined in S.L. 2024-53, s. 4C.8, and no later than June 30, 2030.
- (2) A loan may be repaid early or on a payment plan outlined in the loan agreement prior to the maturity date without penalty.
- (3) A loan in the amount of \$200,000 or more shall be placed on a structured payment plan. The terms and schedule of the payment plan shall be

included in the loan agreement required by Rule .0104 of this Section. Loan payments shall be submitted to the Division of Waste Management Underground Storage Tank Section by certified check or money order.

- (4) The applicant may not assign, transfer, or otherwise convey any of their rights or obligations under the loan agreement to any third party without the prior written consent of the Division. The applicant shall not be released from the loan obligation by the Division until the approved third party executes a loan agreement with the Division in accordance with Rule .0104 of this Section.

(b) In addition to the loan limitations in S.L. 2024-53, s. 4C.8, a bridge loan from the program shall not be used for purposes that do not comply with the requirements of S.L. 2024-53, such as the following purposes:

- (1) removal of a commercial UST unless the applicant provides evidence in the loan application that damage or impacts from Hurricane Helene necessitated the removal, and the removal is necessary to restore the UST system to operational capacity;
- (2) work or testing or repairs related to aboveground storage tanks or non-commercial underground storage tanks, notwithstanding new action from the General Assembly;
- (3) purposes that are or may be eligible for reimbursement from the Commercial Leaking Petroleum Underground Storage Tank Cleanup Fund in accordance with G.S. 143-215.94B;
- (4) any repairs or testing that have already been paid for or reimbursed by federal disaster relief or private insurance or other emergency funding sources; or
- (5) any repairs or testing that occurred or were necessary prior to the date of Hurricane Helene, or that were not a result or impact of Hurricane Helene.

(c) The recipient shall submit a final report within 90 days after completion of testing and repairs. The report shall include a description of:

- (1) the operational capacity of the UST system;
- (2) any deviations from the scope of work submitted in the application; and
- (3) receipts for completed repairs that were not submitted in the application.

(d) If a recipient fails to comply with S.L. 2024-53, the rules of this Subchapter, or the loan agreement, the Division shall notify the recipient in writing that they are in default, and provide the actions the recipient must take in order to cure the default and the deadlines to take those actions. If the recipient fails to take the required actions by the deadlines stated in the notice, the loan shall be considered to be in default and the Division will refer the loan for collection in accordance with State law.

Authority S.L. 2024-53, s. 4C.8.(l).

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-resources-commissions/environmental-management-commission/emc-proposed-rules>

Proposed Effective Date: December 1, 2025

Public Hearing:

Date: September 25, 2025

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: *The scope of Parameter Methods for which the Wastewater/Groundwater Laboratory Certification Branch (WW/GW LCB) may offer certification is limited to those Parameters listed in Rule 15A NCAC 02H .0804. Amending the Rule as proposed to add Total Nitrogen and Pharmaceutical Pollutants will enable commercial and state laboratories that provide analytical services to request certification for these two Parameters. In addition, it will enable permittees to report certified data in compliance with existing regulatory requirements.*

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: September 30, 2025

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**

**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

- ~~(29)~~~~(30)~~ Nitrogen, Total Kjeldahl;
- ~~(30)~~~~(31)~~ Oil and Grease;
- ~~(31)~~~~(32)~~ Orthophosphate;
- ~~(32)~~~~(33)~~ Paint Filter Liquids;
- ~~(33)~~~~(34)~~ pH;
- ~~(34)~~~~(35)~~ Phenols;
- ~~(35)~~~~(36)~~ Phosphorus, Total;
- ~~(36)~~~~(37)~~ Residue, Settleable;
- ~~(37)~~~~(38)~~ Residue, Total;
- ~~(38)~~~~(39)~~ Residue, Total Dissolved;
- ~~(39)~~~~(40)~~ Residue, Total Suspended;
- ~~(40)~~~~(41)~~ Residue, Volatile;
- ~~(41)~~~~(42)~~ Salinity;
- ~~(42)~~~~(43)~~ Salmonella;
- ~~(43)~~~~(44)~~ Silica;
- ~~(44)~~~~(45)~~ Sulfate;
- ~~(45)~~~~(46)~~ Sulfide;
- ~~(46)~~~~(47)~~ Sulfite;
- ~~(47)~~~~(48)~~ Temperature;
- ~~(48)~~~~(49)~~ Total Organic Carbon;
- ~~(49)~~~~(50)~~ Turbidity;
- ~~(50)~~~~(51)~~ Vector Attraction Reduction: Option 1;
- ~~(51)~~~~(52)~~ Vector Attraction Reduction: Option 2;
- ~~(52)~~~~(53)~~ Vector Attraction Reduction: Option 3;
- ~~(53)~~~~(54)~~ Vector Attraction Reduction: Option 4;
- ~~(54)~~~~(55)~~ Vector Attraction Reduction: Option 5;
- ~~(55)~~~~(56)~~ Vector Attraction Reduction: Option 6;
- ~~(56)~~~~(57)~~ Vector Attraction Reduction: Option 7;
- ~~(57)~~~~(58)~~ Vector Attraction Reduction: Option 8; and
- ~~(58)~~~~(59)~~ 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);
- (20) Pharmaceutical Pollutants
- ~~(20)~~~~(21)~~ Phenols;
- ~~(21)~~~~(22)~~ Phthalate Esters;
- ~~(22)~~~~(23)~~ Polychlorinated Biphenyls;
- ~~(23)~~~~(24)~~ Polynuclear Aromatic Hydrocarbons;
- ~~(24)~~~~(25)~~ Purgeable Aromatics;
- ~~(25)~~~~(26)~~ Purgeable Halocarbons;
- ~~(26)~~~~(27)~~ Purgeable Organics;
- ~~(27)~~~~(28)~~ Total Organic Halides;
- ~~(28)~~~~(29)~~ Total Petroleum Hydrocarbons – Diesel Range Organics;
- ~~(29)~~~~(30)~~ Total Petroleum Hydrocarbons – Gasoline Range Organics; and
- ~~(30)~~~~(31)~~ Volatile Petroleum Hydrocarbons.

Authority G.S. 143-215.3(a)(1); 143-215.3(a)(10); Eff. February 1, 1976.

Notice is hereby given in accordance with G.S. 150B-21.2 that the Marine Fisheries Commission intends to amend the rules cited as

15A NCAC 03I .0101, .0114; 03O .0201, .0207, .0208, .0210, and .0501-.0503.

Link to agency website pursuant to G.S. 150B-19.1(c):
<https://deq.nc.gov/mfc-proposed-rules>

Proposed Effective Date: *Subject to Legislative Review*

Public Hearing:

Date: August 26, 2025

Time: 6:00 pm

Location: WebEx Events meeting link:
<https://ncgov.webex.com/ncgov/j.php?MTID=m5bba69179ac81774461e45721b2f9452> Event number: 2426 352 8767 Event password: 1234 Event phone number: 1-415-655-0003 Access code: 242 635 28767 Listening station: Division of Marine Fisheries Central District Office, 5285 Highway 70 West, Morehead City, NC 28557

Reason for Proposed Action:

Permits

15A NCAC 03I .0101 DEFINITIONS

Proposed amendments broaden the definition of "educational institution" to better align with the original purpose of the Scientific and Educational Activity Permit and Coastal Recreational Fishing License Exemption Permit. Additional proposed amendments add a definition of "quota monitoring log" in support of requirements for dealer permits for monitoring fisheries under a quota or allocation, and a definition of "permittee" to address the ubiquitous and interchangeable use of "permittee" and "permit holder" (which is already defined) throughout N.C. Marine Fisheries Commission rules.

15A NCAC 03I .0114 RECORDKEEPING REQUIREMENTS

Proposed amendments set the same recordkeeping requirements for quota monitoring logs as for trip tickets for licensed fish dealers but apply only to dealers holding a permit for monitoring fisheries under a quota or allocation. Additional proposed amendments clarify a fish dealer is required to submit a trip ticket for fish not sold consistent with N.C. law and MFC rules for commercial harvest reporting requirements.

15A NCAC 03O .0501 PROCEDURES AND REQUIREMENTS TO OBTAIN PERMITS

Proposed amendments remove the requirement for a permit application signature to be notarized, instead requiring the initial permit general condition form to be notarized. This is a more appropriate time in the permit issuance process to verify a permittee's identity. Additional proposed amendments clarify existing requirements for holders of an Estuarine Gill Net Permit to hold a valid Recreational Commercial Gear License, Standard Commercial Fishing License, or Retired Standard Commercial Fishing License. Proposed amendments also add a link to the N.C. Division of Marine Fisheries website to access permit applications and related information.

15A NCAC 03O .0502 GENERAL PERMIT CONDITIONS

Proposed amendments relocate from proclamation to rule the permit condition that makes it unlawful to refuse to allow N.C. Division of Marine Fisheries (DMF) employees to obtain data for the conservation and management of marine and estuarine resources, and data for the protection of public health related to the public health programs that fall under the authority of the N.C. Marine Fisheries Commission. These requirements are in five other N.C. Marine Fisheries Commission rules, so the proposed amendments would bring consistency across rules and add clarity for regulated stakeholders.

15A NCAC 03O .0503 PERMIT CONDITIONS; SPECIFIC

Proposed amendments address seven items. First, proposed amendments relocate four existing permits from proclamation into rule: Estuarine Gill Net Permit, Estuarine Flounder Dealer Permit, Shellfish Lease Restoration Permit, and Shellfish Relocation Permit to aid in the clarity of existing requirements for the public. Relocating the permit requirements in rule has no real impact on holders of the permits as the application process, permit conditions, and reporting requirements would not change. Second, proposed amendments require any seafood dealer that reports trip tickets electronically be required to report quota monitoring logs electronically, improving the timeliness and accuracy of reporting. Third, proposed amendments include email as a way to satisfy the call-in requirements for Scientific and Educational Activity Permits and Permits for Weekend Trawling for Live Shrimp, making it easier for regulated stakeholders to forward required information to the N.C. Division of Marine Fisheries and improving the tracking of activity by the Division. Fourth, proposed amendments clarify requirements for a Coastal Recreational Fishing License Exemption Permit to reflect proposed changes to another rule that broadens the definition of "educational institution", to better align with the original purpose of the permit. Fifth, proposed amendments add a link to the N.C. Division of Marine Fisheries website to access information about which Division offices issue striped bass tags for permitted dealers. Sixth, management for horseshoe crabs falls under the Atlantic States Marine Fisheries Commission Interstate Fishery Management Plan for Horseshoe Crab, which establishes state-by-state quotas in all Atlantic states for horseshoe crabs harvested for bait and the requirement to collect information on the use of horseshoe crabs for biomedical purposes. The Horseshoe Crab Biomedical Use Permit was designed to collect that information but is proposed for repeal because the industry has not shown the anticipated growth since its inception over 25 years ago. Eliminating the permit would not disallow use of horseshoe crabs for biomedical purposes in North Carolina, but access to horseshoe crabs would be limited to the open commercial bait harvest season and counted towards the annual bait quota to maintain compliance with the Interstate Fishery Management Plan. Lastly, proposed amendments add nongovernmental conservation organizations as entities eligible for a Scientific or Educational Activity Permit that exempts the holder from N.C. license, rule, proclamation, or statutory requirements for approved scientific, educational, or conservation activities, pursuant to S.L. 2015-241, s. 14.10A.

Franchises and Shellfish Leases

15A NCAC 03I .0101 DEFINITIONS

Proposed amendments clarify the existing definition of "holder" to align occurrences of "franchise holder" throughout N.C. Marine Fisheries Commission rules with shellfish franchises recognized pursuant to N.C.G.S. § 113-206.

15A NCAC 03O .0201 STANDARDS AND REQUIREMENTS FOR SHELLFISH LEASES AND FRANCHISES

Proposed amendments include the removal of franchises from all shellfish production requirements, as the production requirements are grounds for termination of a leasehold only. Shellfish franchises recognized under N.C.G.S. § 113-206 are perpetual. The N.C. Division of Marine Fisheries has understood that because franchises are perpetual, the Division does not have the authority to terminate franchises and thus subjecting a franchise to production requirements would have no consequence. The N.C. General Assembly codified this understanding with the passage of Session Law 2024-32, Section 5.(a), which removed franchises from the production requirements of Session Law 2019-37, Section 3. The N.C. Marine Fisheries Commission's authority over private and protected deeded rights of a shellfish franchise is limited to subjects such as proper marking requirements and permitting of the aquaculture activities occurring on a franchise. Additional amendments in paragraphs (d) through (g) clarify production requirements for shellfish leases based on the date a shellfish lease was granted or last renewed. Additional amendments to paragraphs (a) and (i) clarify who determines eligibility for additional shellfish lease acreage, the time at which the determination of eligibility for additional acreage occurs, what is considered additional shellfish lease acreage, and what is considered acres under a shellfish lease.

15A NCAC 03O .0207 SHELLFISH LEASE AND FRANCHISE PRODUCTION REPORTS

Proposed amendments remove franchises from production report requirements. Franchises are perpetual and not subject to termination, and compliant production reports relate to procedures for termination.

15A NCAC 03O .0208 TERMINATION PROCEDURES FOR SHELLFISH LEASES AND FRANCHISES

Proposed amendments align the rule with Session Law 2024-32, Section 5.(a), by eliminating references to franchises.

15A NCAC 03O .0210 STANDARDS AND REQUIREMENTS FOR FRANCHISES

Proposed amendments clarify the proper activation of a shellfish franchise enables the franchise to be permitted, remove the time limit of 30 days following activation, and remove the method for evaluating production of a franchise, as franchises are perpetual and not subject to termination.

Comments may be submitted to: Catherine Blum, PO Box 769, Morehead City, NC 28557 (Written comments may also be submitted via an online form available at <https://deq.nc.gov/mfc-proposed-rules>.)

Comment period ends: September 30, 2025

Rule(s) is automatically subject to legislative review: S.L. 2019-37, Section 3, as amended by S.L. 2024-32, Section 5.(a); 15A NCAC 03O .0201; S.L. 2019-198: 15A NCAC 03I .0114, 03O .0501-.0503

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

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

CHAPTER 03 - MARINE FISHERIES

SUBCHAPTER 03I – GENERAL RULES

SECTION .0100 – GENERAL RULES

15A NCAC 03I .0101 DEFINITIONS

All definitions set out in G.S. 113, Subchapter IV and the following additional terms shall apply to this Chapter:

- (1) enforcement and management terms:
 - (a) "Commercial quota" means total quantity of fish allocated for harvest by commercial fishing operations.
 - (b) "Educational institution" means a college, university, or community college accredited by an accrediting agency recognized by the U.S. Department of Education; an Environmental Education Center certified by the N.C. Department of Environmental Quality Office of Environmental Education and Public Affairs; ~~or a zoo or aquarium certified by the Association of Zoos and Aquariums.~~ Aquariums; or a public school unit, private school, or an organization whose mission includes education.
 - (c) "Internal Coastal Waters" or "Internal Waters" means all Coastal Fishing Waters except the Atlantic Ocean.
 - (d) length of finfish:
 - (i) "Curved fork length" means a length determined by measuring along a line tracing the contour of the body from the tip of the upper jaw to the middle of the fork in the caudal (tail) fin.
 - (ii) "Fork length" means a length determined by measuring along a straight line the distance from the tip of the snout with the mouth closed

- to the middle of the fork in the caudal (tail) fin, except that fork length for billfish is measured from the tip of the lower jaw to the middle of the fork of the caudal (tail) fin.
 - (iii) "Pectoral fin curved fork length" means a length of a beheaded fish from the dorsal insertion of the pectoral fin to the fork of the tail measured along the contour of the body in a line that runs along the top of the pectoral fin and the top of the caudal keel.
 - (iv) "Total length" means a length determined by measuring along a straight line the distance from the tip of the snout with the mouth closed to the tip of the compressed caudal (tail) fin.
- (e) "Nongovernmental conservation organization" means an organization whose primary mission is the conservation of natural resources. For the purpose of this Chapter, a determination of the organization's primary mission is based upon the Division of Marine Fisheries' consideration of the organization's publicly stated purpose and activities.
- (f) "Polluted" means any shellfish growing waters as defined in 15A NCAC 18A .0901:
 - (i) that are contaminated with fecal material, pathogenic microorganisms, poisonous or deleterious substances, or marine biotoxins that render the consumption of shellfish from those growing waters hazardous. This includes 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;
 - (ii) that have been determined through a sanitary survey as defined in 15A NCAC 18A .0901 to be adjacent to a sewage treatment plant outfall or other point source outfall that may contaminate shellfish and cause a food safety hazard as defined in 15A NCAC 18A .0301;
 - (iii) that have been determined through a sanitary survey as defined in 15A NCAC 18A .0901 to be in or adjacent to a marina;
 - (iv) that have been determined through a sanitary survey as defined in 15A NCAC 18A .0901 to be impacted by other potential sources of pollution that render the consumption of shellfish from those growing waters hazardous, such as a wastewater treatment facility that does not contaminate a shellfish area when it is operating normally but will contaminate a shellfish area and shellfish in that area when a malfunction occurs; or
 - (v) where the Division is unable to complete the monitoring necessary to determine the presence of contamination or potential pollution sources.
- (g) "Recreational possession limit" means restrictions on size, quantity, season, time period, area, means, and methods where take or possession is for a recreational purpose.
- (h) "Recreational quota" means total quantity of fish allocated for harvest for a recreational purpose.
- (i) "Regular closed oyster season" means March 31 through October 15, unless amended by the Fisheries Director through proclamation authority.
- (j) "Scientific institution" means one of the following entities:

- (i) an educational institution as defined in this Item;
 - (ii) a state or federal agency charged with the management of marine or estuarine resources; or
 - (iii) a professional organization or secondary school working under the direction of, or in compliance with mandates from, the entities listed in Sub-items (j)(i) and (ii) of this Item.
- (2) fishing activities:
 - (a) "Aquaculture operation" means an operation that produces artificially propagated stocks of marine or estuarine resources, or other non-native species that may thrive if introduced into Coastal Fishing Waters, or obtains such stocks from permitted sources for the purpose of rearing on private bottom (with or without the superadjacent water column) or in a controlled environment. A controlled environment provides and maintains throughout the rearing process one or more of the following:
 - (i) food;
 - (ii) predator protection;
 - (iii) salinity;
 - (iv) temperature controls; or
 - (v) water circulation, utilizing technology not found in the natural environment.
 - (b) "Attended" means being in a vessel, in the water or on the shore, and immediately available to work the gear and be within 100 yards of any gear in use by that person at all times. Attended does not include being in a building or structure.
 - (c) "Blue crab shedding" means the process whereby a blue crab emerges soft from its former hard exoskeleton. A shedding operation is any operation that holds peeler crabs in a controlled environment. A controlled environment provides and maintains throughout the shedding process one or more of the following:
 - (i) food;
 - (ii) predator protection;
 - (iii) salinity;
 - (iv) temperature controls; or
 - (v) water circulation, utilizing technology not found in the natural environment. A shedding operation does not include transporting pink or red-line peeler crabs to a permitted shedding operation.
- (d) "Depurate" or "depuration" has the same meaning as defined in the 2019 revision of the NSSP Guide for the Control of Molluscan Shellfish, Section I: Purpose and Definitions. 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/federalstate-food-programs/national-shellfish-sanitation-program-nssp>, at no cost.
- (e) "Long haul operation" means fishing a seine towed between two vessels.
- (f) "Peeler crab" means a blue crab that has a soft shell developing under a hard shell and having a white, pink, or red-line or rim on the outer edge of the back fin or flipper.
- (g) "Possess" means any actual or constructive holding whether under claim of ownership or not.
- (h) "Recreational purpose" means a fishing activity that is not a commercial fishing operation as defined in G.S. 113-168.
- (i) "Swipe net operations" means fishing a seine towed by one vessel.
- (j) "Transport" means to ship, carry, or cause to be carried or moved by public or private carrier by land, sea, or air.
- (k) "Use" means to employ, set, operate, or permit to be operated or employed.

(3) gear:

- (a) "Bunt net" means the last encircling net of a long haul or swipe net operation constructed of small mesh webbing. The bunt net is used to form a pen or pound from which the catch is dipped or bailed.
- (b) "Channel net" means a net used to take shrimp that is anchored or attached to the bottom at both ends or with one end anchored or attached to the bottom and the other end attached to a vessel.
- (c) "Commercial fishing equipment or gear" means all fishing equipment used in Coastal Fishing Waters except:
 - (i) cast nets;
 - (ii) collapsible crab traps, a trap used for taking crabs with the largest open dimension no larger than 18 inches and that by design is collapsed at all

- times when in the water, except when it is being retrieved from or lowered to the bottom;
- (iii) dip nets or scoops having a handle not more than eight feet in length and a hoop or frame to which the net is attached not exceeding 60 inches along the perimeter;
- (iv) gigs or other pointed implements that are propelled by hand, whether or not the implement remains in the hand;
- (v) hand operated rakes no more than 12 inches wide and weighing no more than six pounds and hand operated tongs;
- (vi) hook and line, and bait and line equipment other than multiple-hook or multiple-bait trotline;
- (vii) landing nets used to assist in taking fish when the initial and primary method of taking is by the use of hook and line;
- (viii) minnow traps when no more than two are in use;
- (ix) seines less than 30 feet in length;
- (x) spears, Hawaiian slings, or similar devices that propel pointed implements by mechanical means, including elastic tubing or bands, pressurized gas, or similar means.
- (d) "Corkline" means the support structure a net is attached to that is nearest to the water surface when in use. Corkline length is measured from the outer most mesh knot at one end of the corkline following along the line to the outer most mesh knot at the opposite end of the corkline.
- (e) "Dredge" means a device towed by engine power consisting of a frame, tooth bar or smooth bar, and catchbag used in the harvest of oysters, clams, crabs, scallops, or conchs.
- (f) "Fixed or stationary net" means a net anchored or staked to the bottom, or some structure attached to the bottom, at both ends of the net.
- (g) "Fyke net" means an entrapment net supported by a series of internal or external hoops or frames, with one or
- more lead or leaders that guide fish to the net mouth. The net has one or more internal funnel-shaped openings with tapered ends directed inward from the mouth, through which fish enter the enclosure. The portion of the net designed to hold or trap fish is completely enclosed in mesh or webbing, except for the openings for fish passage into or out of the net (funnel area).
- (h) "Gill net" means a net set vertically in the water to capture fish by entanglement of the gills in its mesh as a result of net design, construction, mesh length, webbing diameter, or method in which it is used.
- (i) "Headrope" means the support structure for the mesh or webbing of a trawl that is nearest to the water surface when in use. Headrope length is measured from the outer most mesh knot at one end of the headrope following along the line to the outer most mesh knot at the opposite end of the headrope.
- (j) "Hoop net" means an entrapment net supported by a series of internal or external hoops or frames. The net has one or more internal funnel-shaped openings with tapered ends directed inward from the mouth, through which fish enter the enclosure. The portion of the net designed to hold or trap the fish is completely enclosed in mesh or webbing, except for the openings for fish passage into or out of the net (funnel area).
- (k) "Lead" means a mesh or webbing structure consisting of nylon, monofilament, plastic, wire, or similar material set vertically in the water and held in place by stakes or anchors to guide fish into an enclosure. Lead length is measured from the outer most end of the lead along the top or bottom line, whichever is longer, to the opposite end of the lead.
- (l) "Mechanical methods for clamming" means dredges, hydraulic clam dredges, stick rakes, and other rakes when towed by engine power, patent tongs, kicking with propellers or deflector plates with or without trawls, and any other method that utilizes mechanical means to harvest clams.
- (m) "Mechanical methods for oystering" means dredges, patent tongs, stick rakes, and other rakes when towed by

- engine power, and any other method that utilizes mechanical means to harvest oysters.
- (n) "Mesh length" means the distance from the inside of one knot to the outside of the opposite knot, when the net is stretched hand-tight in a manner that closes the mesh opening.
 - (o) "Pound net set" means a fish trap consisting of a holding pen, one or more enclosures, lead or leaders, and stakes or anchors used to support the trap. The holding pen, enclosures, and lead(s) are not conical, nor are they supported by hoops or frames.
 - (p) "Purse gill net" means any gill net used to encircle fish when the net is closed by the use of a purse line through rings located along the top or bottom line or elsewhere on such net.
 - (q) "Seine" means a net set vertically in the water and pulled by hand or power to capture fish by encirclement and confining fish within itself or against another net, the shore or bank as a result of net design, construction, mesh length, webbing diameter, or method in which it is used.
- (4) "Fish habitat areas" means the estuarine and marine areas that support juvenile and adult populations of fish species throughout their entire life cycle, including early growth and development, as well as forage species utilized in the food chain. Fish habitats in all Coastal Fishing Waters, as determined through marine and estuarine survey sampling, are:
- (a) "Anadromous fish nursery areas" means those areas in the riverine and estuarine systems utilized by post-larval and later juvenile anadromous fish.
 - (b) "Anadromous fish spawning areas" means those areas where evidence of spawning of anadromous fish has been documented in Division sampling records through direct observation of spawning, capture of running ripe females, or capture of eggs or early larvae.
 - (c) "Coral" means:
 - (i) fire corals and hydrocorals (Class Hydrozoa);
 - (ii) stony corals and black corals (Class Anthozoa, Subclass Scleractinia); or
 - (iii) Octocorals; Gorgonian corals (Class Anthozoa, Subclass Octocorallia), which include sea fans (*Gorgonia* sp.), sea whips (*Leptogorgia* sp. and *Lophogorgia* sp.), and sea pansies (*Renilla* sp.).
 - (d) "Intertidal oyster bed" means a formation, regardless of size or shape, formed of shell and live oysters of varying density.
 - (e) "Live rock" means living marine organisms or an assemblage thereof attached to a hard substrate, excluding mollusk shells, but including dead coral or rock. Living marine organisms associated with hard bottoms, banks, reefs, and live rock include:
 - (i) Coralline algae (Division Rhodophyta);
 - (ii) *Acetabularia* sp., mermaid's fan and cups (*Udotea* sp.), watercress (*Halimeda* sp.), green feather, green grape algae (*Caulerpa* sp.) (Division Chlorophyta);
 - (iii) *Sargassum* sp., *Dictyopteris* sp., *Zonaria* sp. (Division Phaeophyta);
 - (iv) sponges (Phylum Porifera);
 - (v) hard and soft corals, sea anemones (Phylum Cnidaria), including fire corals (Class Hydrozoa), and Gorgonians, whip corals, sea pansies, anemones, *Solenastrea* (Class Anthozoa);
 - (vi) Bryozoans (Phylum Bryozoa);
 - (vii) tube worms (Phylum Annelida), fan worms (*Sabellidae*), feather duster and Christmas treeworms (*Serpulidae*), and sand castle worms (*Sabellaridae*);
 - (viii) mussel banks (Phylum Mollusca: Gastropoda); and
 - (ix) acorn barnacles (Arthropoda: Crustacea: *Semibalanus* sp.).
 - (f) "Nursery areas" means areas that for reasons such as food, cover, bottom type, salinity, temperature, and other factors, young finfish and crustaceans spend the major portion of their initial growing season. Primary nursery areas are those areas in the estuarine system where initial post-larval development takes place. These are areas where populations are uniformly early juveniles. Secondary nursery areas are those areas in the estuarine system

- where later juvenile development takes place. Populations are composed of developing sub-adults of similar size that have migrated from an upstream primary nursery area to the secondary nursery area located in the middle portion of the estuarine system.
- (g) "Shellfish producing habitats" means historic or existing areas that shellfish, such as clams, oysters, scallops, mussels, and whelks use to reproduce and survive because of such favorable conditions as bottom type, salinity, currents, cover, and cultch. Included are those shellfish producing areas closed to shellfish harvest due to pollution.
 - (h) "Strategic Habitat Areas" means locations of individual fish habitats or systems of habitats that provide exceptional habitat functions or that are particularly at risk due to imminent threats, vulnerability, or rarity.
 - (i) "Submerged aquatic vegetation (SAV) habitat" means submerged lands that:
 - (i) are vegetated with one or more species of submerged aquatic vegetation including bushy pondweed or southern naiad (*Najas guadalupensis*), coontail (*Ceratophyllum demersum*), eelgrass (*Zostera marina*), horned pondweed (*Zannichellia palustris*), naiads (*Najas* spp.), redhead grass (*Potamogeton perfoliatus*), sago pondweed (*Stuckenia pectinata*, formerly *Potamogeton pectinatus*), shoalgrass (*Halodule wrightii*), slender pondweed (*Potamogeton pusillus*), water stargrass (*Heteranthera dubia*), water starwort (*Callitriche heterophylla*), waterweeds (*Elodea* spp.), widgeongrass (*Ruppia maritima*), and wild celery (*Vallisneria americana*). These areas may be identified by the presence of above-ground leaves, below-ground rhizomes, or reproductive structures associated with one or more SAV species and include the sediment within these areas; or
 - (ii) have been vegetated by one or more of the species identified in Sub-item (4)(i)(i) of this Rule within the past 10 annual growing seasons and that meet the average physical requirements of water depth, which is six feet or less, average light availability, which is a secchi depth of one foot or more, and limited wave exposure that characterize the environment suitable for growth of SAV. The past presence of SAV may be demonstrated by aerial photography, SAV survey, map, or other documentation. An extension of the past 10 annual growing seasons criteria may be considered when average environmental conditions are altered by drought, rainfall, or storm force winds.
- This habitat occurs in both subtidal and intertidal zones and may occur in isolated patches or cover extensive areas. In defining SAV habitat, the Marine Fisheries Commission recognizes the Aquatic Weed Control Act of 1991 (G.S. 113A-220 et. seq.) and does not intend the submerged aquatic vegetation definition, of this Rule or 15A NCAC 03K .0304 and .0404, to apply to or conflict with the non-development control activities authorized by that Act.
- (5) licenses, permits, shellfish leases and franchises, and record keeping:
 - (a) "Assignment" means temporary transferal to another person of privileges under a license for which assignment is permitted. The person assigning the license delegates the privileges permitted under the license to be exercised by the assignee, but retains the power to revoke the assignment at any time, and is still the responsible party for the license.
 - (b) "Designee" means any person who is under the direct control of the permittee or who is employed by or under contract to the permittee for the purposes authorized by the permit.
 - (c) "For hire vessel", as defined by G.S. 113-174, means when the vessel is fishing in State waters or when the

- vessel originates from or returns to a North Carolina port.
- (d) "Franchise" means a franchise recognized pursuant to G.S. 113-206.
- (e) "Holder" means a person who has been lawfully issued in the person's name a license, permit, ~~franchise, shellfish lease, or assignment~~, or who possesses a shellfish franchise recognized pursuant to G.S. 113-206.
- (f) "Land" means:
- (i) for commercial fishing operations, when fish reach the shore or a structure connected to the shore.
 - (ii) for purposes of trip tickets, when fish reach a licensed seafood dealer, or where the fisherman is the dealer, when fish reach the shore or a structure connected to the shore.
 - (iii) for recreational fishing operations, when fish are retained in possession by the fisherman.
- (g) "Licensee" means any person holding a valid license from the ~~Department Division~~ Division to take or deal in ~~marine fisheries resources, resources~~ governed by any provision of Subchapter 113 of the North Carolina General Statutes under the authority of the Marine Fisheries Commission or any rule adopted by the Marine Fisheries Commission pursuant to Subchapter 113, except as otherwise defined in 15A NCAC 03O .0109.
- (h) "Logbook" means paper forms provided by the Division and electronic data files generated from software or web-based utilities provided by the Division for the reporting of fisheries statistics by persons engaged in commercial or recreational fishing or for-hire operators.
- (i) "Master" means captain or operator of a vessel or one who commands and has control, authority, or power over a vessel.
- (j) "New fish dealer" means any fish dealer ~~making application~~ applying for a fish dealer license who did not possess a valid dealer license for the previous license year in that name. For purposes of license issuance, adding new categories to an existing fish dealers license does not constitute a new dealer.
- (k) "Office of the Division" means physical locations of the Division conducting license and permit transactions in Wilmington, Morehead City, Washington, and Roanoke Island, North Carolina. Other businesses or entities designated by the Secretary to issue Recreational Commercial Gear Licenses or Coastal Recreational Fishing Licenses are not considered Offices of the Division.
- (l) "Permittee" means any person who has been issued a permit from the Division to take or deal in resources governed by any provision of Subchapter 113 of the North Carolina General Statutes under the authority of the Marine Fisheries Commission or any rule adopted by the Marine Fisheries Commission pursuant to Subchapter 113.
- (m) "Quota monitoring log" means paper forms provided by the Division and electronic data files generated from software or web-based utilities provided by the Division for the reporting of fisheries statistics by licensed fish dealers who hold dealer permits for monitoring fisheries under a quota or allocation.
- ~~(n)~~(n) "Responsible party" means the person who coordinates, supervises, or otherwise directs operations of a business entity, such as a corporate officer or executive level supervisor of business operations, and the person responsible for use of the issued license in compliance with applicable statutes and rules.
- ~~(m)~~(o) "Tournament organizer" means the person who coordinates, supervises, or otherwise directs a recreational fishing tournament and is the holder of the Recreational Fishing Tournament License.
- ~~(n)~~(p) "Transaction" means an act of doing business such that fish are sold, offered for sale, exchanged, bartered, distributed, or landed.
- ~~(o)~~(q) "Transfer" means permanent transferal to another person of privileges under a license for which transfer is permitted. The person transferring the license retains no rights or interest under the license transferred.

~~(p)(r)~~ "Trip ticket" means paper forms provided by the Division and electronic data files generated from software or web-based utilities provided by the Division for the reporting of fisheries statistics by licensed fish dealers.

Authority G.S. 113-134; 113-174; 113-182; 143B-289.52; S.L. 2015-241, s. 14.10A.

15A NCAC 03I .0114 RECORDKEEPING REQUIREMENTS

(a) It shall be unlawful for a licensed fish dealer:

- (1) to record false information on the North Carolina trip ticket or to fail to legibly record all items on the North Carolina trip ticket for each ~~transaction~~ transaction, including for fish harvested but not sold pursuant to 15A NCAC 03I .0123, and submit the trip ticket in accordance with G.S. 113-168.2, including the following:
 - (A) fisherman's name;
 - (B) fisherman's North Carolina license number;
 - (C) dealer's North Carolina license number;
 - (D) start date of trip, including year, month, and day;
 - (E) unload date of trip, including year, month, and day;
 - (F) North Carolina Division of Marine Fisheries Vessel Identification Number or indicate if no vessel was used;
 - (G) crew size;
 - (H) gear fished;
 - (I) waterbody fished;
 - (J) species landed;
 - (K) quantity of each species landed in pounds, numbers of fish, bushels, or other units of measurement;
 - (L) disposition of species;
 - (M) transaction number;
 - (N) number of crab pots or peeler pots fished, if applicable;
 - (O) state where species was taken if other than North Carolina;
 - (P) lease number, if applicable;
 - (Q) bottom type, if applicable; and
 - (R) shellfish harvest area, if ~~applicable~~ applicable;
- (2) to fail to provide to the Division a Trip Ticket Submittal/Transaction form indicating the number of transactions that occurred during the previous month;
- (3) to fail to make paper copies or electronic copies of trip tickets or N.C. Trip Ticket Program

Dock Tickets available at the dealer location for inspection by Marine Fisheries inspectors;

(4) to fail to submit trip tickets to the Division via electronic file transfer if that dealer reported an annual average of greater than 50,000 pounds of finfish for the previous three calendar years. Dealers subject to the electronic reporting requirement shall be notified by the Division via certified mail and within 120 days of receipt shall:

- (A) initiate electronic file transfer of trip tickets; and
 - (B) continue to report by electronic file transfer until the dealer no longer holds a fish dealer license with finfish or consolidated categories;
- (5) to fail to use software or web-based utilities authorized by the Division when reporting electronically; ~~and~~
- (6) to fail to keep all trip tickets and all supporting documentation for each transaction including receipts, checks, bills of lading, records, electronic files, and accounts for a period of not less than three ~~years~~ years;
- (7) to fail to submit quota monitoring logs in accordance with 15A NCAC 03O .0503 if the licensed fish dealer holds a dealer permit for monitoring fisheries under a quota or allocation; and
- (8) to fail to keep all quota monitoring logs including electronic files for a period of not less than three years.

(b) It shall be unlawful for a seller licensed under G.S. 113, Article 14A or donor to fail to provide to the fish dealer, at the time of transaction, the following:

- (1) a current and valid license or permit to sell the type of fish being offered and if a vessel is used, the Commercial Fishing Vessel Registration; and
- (2) complete and accurate information on harvest method and area of catch and other information required by the Division, in accordance with G.S. 113-168.2 and G.S. 113-169.3.

(c) It shall be unlawful to transport fish without having ready at hand for inspection a bill of consignment, bill of lading, or other shipping documentation provided by the shipping dealer showing the following items:

- (1) name of the consignee;
- (2) name of the shipper;
- (3) date of the shipment;
- (4) name of fish being shipped; and
- (5) quantity of each fish being shipped.

In the event the fisherman taking the fish is also a licensed fish dealer and ships from the point of landing, all shipping records shall be recorded at the point of landing. Fishermen who transport their fish directly to licensed fish dealers are exempt from this Paragraph.

(d) It shall be unlawful to export fish landed in the State in a commercial fishing operation without a North Carolina licensed

fish dealer completing all the recordkeeping requirements in G.S. 113-168.2(i).

(e) It shall be unlawful to offer for sale fish purchased from a licensed fish dealer without having ready at hand for inspection by Marine Fisheries inspectors or other agents of the Fisheries Director written documentation of purchase showing the following items:

- (1) name of the licensed fish dealer;
- (2) name of the purchaser;
- (3) date of the purchase;
- (4) name of fish purchased; and
- (5) quantity of each fish purchased.

(f) It shall be unlawful for a holder of a Fish Dealer License to have fish in possession at a licensed location without written documentation from a licensed fish dealer or a completed North Carolina trip ticket to show the quantity and origin of all fish.

Authority G.S. 113-134; 113-168.2; 113-168.3; 113-169.3; 113-170; 113-170.3; 113-170.4; 113-182; 143B-289.52.

SUBCHAPTER 030 - LICENSES, LEASES, FRANCHISES, AND PERMITS

SECTION .0200 – SHELLFISH LEASES AND FRANCHISES

15A NCAC 030 .0201 STANDARDS AND REQUIREMENTS FOR SHELLFISH LEASES AND FRANCHISES

(a) For the purpose of this Section:

- (1) "any acres under a shellfish lease" shall include a water column amendment superjacent to a franchise.
- (2) "application for additional shellfish lease acreage" shall include a water column amendment application to an existing shellfish bottom lease or to a franchise when the franchise holder also holds a shellfish bottom lease.
- ~~(1)(3)~~ "extensive shellfish culture" shall mean shellfish grown on the bottom without the use of cages, racks, bags, or floats.
- ~~(2)(4)~~ "intensive shellfish culture" shall mean shellfish grown on the bottom or in the water column using cages, racks, bags, or floats.
- ~~(3)(5)~~ "plant" shall mean providing evidence of purchasing shellfish seed or planting shellfish seed or authorized cultch materials on a shellfish ~~lease or franchise~~ lease.
- ~~(4)(6)~~ "produce" shall mean the culture and harvest of oysters, clams, scallops, or mussels from a shellfish lease ~~or franchise~~ and lawful sale of those shellfish to the public at large or to a licensed shellfish dealer.

(b) All areas of the public bottom underlying Coastal Fishing Waters shall meet the following standards and requirements, in addition to the standards in G.S. 113-202, in order to be deemed suitable for leasing for shellfish aquaculture purposes:

- (1) the proposed shellfish lease area shall not contain a "natural shellfish bed," as defined in G.S. 113-201.1, or have 10 bushels or more of shellfish per acre;
- (2) the proposed shellfish lease area shall not be closer than 250 feet from a developed shoreline or a water-dependent shore-based structure, except no minimum setback is required when the area to be leased borders the applicant's property, the property of "riparian owners" as defined in G.S. 113-201.1 who have consented in a notarized statement, or is in an area bordered by undeveloped shoreline. For the purpose of this Rule, a water-dependent shore-based structure shall include docks, wharves, boat ramps, bridges, bulkheads, and groins;
- (3) the proposed shellfish lease area shall not be closer than 250 feet to an existing lease;
- (4) the proposed shellfish lease area, either alone or when considered cumulatively with other existing lease areas in the vicinity, shall not interfere with navigation or with existing, traditional uses of the area; and
- (5) the proposed shellfish lease area shall not be less than one-half acre and shall not exceed 10 acres.

(c) To be suitable for leasing for shellfish aquaculture purposes, shellfish water column leases superjacent to a shellfish bottom lease shall meet the standards in G.S. 113-202.1 and shellfish water column leases superjacent to franchises shall meet the standards in G.S. 113-202.2.

(d) Shellfish bottom leases ~~and franchises~~ granted or renewed on or before July 1, 2019 and not renewed after July 1, 2019 shall be terminated unless they meet the following requirements, in addition to the standards in and as allowed by G.S. 113-202:

- (1) they produce 10 bushels of shellfish per acre per year; and
- (2) they are planted with 25 bushels of seed shellfish per acre per year or 50 bushels of cultch per acre per year, or a combination of cultch and seed shellfish where the percentage of required cultch planted and the percentage of required seed shellfish planted totals at least 100 percent.

(e) Shellfish water column leases granted or renewed on or before July 1, 2019 and not renewed after July 1, 2019 shall be terminated unless they meet the following requirements, in addition to the standards in and as allowed by G.S. 113-202.1 and G.S. 113-202.2:

- (1) they produce 40 bushels of shellfish per acre per year; or
- (2) the underlying bottom is planted with 100 bushels of cultch or seed shellfish per acre per year.

(f) Shellfish bottom leases ~~and franchises~~ granted or renewed after July 1, 2019 shall be terminated unless they meet the following requirements, in addition to the standards in and as allowed by G.S. 113-202:

- (1) they produce a minimum of 20 bushels of shellfish per acre averaged over the previous three-year period beginning in year five of the shellfish bottom ~~lease or franchise~~; lease; or
- (2) for intensive culture bottom operations, the holder of the shellfish bottom ~~lease or franchise~~ provides evidence of purchasing a minimum of 23,000 shellfish seed per acre annually and for extensive culture bottom operations, the holder of the ~~lease or franchise~~ plants a minimum of 15,000 shellfish seed per acre per year.

(g) Shellfish water column leases granted or renewed after July 1, 2019 shall be terminated unless they meet the following requirements, in addition to the standards in and as allowed by G.S. 113-202.1 and 113-202.2:

- (1) they produce a minimum of 50 bushels of shellfish per acre averaged over the previous three-year period beginning in year five of the shellfish water column lease; or
- (2) the holder of the shellfish water column lease provides evidence of purchasing a minimum of 23,000 shellfish seed per acre annually.

(h) The following standards shall be applied to determine compliance with Paragraphs (d), (e), (f), and (g) of this Rule:

- (1) only shellfish planted or produced as defined in Paragraph (a) of this Rule shall be included in the annual shellfish ~~lease and franchise~~ production reports required by Rule .0207 of this Section.
- (2) if more than one shellfish ~~lease or franchise~~ is used in the production of shellfish, one of the ~~leases or franchises~~ used in the production of the shellfish shall be designated as the producing ~~lease or franchise~~ for those shellfish. Each bushel of shellfish shall be produced by only one shellfish ~~lease or franchise~~. lease. Shellfish transplanted between shellfish ~~leases or franchises~~ shall be credited as planting effort on only one ~~lease or franchise~~. lease.
- (3) production information and planting effort information shall be compiled and averaged separately to assess compliance with the requirements of this Rule. Shellfish bottom leases ~~and franchises~~ granted on or before July 1, 2019 shall meet both the production requirement and the planting effort requirement within the dates set forth in G.S. 113-202.1 and G.S. 113-202.2 to be deemed in compliance. Shellfish bottom leases ~~and franchises~~ granted after July 1, 2019 and shellfish water column leases shall meet either the production requirement or the planting effort requirement within the dates set forth in G.S. 113-202.1 and G.S. 113-202.2 to be deemed in compliance.
- (4) all bushel measurements shall be in standard U.S. bushels.
- (5) in determining production ~~and marketing~~ averages and planting effort averages for information not reported in bushel

measurements, the following conversion factors shall be used:

- (A) 300 oysters, 400 clams, or 400 scallops equal one bushel; and
- (B) 40 pounds of scallop shell, 60 pounds of oyster shell, 75 pounds of clam shell, or 90 pounds of fossil stone equal one bushel.

- (6) production rate averages shall be computed irrespective of transfer of the shellfish ~~lease or franchise~~. lease. The production rates shall be averaged for the following situations using the time periods described:

- (A) for an initial shellfish bottom ~~lease or franchise~~, lease, over the consecutive full calendar years remaining on the bottom lease ~~or franchise~~ contract after December 31 following the second anniversary of the initial bottom ~~lease or franchise~~; lease;
- (B) for a renewal shellfish bottom ~~lease or franchise~~, lease, over the consecutive full calendar years beginning January 1 of the final year of the previous bottom lease ~~or franchise~~ term and ending December 31 of the final year of the current bottom lease ~~or franchise~~ contract;
- (C) for a shellfish water column lease, over the first five-year period for an initial water column lease and over the most recent five-year period thereafter for a renewal water column lease; or
- (D) for a shellfish bottom lease ~~or franchise~~ issued an extension period under Rule .0208 of this Section, over the most recent five-year period.

- (7) in the event that a portion of an existing shellfish ~~lease or franchise~~ is obtained by a new lease ~~or franchise~~ holder, the production history for the portion obtained shall be a percentage of the originating lease ~~or franchise~~ production equal to the percentage of the area of lease ~~or franchise~~ site obtained to the area of the originating ~~lease or franchise~~. lease.

(i) ~~To~~ Consistent with G.S. 113-202, G.S. 113-202.1, and G.S. 113-202.2, to be deemed eligible for by the Secretary to hold additional shellfish lease acreage, persons holding any acres under a shellfish lease or franchise shall meet the following requirements established in: at the time of submitting a shellfish lease application for additional shellfish lease acreage:

- (1) Paragraphs (d), (e), (f), and (g) of this Rule;
- (2) Rule .0204 of this Section; and
- (3) Rule .0503(a) of this Subchapter.

Authority G.S. 113-134; 113-182; 113-201; 113-202; 113-202.1; 113-202.2; 113-206; 143B-289.52; S.L. 2019-37, s. 3; S.L. 2024-32, s. 5(a).

15A NCAC 030 .0207 SHELLFISH LEASE AND FRANCHISE PRODUCTION REPORTS

- (a) The holder or holders of a shellfish lease ~~or franchise~~ shall provide an annual production report to the Division of Marine Fisheries by March 31 of each year showing the amounts of material planted, purchased, and harvested; where and when the material was obtained; and when the material was planted in accordance with Rules .0201 and .0202 of this Section. The report shall include documentation of purchased seed in accordance with Rule .0201 of this Section.
- (b) The Division shall provide reporting forms annually to each shellfish lease ~~or franchise~~ holder to be used for the annual production report.
- (c) Failure by the holder or holders of the shellfish lease ~~or franchise~~ to submit the required annual production report or filing an incomplete report or a report containing false information constitutes grounds for termination as set forth in Rule .0208 of this Section.

Authority G.S. 113-134; 113-182; 113-201; 113-202; 113-202.1; 113-202.2; ~~113-206~~; 143B-289.52.

15A NCAC 030 .0208 TERMINATION PROCEDURES FOR SHELLFISH LEASES AND FRANCHISES

- (a) Procedures for termination of shellfish leases ~~and franchises~~ are provided in G.S. 113-202.
- (b) Consistent with G.S. 113-202(11) and G.S. 113-201(b), a shellfish lease ~~or franchise~~ holder that failed to meet the requirements in G.S. 113-202, G.S. 113-202.1, G.S. 113-202.2, or the rules of this Section that govern a determination of failure to utilize the lease on a continuing basis for the commercial production of shellfish may be granted a single extension period of no more than two years per contract period upon a showing of hardship by written notice to the Fisheries Director or the Fisheries Director's designee received prior to the expiration of the lease term that documents one of the following occurrences caused or will cause the lease ~~or franchise~~ holder to fail to meet lease requirements:

- (1) death, illness, or incapacity of the shellfish lease ~~or franchise~~ holder or the holder's immediate family as defined in G.S. 113-168 that prevented or will prevent the lease ~~or franchise~~ holder from working the lease;
- (2) damage to the shellfish lease ~~or franchise~~ from hurricanes, tropical storms, or other severe weather events recognized by the National Weather Service;
- (3) shellfish mortality caused by disease, natural predators, or parasites; or
- (4) damage to the shellfish lease ~~or franchise~~ from a manmade disaster that triggers a state emergency declaration or federal emergency declaration.

- (c) In the case of hardship as described in Paragraph (b) of this Rule, the notice shall state the shellfish lease ~~or franchise~~ number. In the case of hardship as described in Subparagraph (b)(1) of this Rule, the notice shall also state the name of the shellfish lease ~~or franchise~~ holder or immediate family member and either the date of death or the date of the illness or incapacity. The Fisheries

Director may require a doctor's verification that the illness or incapacity occurred. In the case of hardship as described in Subparagraphs (b)(2) through (b)(4) of this Rule, the notice shall also include documentation of damage to the shellfish lease ~~or franchise~~. Written notice and supporting documentation shall be addressed to the Director of the Division of Marine Fisheries, 3441 Arendell Street, P.O. Box 769, Morehead City, NC 28557.

Authority G.S. 113-134; 113-182; 113-201; 113-202; 113-202.1; 113-202.2; 113-205; ~~113-206~~; 143B-289.52.

15A NCAC 030 .0210 STANDARDS AND REQUIREMENTS FOR FRANCHISES

- (a) A franchise holder desiring a permit from the Division of Marine Fisheries to conduct shellfish aquaculture on their franchise shall submit a Shellfish Management Plans, Plan, prepared in accordance with the standards for a Shellfish Lease Management Plan in Rule .0202 of this Section, shall be provided to the Division of Marine Fisheries within 30 days following formal recognition of a valid chain of title and at ten-year intervals thereafter.

- (b) The Shellfish Management Plan requirements in Paragraph (a) of this Rule and all other requirements and conditions of this Section affecting management of franchises shall apply to all valid franchises.

~~(c) Commercial production requirements for franchises shall be identical to that required for shellfish bottom leases in accordance with Rules .0201 and .0207 of this Section averaged over the most recent three year period after January 1 following the second anniversary of the dates of recognition of claims as valid franchises and continuing throughout the term of Shellfish Management Plans required in Paragraph (a) of this Rule.~~

Authority G.S. 113-134; 113-182; 113-201; 113-202; 113-202.2; 113-205; 113-206; 143B-289.52.

SECTION .0500 - PERMITS

15A NCAC 030 .0501 PROCEDURES AND REQUIREMENTS TO OBTAIN PERMITS

- (a) To obtain a Division of Marine Fisheries permit, an applicant, responsible party, or person holding a power of attorney shall provide the following information:

- (1) the full name, physical address, mailing address, date of birth, and signature of the applicant on the application and, if the applicant is not appearing before a license agent or the designated Division of Marine Fisheries ~~contact, the applicant's signature on the application shall be notarized; contact;~~
- (2) a current picture identification of the applicant, responsible party, or person holding a power of attorney, acceptable forms of which shall include driver's license, North Carolina Identification card issued by the North Carolina Division of Motor Vehicles, military identification card, resident alien card (green

- card), or passport or, if applying by mail, a copy thereof;
- (3) for permits that require a list of designees, the full names and dates of birth of the designees of the applicant who will be acting pursuant to the requested permit;
- (4) certification that the applicant and his or her designees do not have four or more ~~marine or estuarine resource~~ convictions for violation of any provision of Subchapter 113 of the North Carolina General Statutes under the authority of the Marine Fisheries Commission or any rule adopted by the Marine Fisheries Commission pursuant to Subchapter 113 during the previous three years; and
- (5) for permit applications from business entities:
- (A) the business name;
 - (B) the type of business entity: corporation, "educational institution" as defined in 15A NCAC 03I .0101, limited liability company (LLC), partnership, or sole proprietorship;
 - (C) the name, address, and phone number of responsible party and other identifying information required by this Subchapter or rules related to a specific permit;
 - (D) for a corporation applying for a permit in a corporate name, the current articles of incorporation and a current list of corporate officers;
 - (E) for a partnership that is established by a written partnership agreement, a current copy of such agreement shall be provided when applying for a permit; and
 - (F) for business entities other than corporations, copies of current assumed name statements if filed with the Register of Deeds office for the corresponding county and copies of current business privilege tax certificates, if applicable.
- (b) A permittee shall hold a valid:
- (1) Recreational Commercial Gear License, Standard Commercial Fishing License, or Retired Standard Commercial Fishing License to hold an Estuarine Gill Net Permit.
 - ~~(1)(2)~~ Standard or Retired Standard Commercial Fishing License ~~in order~~ to hold:
 - (A) an Atlantic Ocean Striped Bass Commercial Gear Permit;
 - (B) a Permit for Weekend Trawling for Live Shrimp; or
 - (C) a Pound Net Set Permit.

The master designated on the single vessel corporation Standard Commercial Fishing License is the individual required to hold the Permit for Weekend Trawling for Live Shrimp.
 - ~~(2)(3)~~ Fish Dealer License in the proper category ~~in order~~ to hold dealer permits for monitoring fisheries under a quota or allocation for that category.
- (c) An individual who is assigned a valid Standard Commercial Fishing License with applicable endorsements shall be eligible to hold any permit that requires a Standard Commercial Fishing License except a Pound Net Set Permit.
- (d) If mechanical methods to take shellfish are used, a permittee and ~~his~~ a permittee's designees shall hold a valid Standard or Retired Standard Commercial Fishing License with a Shellfish Endorsement ~~in order~~ for a permittee to hold a:
- (1) Depuration Permit;
 - (2) Permit to Transplant Oysters from Seed Oyster Management Areas; or
 - (3) Permit to Use Mechanical Methods for Shellfish on Shellfish Leases or Franchises, except as provided in G.S. 113-169.2.
- (e) If mechanical methods to take shellfish are not used, a permittee and ~~his~~ a permittee's designees shall hold a valid Standard or Retired Standard Commercial Fishing License with a Shellfish Endorsement or a Shellfish License ~~in order~~ for a permittee to hold a:
- (1) Depuration Permit; or
 - (2) Permit to Transplant Oysters from Seed Oyster Management Areas.
- (f) Aquaculture Operation Permit and Aquaculture Collection Permit:
- (1) A permittee shall hold a valid Aquaculture Operation Permit issued by the Fisheries Director to hold an Aquaculture Collection Permit.
 - (2) The permittee or designees shall hold appropriate licenses from the Division of Marine Fisheries for the species harvested and the gear used under the Aquaculture Collection Permit.
- (g) Atlantic Ocean Striped Bass Commercial Gear Permit:
- (1) An applicant for an Atlantic Ocean Striped Bass Commercial Gear Permit shall declare one of the following types of gear for an initial permit and at intervals of three consecutive license years thereafter:
 - (A) a gill net;
 - (B) a trawl net; or
 - (C) a beach seine.

For the purpose of this Rule, a "beach seine" shall mean a swipe net constructed of multi-filament or multi-fiber webbing fished from the ocean beach that is deployed from a vessel launched from the ocean beach where the fishing operation takes place. Gear declarations shall be binding on the permittee for three consecutive license years without regard to subsequent annual permit issuance.
 - (2) A person is not eligible for more than one Atlantic Ocean Striped Bass Commercial Gear Permit regardless of the number of Standard Commercial Fishing Licenses, Retired

Standard Commercial Fishing Licenses, or assignments held by that person.

(h) Applications submitted without complete and required information shall not be processed until all required information has been submitted. Incomplete applications shall be returned within two business days to the applicant with the deficiency in the application noted.

(i) A permit shall be issued only after the application is deemed complete and the applicant certifies his or her agreement to abide by the permit general and specific conditions established under 15A NCAC 03J .0501 and .0505, 03K .0103 and .0107, Rule .0211 of this Subchapter, and Rules .0502 and .0503 of this Section, as applicable to the requested permit. The permittee's signature on the initial permit general conditions form shall be notarized. In the case of a person holding more than one permit, the permittee's signature on the permit general conditions form shall be notarized for the initial permit issued but shall not be required for subsequent permits.

(j) For permit renewals, the permittee's signature on the specific condition form shall certify all information is true and accurate. Notarized signatures on renewal permits shall not be required.

~~(j)(k)~~ In determining whether to issue, modify, or renew a permit, the Fisheries Director or his or her agent shall evaluate the following factors:

- (1) potential threats to public health or marine and estuarine resources regulated by the Marine Fisheries Commission;
- (2) whether the permit application meets the requirements for the permit; and
- (3) whether the applicant has a history of eight or more violations of any provision of Subchapter 113 of the North Carolina General Statutes under the authority of the Marine Fisheries Commission or any rule adopted by the Marine Fisheries Commission pursuant to Subchapter 113 within 10 years.

~~(k)(l)~~ The Division of Marine Fisheries shall notify the applicant in writing of the denial or modification of any permit application and the reasons therefor. The applicant may submit further information or reasons why the permit application should not be denied or modified.

~~(l)(m)~~ Permits are valid from the date of issuance through the expiration date printed on the permit. Unless otherwise established by rule, the Fisheries Director may establish the issuance timeframe for specific types and categories of permits based on season, calendar year, or other period based upon the nature of the activity permitted, the duration of the activity, compliance with federal or State fishery management plans or implementing rules, conflicts with other fisheries or gear usage, or seasons for the species involved. The expiration date shall be specified on the permit.

~~(m)~~ For permit renewals, the permittee's signature on the application shall certify all information is true and accurate. Notarized signatures on renewal applications shall not be required.

(n) It shall be unlawful for a permit holder to fail to notify the Division of Marine Fisheries within 30 days of a change of name or address, in accordance with G.S. 113-169.2.

(o) It shall be unlawful for a permit holder to fail to notify the Division of Marine Fisheries of a change of designee prior to use of the permit by that designee.

(p) Permit applications shall be available at ~~all the~~ the Division of Marine Fisheries ~~offices. Fisheries;~~ a list of permits and the location where each permit application is available is on the Division's website at <https://deq.nc.gov/dmf-permit-info>.

Authority G.S. 113-134; 113-169.1; 113-169.2; 113-169.3; 113-182; 113-210; 143B-289.52.

15A NCAC 03O .0502 GENERAL PERMIT CONDITIONS

(a) It shall be unlawful to violate any permit condition.

(b) The following conditions shall apply to all permits issued by the Fisheries Director:

(1) it shall be unlawful to:

- (A) operate under the permit except in areas, at times, and under conditions specified on the permit.
- (B) operate under a permit without having the permit or copy thereof in possession of the permittee or the permittee's designees at all times of operation and the permit or copy thereof shall be ready at hand for inspection, except for a Pound Net Set Permit.
- (C) operate under a permit without having a current picture identification in possession and ready at hand for inspection.
- (D) refuse to allow inspection and sampling of a permitted activity by an agent of the Division of Marine Fisheries.
- (E) fail to provide complete and accurate information requested by the Division in connection with the permitted activity.
- (F) provide false information in the application for initial issuance, renewal, or transfer of a permit.
- (G) hold a permit issued by the Fisheries Director if not eligible to hold any license required as a condition for that permit as stated in Rule .0501 of this Section.
- (H) fail to provide reports within the timeframe required by the specific permit conditions.
- (I) fail to keep such records and accounts as required by the rules in this Chapter for determination of conservation policy, equitable and efficient administration and enforcement, or promotion of commercial or recreational fisheries.

- (J) assign or transfer permits issued by the Fisheries Director, except for a Pound Net Set Permit as authorized by 15A NCAC 03J .0504.
 - (K) fail to participate in and provide accurate information for data collection in accordance with 15A NCAC 03I .0113 and for survey programs administered by the Division.
- (2) the Fisheries Director or the Fisheries Director's agent may, by conditions of the permit, impose on a commercial fishing operation and for recreational purposes any of the following restrictions for the permitted purposes:
- (A) specify time;
 - (B) specify area;
 - (C) specify means and methods;
 - (D) specify record keeping and reporting requirements;
 - (E) specify season;
 - (F) specify species;
 - (G) specify size;
 - (H) specify quantity;
 - (I) specify disposition of resources;
 - (J) specify marking requirements; and
 - (K) specify harvest conditions.
- (3) unless specifically stated as a condition on the permit, all statutes, rules, and proclamations shall apply to the permittee and the permittee's designees.
- (3) Aquaculture Operation Permits and Aquaculture Collection Permits shall be issued or renewed on a calendar year basis.
- (4) It shall be unlawful to fail to provide the Division with a listing of all designees acting pursuant to an Aquaculture Collection Permit at the time of application.
- (b) Atlantic Ocean Striped Bass Commercial Gear Permit:
- (1) It shall be unlawful to take striped bass from the Atlantic Ocean in a commercial fishing operation without first obtaining an Atlantic Ocean Striped Bass Commercial Gear Permit.
 - (2) It shall be unlawful to obtain more than one Atlantic Ocean Striped Bass Commercial Gear Permit during a license year, regardless of the number of Standard Commercial Fishing licenses, Retired Standard Commercial Fishing licenses, or assignments.
- (c) Blue Crab Shedding Permit: It shall be unlawful to possess more than 50 blue crabs in a shedding operation without first obtaining a Blue Crab Shedding Permit from the ~~Division of Marine Fisheries~~ Division.
- (d) Coastal Recreational Fishing License Exemption Permit:
- (1) It shall be unlawful for the responsible party seeking exemption from recreational fishing license requirements for eligible individuals to conduct an organized fishing event held in Joint or Coastal Fishing Waters without first obtaining a Coastal Recreational Fishing License Exemption Permit.
 - (2) The Coastal Recreational Fishing License Exemption Permit shall only be issued for recreational fishing activity conducted solely for the participation and benefit of one of the following groups of eligible individuals:
 - (A) individuals with physical or mental impairment;
 - (B) members of the United States Armed Forces and their dependents, upon presentation of a valid military identification card;
 - (C) individuals receiving instruction on recreational fishing techniques and conservation practices from employees of state or federal marine or estuarine resource management agencies or instructors affiliated with an educational institutions; institution as defined in 15A NCAC 03I .0101(1); and
 - (D) disadvantaged youths as set forth in 42 U.S. Code 12511.

Authority G.S. 113-134; 113-169.1; 113-170.2; 113-170.3; 113-182; 113-210; 143B-289.52.

**15A NCAC 03O .0503 PERMIT CONDITIONS;
SPECIFIC**

(a) Aquaculture Operation Permit and Aquaculture Collection Permit:

- (1) It shall be unlawful to conduct aquaculture operations using marine and estuarine resources without first securing an Aquaculture Operation Permit from the Fisheries Director.
- (2) It shall be unlawful:
 - (A) to take marine and estuarine resources from Coastal Fishing Waters for aquaculture purposes without first obtaining an Aquaculture Collection Permit from the Fisheries Director;
 - (B) to sell or use for any purpose not related to North Carolina aquaculture marine and estuarine resources taken pursuant to an Aquaculture Collection Permit; or
 - (C) to fail to submit to the Fisheries Director an annual report, due on December 1 of each year on the form provided by the Division of Marine Fisheries, stating the amount and

~~For the purpose of this Paragraph, educational institutions include high schools and other secondary educational institutions.~~

- (3) The Coastal Recreational Fishing License Exemption Permit shall be valid for the date, time, and physical location of the organized fishing event for which the exemption is granted and the duration of the permit shall not exceed one year from the date of issuance.
- (4) The Coastal Recreational Fishing License Exemption Permit shall only be issued if all of the following, in addition to the information required in Rule .0501 of this Section, is submitted to the Fisheries Director, in writing, at least 30 days prior to the event:
- (A) the name, date, time, and physical location of the event;
 - (B) documentation that substantiates local, state, or federal involvement in the organized fishing event, if applicable;
 - (C) the cost or requirements, if any, for an individual to participate in the event; and
 - (D) an estimate of the number of participants.
- (e) Requirements for Dealer ~~dealer~~ permits for monitoring fisheries under a quota or allocation:
- (1) All species-specific permits listed in Subparagraphs (e)(2) through (e)(6) of this Rule are subject to the requirements of this Paragraph. During the commercial season harvest of a fishery opened by proclamation or rule for the fishery for which a dealer permit for monitoring fisheries under a quota or allocation shall be issued, it shall be unlawful for a fish dealer issued such permit to fail to:
 - (A) ~~fax or send via electronic mail~~ submit by electronic means, including electronic mail, fax, or text message, by noon daily, on forms provided by the Division of Marine Fisheries, daily in quota monitoring logs, the previous day's landings for the permitted fishery to the Division. The form shall include the dealer's name, dealer's license number, date the fish were landed, permittee's or designee's signature, date the permittee or designee signed the form, and species-specific information as listed in Parts (e)(2)(A), (e)(3)(A), (e)(4)(A), and (e)(5)(A) of this Rule. If the dealer submits their trip tickets by electronic means, then the dealer shall submit their quota monitoring logs by electronic means. If the dealer is unable to submit by electronic means the required information, the permittee shall call in the previous day's landings to the Division of Marine Fisheries Communications Center at 800-682-2632 or 252-515-5500. Landings for Fridays or Saturdays shall be submitted no later than noon on the following Monday. If the dealer is unable to fax or electronically mail the required information, the permittee shall call in the previous day's landings to the Division; Monday;
 - (2) Atlantic Ocean Flounder Dealer Permit:
 - (A) In addition to the information required in Part (e)(1)(A) of this Rule, the form to record the previous day's landings of Atlantic Ocean flounder shall include the permit number, number of vessels used for harvest, and ~~the~~ pounds harvested.
 - (B) It shall be unlawful for a fish dealer to allow vessels holding a valid License to Land Flounder from the Atlantic Ocean to land more than 100 pounds of flounder from a single transaction at their licensed location during the open season without first obtaining an Atlantic Ocean Flounder Dealer Permit. The licensed location shall be specified on the Atlantic Ocean Flounder Dealer Permit and only one location per permit shall be allowed.
 - (C) It shall be unlawful for a fish dealer to possess, buy, sell, or offer for sale more than 100 pounds of flounder from a single transaction from the Atlantic Ocean without first obtaining an Atlantic Ocean Flounder Dealer Permit.
 - (3) Black Sea Bass North of Cape Hatteras Dealer Permit:
 - (A) In addition to the information required in Part (e)(1)(A) of this Rule, the form to record the previous day's landings of black sea bass north of Cape

- Hatteras shall include the permit number, number of vessels used for harvest, and ~~the~~ pounds harvested.
- (B) It shall be unlawful for a fish dealer to purchase or possess more than 100 pounds of black sea bass taken from the Atlantic Ocean north of Cape Hatteras (35° 15.0321' N) per day per commercial fishing operation during the open season unless the dealer has a Black Sea Bass North of Cape Hatteras Dealer Permit.
- (4) Estuarine Flounder Dealer Permit:
- (A) In addition to the information required in Part (e)(1)(A) of this Rule, the form to record the previous day's landings of estuarine flounder shall include the permit number, number of vessels used for harvest, pounds harvested, gear category, and management area.
- (B) It shall be unlawful for a fish dealer to possess, purchase, sell, or offer for sale flounder taken from estuarine waters without first obtaining an Estuarine Flounder Dealer Permit required for specific management purposes for the applicable fisheries and harvest area.
- ~~(4)(5)~~ Spiny Dogfish Dealer Permit:
- (A) In addition to the information required in Part (e)(1)(A) of this Rule, the form to record the previous day's landings of spiny dogfish shall include the permit number, number of vessels used for harvest, and ~~the~~ pounds harvested.
- (B) It shall be unlawful for a fish dealer to purchase or possess more than 100 pounds of spiny dogfish per day per commercial fishing operation unless the dealer has a Spiny Dogfish Dealer Permit.
- ~~(5)(6)~~ Striped Bass Dealer Permit:
- (A) In addition to the information required in Part (e)(1)(A) of this Rule, the form to record the previous day's landings of striped bass shall include the permit number, number of tags used by area, pounds harvested by area, and for the Atlantic Ocean, type of gear used for harvest.
- (B) It shall be unlawful for a fish dealer to possess, buy, sell, or offer for sale striped bass taken from the following areas without first obtaining a Striped Bass Dealer Permit validated for the applicable harvest area:
- (i) the Atlantic Ocean;
- (ii) the Albemarle Sound Management Area as designated in 15A NCAC 03R .0201; or
- (iii) the Joint and Coastal Fishing Waters of the Central/Southern Management Area as designated in 15A NCAC 03R .0201.
- (C) No permittee shall possess, buy, sell, or offer for sale striped bass taken from the harvest areas opened by proclamation without having a valid ~~Division of Marine Fisheries issued~~ Division-issued tag for the applicable area affixed through the mouth and gill cover or, in the case of striped bass imported from other states, a similar tag that is issued for striped bass in the state of origin. Division striped bass tags shall not be bought, sold, offered for sale, or transferred. Tags shall be obtained ~~at from the Division offices.~~ at from the Division offices. Division; office locations that provide tags can be found on the Division's website at <https://www.deq.nc.gov/striped-bass-commercial-harvest-tags>. The Division shall specify the quantity of tags to be issued based on historical striped bass landings. It shall be unlawful for the permittee to fail to surrender unused tags to the Division upon request.
- ~~(f) Horseshoe Crab Biomedical Use Permit:~~
- (1) ~~It shall be unlawful to use horseshoe crabs for biomedical purposes without first obtaining a permit.~~
- (2) ~~It shall be unlawful for persons who have been issued a Horseshoe Crab Biomedical Use Permit to fail to submit an annual report on the use of horseshoe crabs to the Division of Marine Fisheries, due on February 1 of each year. Such reports shall be filed on forms provided by the Division and shall include a monthly account of the number of crabs harvested, a statement of percent mortality up to the point of release, the harvest method, the number or percent of males and females, and the disposition of bled crabs prior to release.~~
- (3) ~~It shall be unlawful for persons who have been issued a Horseshoe Crab Biomedical Use Permit to fail to comply with the Atlantic States Marine Fisheries Commission Interstate Fishery Management Plan for Horseshoe Crab. The Atlantic States Marine Fisheries Commission Interstate Fishery Management Plan for Horseshoe Crab is incorporated by~~

~~reference including subsequent amendments and editions. Copies of this plan are available via the Internet from the Atlantic States Marine Fisheries Commission at <http://www.asmfc.org/fisheries-management/program-overview> and at the Division of Marine Fisheries, 3441 Arendell Street, P.O. Box 769, Morehead City, NC 28557, at no cost.~~

(f) Estuarine Gill Net Permit:

- (1) It shall be unlawful for an individual to deploy gill nets in Internal Waters, except for runaround, strike, drop, or drift gill nets, without possessing a valid Estuarine Gill Net Permit issued by the Division.
- (2) Estuarine Gill Net Permits shall be issued or renewed by the Division on a calendar year basis. For renewals, any changes in information or supporting documents shall be provided by the permit holder at the time of renewal.
- (3) It shall be unlawful for a permit holder:
 - (A) to violate the provisions of any rules or proclamations regarding the conditions set out in the federally issued Endangered Species Act 16 U.S.C. 1539(a)(1)(B) Incidental Take Permits, for the estuarine non-exempt gill net fisheries;
 - (B) to refuse or deny Division employees a trip aboard the vessel the permit holder is using or observation from a Division vessel to obtain data or samples in accordance with 15A NCAC 03I.0113;
 - (C) and the master and crew members of the boat, to interfere with or obstruct Division employees in the course of obtaining data or samples, which shall include refusal or failure to provide information on fishing gear parameters or to relinquish any captured sturgeon or sea turtle to Division employees;
 - (D) to avoid or mislead Division employees by providing incorrect information on fishing activity;
 - (E) to fail to provide a valid phone number at which the Estuarine Gill Net Permit holder can be reached, return phone calls, or answer text messages from the Division, or fail to notify the Division of a phone number change within 14 calendar days of such change;
 - (F) to fail to comply with all observer notification system or call-in requirements set out by permit conditions, proclamations, or rules; and

(G) to fail to report to the Division any incidental take of sea turtle or sturgeon within 24 hours.

(g) Permit for Weekend Trawling for Live Shrimp:

- (1) It shall be unlawful to take shrimp with trawls from 9:00 p.m. on Friday through 12 noon on Saturday without first obtaining a Permit for Weekend Trawling for Live Shrimp.
- (2) It shall be unlawful for a holder of a Permit for Weekend Trawling for Live Shrimp to use trawls from 12:01 p.m. on Saturday through 4:59 p.m. on Sunday.
- (3) It shall be unlawful for a permit holder during the timeframe specified in Subparagraph (g)(1) of this Rule to:
 - (A) use trawl nets to take live shrimp except from areas open to the harvest of shrimp with trawls;
 - (B) take shrimp with trawls that have a combined headrope length of greater than 40 feet in Internal Coastal Waters;
 - (C) possess more than one gallon of dead shrimp (heads on) per trip;
 - (D) fail to have a functioning live bait tank or a combination of multiple functioning live bait tanks, with aerators or circulating water, with a minimum combined tank capacity of 50 gallons; or
 - (E) fail to call or email the Division of Marine Fisheries Communications Center at 800-682-2632 or 252-515-5500 prior to each weekend use of the permit, specifying activities and location. Calls shall be directed to the Division of Marine Fisheries Communications Center at 800-682-2632 or 252-515-5500 and emails shall be sent to the email address provided in the permit specific conditions.

(h) Pound Net Set Permit: The holder of a Pound Net Set Permit shall follow the Pound Net Set Permit conditions as set forth in 15A NCAC 03J .0505.

(i) Scientific or Educational Activity Permit:

- (1) It shall be unlawful for institutions or ~~agencies~~ organizations seeking exemptions from license, rule, proclamation, or statutory requirements to collect, hold, culture, or exhibit for scientific or educational purposes any marine or estuarine species without first obtaining a Scientific or Educational Activity Permit.
- (2) The Scientific or Educational Activity Permit shall only be issued for collection methods and possession allowances approved by the ~~Division of Marine Fisheries~~ Division.
- (3) The Scientific or Educational Activity Permit shall only be issued for ~~approved~~ approved activities

conducted by or under the direction of ~~Scientific or Educational institutions~~ educational institutions, nongovernmental conservation organizations, or scientific institutions as defined in 15A NCAC 03I .0101-.0101(1) and approved by the Division.

- (4) It shall be unlawful for the responsible party issued a Scientific or Educational Activity Permit to fail to submit an annual report on collections and, if authorized, sales to the Division, due on December 1 of each year, unless otherwise specified on the permit. The reports shall be filed on forms provided by the Division. Scientific or Educational Activity permits shall be issued on a calendar year basis.
- (5) It shall be unlawful to sell marine or estuarine species taken under a Scientific or Educational Activity Permit without:
 - (A) the required license for such sale;
 - (B) an authorization stated on the permit for such sale; and
 - (C) providing the information required by 15A NCAC 03I .0114 if the sale is to a licensed fish dealer.
- (6) It shall be unlawful to fail to provide the Division with a list of all designees acting under a Scientific or Educational Activity Permit at the time of application.
- (7) The permittee or designees utilizing the permit shall call or email the Division of Marine Fisheries Communications Center at 800-682-2632 or 252-515-5500 no later than 24 hours prior to use of the permit, specifying activities and location. Calls shall be directed to the Division of Marine Fisheries Communications Center at 800-682-2632 or 252-515-5500 and emails shall be sent to the email address provided in the permit specific conditions.

(j) Shellfish Lease Restoration Permit:

- (1) It shall be unlawful to transport shellfish cultivated on a shellfish lease or franchise to a restoration site without first obtaining a Shellfish Lease Restoration Permit.
- (2) The Shellfish Lease Restoration Permit shall only be issued for approved activities associated with a shellfish lease or franchise.
- (3) It shall be unlawful to harvest shellfish under a Shellfish Lease Restoration Permit without being recorded on a trip ticket through a certified shellfish dealer as set forth in 15A NCAC 03I .0114.
- (4) It shall be unlawful for the permittee or permit designee to fail to maintain a record of all shellfish transported for restoration purposes and to fail to submit the record annually, unless otherwise specified on the permit.
- (5) The permittee or designees utilizing the permit shall call the Division of Marine Fisheries Communications Center at 800-682-2632 or

252-515-5500 no later than 24 hours prior to use of the permit, specifying activities, location, and product size.

(k) Shellfish Relocation Permit:

- (1) It shall be unlawful, without first obtaining a Shellfish Relocation Permit, to relocate shellfish from an area designated by the Fisheries Director as a site where shellfish would otherwise be destroyed due to maintenance dredging, construction, or other development activities.
- (2) The Shellfish Relocation Permit shall be issued by the Fisheries Director only as part of a Coastal Area Management Act Permit issued in accordance with G.S. 113A-118 and G.S. 113-229 for development projects based on the status of shellfish resources in the development area, availability of Division employees to supervise the relocation activity, and if the Division has verified that there is no other avoidance or minimization measure that can be incorporated.

(l) Under Dock Oyster Culture Permit:

- (1) It shall be unlawful to cultivate oysters in containers under docks for personal consumption without first obtaining an Under Dock Oyster Culture Permit.
- (2) An Under Dock Oyster Culture Permit shall be issued only in accordance with provisions set forth in G.S. 113-210(c).
- (3) The applicant shall complete and submit an examination, with a minimum of 70 percent correct answers, based on an educational package provided by the Division of Marine Fisheries pursuant to G.S. 113-210(j), demonstrating the applicant's knowledge of:
 - (A) the application process;
 - (B) permit criteria;
 - (C) basic oyster biology and culture techniques;
 - (D) shellfish harvest area closures due to pollution;
 - (E) safe handling practices;
 - (F) permit conditions; and
 - (G) permit revocation criteria.
- (4) Action by an Under Dock Oyster Culture Permit holder to encroach on or usurp the legal rights of the public to access public trust resources in Coastal Fishing Waters shall result in permit revocation.

Authority G.S. 113-134; 113-169.1; 113-169.2; 113-169.3; 113-182; 113-210; 143B-289.52.

TITLE 21 - OCCUPATIONAL LICENSING BOARDS AND COMMISSIONS

CHAPTER 16 - DENTAL EXAMINERS

Notice is hereby given in accordance with G.S. 150B-21.2 that the Board of Dental Examiners intends to adopt the rule cited as 21 NCAC 16Q .0105, and amend the rule cited as 21 NCAC 16Q .0301.

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

Proposed Effective Date: December 1, 2025

Public Hearing:

Date: September 11, 2025

Time: 6:30 p.m.

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

Reason for Proposed Action: 21 NCAC 16Q .0105 is proposed for adoption to require a sedation refresher course for all IV-level sedation permit holders covering certain critical patient safety areas.

21 NCAC 16Q .0301 is proposed for amendment to make clear the standards for courses that would qualify an applicant to apply for a moderate conscious sedation permit and to also clarify conduct that is prohibited for the moderate conscious sedation permit holder.

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

Comment period ends: September 30, 2025

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 16Q - GENERAL ANESTHESIA AND SEDATION

SECTION .0100 – GENERAL

21 NCAC 16Q .0105 UPDATE COURSE FOR GENERAL ANESTHESIA AND MODERATE CONSCIOUS SEDATION PERMIT HOLDERS

(a) All general anesthesia permit holders, moderate conscious sedation permit holders, moderate pediatric conscious sedation permit holders, and all auxiliaries dedicated to patient monitoring for these sedation procedures, shall complete a Board-approved update course, once every two years, that includes at least six total hours and covers the following topics:

- (1) patient assessment and selection;
- (2) appropriate medications and dosages;
- (3) different levels of sedation and anesthesia, including inducement, recognition, and reversal;
- (4) proper patient monitoring;
- (5) effective airway management; and
- (6) recognizing, diagnosing, and effectively managing medical emergencies.

(b) The update course shall incorporate a demonstration of sedating a patient or a simulation that includes induction of deep sedation, recognition of deep sedation, and reversal of deep sedation. If this demonstration involves a live patient, it shall be taught by an instructor who holds a permit or license to administer general anesthesia, including a general anesthesia permit holder or medical anesthesiologist.

(c) The update course may apply toward fulfillment of the continuing education requirements for permit renewal.

(d) The requirements of this Rule shall take effect on January 1, 2027.

Authority G.S. 90-28; 90-30.1; 90-31.1; 90-48.

SECTION .0300 - MODERATE CONSCIOUS SEDATION

21 NCAC 16Q .0301 CREDENTIALS AND PERMITS FOR MODERATE PARENTERAL AND ENTERAL CONSCIOUS SEDATION

(a) Before a dentist licensed to practice in North Carolina may administer or supervise a CRNA employed to ~~administer~~ administer, or RN employed to ~~deliver~~ deliver, moderate conscious sedation, the dentist shall obtain a permit from the Board by completing the application requirements in this Rule and paying a fee of three hundred seventy-five ~~dollar~~ dollars (\$375.00) that includes the one-hundred dollar (\$100.00) application fee and the two-hundred seventy-five dollar (\$275.00) inspection fee. The permit shall be renewed annually and shall be displayed with the current renewal at all times in the facility of the permit holder where it is visible to patients receiving treatment.

(b) The permit holder shall provide supervision to any CRNA employed to ~~administer~~ administer, or RN employed to ~~deliver~~ deliver, sedation, and shall ensure that the level of the sedation does not exceed the level of the sedation allowed by the permit holder's permit.

(c) A dentist applying for a permit to administer moderate conscious sedation shall ~~document~~ provide the following documentation of the following:

- (1) Training that may consist of either:

- (A) Course: Completion of 60 hours of Board approved didactic training in intravenous conscious sedation, and 30 hours of clinical training that shall include a record of the applicant's individual management of all aspects of intravenous moderate sedation for a minimum of 20 live patients, under supervision of the course instructor. ~~instructor, using intravenous sedation.~~ BLS training shall not count toward the required hours. Training Course training shall be provided by one or more individuals who meet the requirements of the American Dental Association Guidelines for Teaching Pain Control and Sedation to Dentists and Dental Students for moderate sedation that ~~is~~ are hereby incorporated by reference, including subsequent amendments and editions. The guidelines may be found at ~~www.ada.org/coda;~~ www.ada.org at no charge. The course director shall provide a written certification of the applicant's competence in moderate sedation techniques and medications, and in rescuing patients from a deeper level of sedation than moderate, including managing the airway, intravascular or intraosseous access, and use of reversal medications; or
- (B) Program: Completion of a pre-doctoral dental or postgraduate program that included intravenous conscious sedation training equivalent to that defined in Part (c)(1)(A) of this Rule;
- (2) Unexpired ACLS certification; and
- (3) ~~That all~~ All auxiliaries involved in sedation procedures that have unexpired BLS certification.

(d) All applicants for a moderate conscious sedation permit shall be in good standing with the Board.

(e) Prior to issuance of a moderate conscious sedation permit, the applicant shall pass an evaluation and a facility inspection. The applicant shall be responsible for passing the evaluation and inspection of his or her facility.

(f) A dentist who holds a moderate conscious sedation permit shall not intentionally administer deep ~~sedation. sedation, or~~ administer deep sedation or reversal agents on a repeated basis.

(g) A moderate conscious sedation permit holder may provide moderate conscious sedation at the office of another licensed dentist, regardless of the permit, if any held, by the hosting dentist. The permit holder shall ensure that the facility where the moderate conscious sedation is administered has been inspected and complies with the requirements set out in Rules .0103 and .0302 of this Subchapter. The permit holder shall also obtain an itinerant

moderate conscious sedation permit and comply with the requirements of Rule .0304 of this Section.

Authority G.S. 90-30.1; 90-39; 90-48.

TITLE 26 – OFFICE OF ADMINISTRATIVE HEARINGS

Notice is hereby given in accordance with G.S. 150B-21.2 that the Office of Administrative Hearings intends to adopt the rules cited as 26 NCAC 03 .0601-.0622.

Link to agency website pursuant to G.S. 150B-19.1(c):
<https://www.oah.nc.gov/hearings-division>

Proposed Effective Date: *December 1, 2025*

Public Hearing:

Date: *August 26, 2025*

Time: *10:00 A.M.*

Location: *RRC Commission Room, 1711 New Hope Church Road, Raleigh, NC 27609.*

Reason for Proposed Action: *OAH seeks to adopt Section .0600 to govern the process of special education complaints arising under the federal Individual with Disabilities Education Act (IDEA) (codified at 20 U.S.C. 1400, et seq.), its supporting regulations in the CFR (34 CFR Part 300), and Article 9 of Chapter 115C of the North Carolina General Statutes.*

This is a reposting of rules that were originally published in Volume 40, Issue 02 on July 15, 2025.

Comments may be submitted to: *Brian Liebman, 1711 New Hope Church Road, Raleigh, NC 27609; email brian.liebman@oah.nc.gov*

Comment period ends: *September 30, 2025*

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 03 - HEARINGS DIVISION

SECTION .0600 – SPECIAL EDUCATION COMPLAINT PROCESS

26 NCAC 03 .0601 GENERAL

(a) Applicability to Special Education Complaints. This Subchapter applies to special education Complaints filed in the Office of Administrative Hearings (OAH) pursuant to the federal Individuals with Disabilities Education Improvement Act of 2004 (IDEA)(20 U.S.C. 1400, et seq.), its supporting regulations (34 CFR Part 300), and Article 9 of Chapter 115C of the North Carolina General Statutes. The rules in this Section supplement other OAH rules in this Chapter for the purpose of adjudicating special education Complaints. In the event of a conflict with other OAH rules, the rules in this Section shall take precedence.

(b) Waiver of Rules. The presiding administrative law judge (ALJ) may waive the rules of this Section to promote the interests of justice or judicial economy. All waiver requests shall be by motion. In determining whether to grant a waiver, the presiding administrative law judge shall consider the following factors:

- (1) the necessity of the waiver;
- (2) the party's responsibility for the conditions creating the need for the waiver;
- (3) the party's prior requests for a waiver;
- (4) the precedential value of such a waiver;
- (5) notice to and opposition by the opposing parties; and
- (6) the potential harm to the party if the waiver is not granted.

(c) The provisions of 34 CFR Part 300 are hereby incorporated by reference, including all subsequent amendments and editions. 34 CFR Part 300 is available online at no cost at <https://www.ecfr.gov/current/title-34/subtitle-B/chapter-III/part-300>.

Authority G.S. 7A-751; 150B-21.6; 150B-22.1; 150B-29.

26 NCAC 03 .0602 DEFINITIONS

As used in this Section, the following terms have the meanings indicated:

- (1) "Administrative law judge (ALJ)" means the judge assigned to preside over the contested case, as defined in G.S. 150B-2(1), and with the powers and duties outlined in G.S. 150B-33 and Rule .0105 of this Chapter.
- (2) "Adult student" means a child with a disability, aged 18 years or older, to whom all rights granted to the student's parents have been transferred per 20 U.S.C. 1415(m) and G.S. 115C-109.2.
- (3) "Business day" is defined in 34 CFR 300.11.

(4) "Certificate of Service" means a mandatory document that shall accompany all documents filed in the record to prove that the opposing party has been served, as defined by Item (47) of this Rule.

(5) "Child with a disability" is defined by 34 CFR 300.8.

(6) "CMS" means the electronic case management system used by OAH for filing documents.

(7) "Complaint" means a petition for a contested case hearing filed with OAH pursuant to 20 U.S.C. 1415(b)(7)(A), G.S. 115C-109.6, 34 CFR 300.503, and 34 CFR 300.508.

(a) "Regular FAPE Complaint" means a Complaint filed for a contested case hearing on issues including:

- (i) Identification of a student with disabilities;
- (ii) Evaluation of a student with disabilities;
- (iii) Educational placement for a student with disabilities; or
- (iv) Other denial of the provision of a free and appropriate public education.

(b) "Expedited FAPE Complaint" means a Complaint filed for a contested case hearing on issues including:

- (i) Manifestation determination review (MDR);
- (ii) Other issues related to a change in placement due to a disciplinary suspension of more than 10 days;
- (iii) An interim alternative educational placement of at least 45 days whether related to a disciplinary matter but due to behaviors resulting from the student's disability; or
- (iv) At the discretion of the administrative law judge, for cases involving a breach of a mediation agreement.

(8) "Date-stamped copy" means a copy of a document sent by another party, on which the receiving party has noted the date the document was received, either through a date-stamp or other written confirmation including the date.

(9) "Day" means calendar day unless otherwise specified as a "business day" or "school day."

(10) "DPI" means the North Carolina Department of Public Instruction.

(11) "Due Process Hearing Coordinator" means the person designated by the State Board of Education at DPI to receive electronic copies of Complaints, motions, notices, and communications from OAH and the parties

- regarding special education Complaint hearings.
- (12) "Education records" include any documentation pertaining to the student's education, excluding generic communications disseminated to the entire school body. This includes:
- (a) Special education file;
 - (b) Cumulative folder;
 - (c) Written correspondence (including emails) to and from school staff, parents, and others regarding the student's educational needs or services;
 - (d) Report cards and transcripts;
 - (e) Progress monitoring of IEP goals and related services;
 - (f) Documentation of service delivery, including related service provider logs;
 - (g) Documentation of work samples used for progress monitoring;
 - (h) Documentation of the implementation of accommodations; and
 - (i) Any information provided by parents to the school, including medical and independent evaluations obtained by the parents.
- (13) "E-filing" means electronic filing as defined and governed by Rules .0501 and .0502 of this Chapter.
- (14) "Extraordinary cause" means circumstances beyond a party's control that could not have been anticipated.
- (15) "Evidentiary hearing" means a legal proceeding where parties present evidence, including witness testimony, documents, and records, to the administrative law judge who evaluates the evidence to determine whether a student has received a free and appropriate public education.
- (16) "File" is defined by Rule .0102(2) of this Chapter.
- (17) "Five-day evaluation disclosure rule" means the requirement in 20 U.S.C. 1415(f)(2) and 34 CFR 300.512(b) to disclose evaluations and recommendations based on those evaluations at least five business days before a hearing.
- (18) "Five-day evidence exchange rule" means the requirement in 34 CFR 300.512(a)(3) to exchange evidence, witness lists, and stipulations at least five business days before a hearing.
- (19) "Formal discovery" is defined in Article 5 of G.S. 1A-1, including Rules 26 (generally), 27 (depositions), 33 (interrogatories), 34 (production of documents and entry upon land for inspection), 35 (physical/mental exams), and 36 (requests for admission). The mandatory document exchange and disclosures in Items
- (17) and (18) of this Rule, and Rule .0617 of this Section are not formal discovery.
- (20) "Free Appropriate Public Education (FAPE)" is defined by 34 CFR 300.17.
- (21) "Good cause" is defined in Rule .0118(a)(1) and (2) of this Chapter.
- (22) "Hearing Period" means the timeframe after the end of the Resolution Period until the issuance of a Final Decision, or other disposition of the case such as a voluntary dismissal, during which the Complaint is formally processed and all procedures are handled, leading to a Final Decision or voluntary dismissal, including legal motions and the evidentiary hearing.
- (23) "Individualized Education Program (IEP)" is defined by 34 CFR 300.22.
- (24) "Individuals With Disabilities Education Improvement Act of 2004 (IDEA)" is codified in 20 U.S.C. 1400 et seq. (2004), as amended.
- (25) "Lay advocate" means an individual not licensed by the State Bar of North Carolina, but who possesses special knowledge or training regarding the issues faced by children with disabilities.
- (26) "Local education agency (LEA)" is defined by G.S. 115C-106.3(11) and may also be referred to as the "school board," "public agency," or "Public School Unit (PSU)." For consistency, the LEA shall be referred to as the PSU in the rules of this Section.
- (27) "Manifestation determination review (MDR)" means the process of determining whether a child's conduct was a manifestation of the child's disability, as described in 20 U.S.C. 1415(k)(1)(E).
- (28) "DPI Mediation" means mediations conducted by a DPI mediator pursuant to G.S. 115C-109.4 and includes mediations held before or during the pendency of a special education Complaint.
- (29) "Mediation Request Form" means a form provided by DPI in which the parties request the appointment of a mediator by DPI.
- (30) "Notice of Insufficiency" is defined by 20 U.S.C. 1415(c)(2)(A) and 34 CFR 300.508(d).
- (31) "OAH" or "Tribunal" means the hearings division of the North Carolina Office of Administrative Hearings, including the Clerk's Office and the administrative law judge assigned to preside over a special education contested case.
- (32) "Parent" is defined by 20 U.S.C. 1401(23) and 34 CFR 300.30.
- (33) "Party" means the named individuals or groups engaged in DPI Mediation, the resolution process, or the hearing process, who have an interest in the outcome of a special education Complaint (excluding attorneys or lay advocates).

- (34) "Petitioner" means the party filing the Complaint, which may be a parent, individual with educational decision-making rights, or a PSU. Unless specified otherwise in the rules of this Section, "Petitioner" means a parent Petitioner.
- (35) "Prior Written Notice" is as defined at 20 U.S.C. 1415(c)(1).
- (36) "Prehearing Conference" means an informal meeting conducted by the administrative law judge with the parties to address issues in preparation for the hearing, as outlined in Rule .0108 of this Chapter.
- (37) "Public agency" is defined by 34 CFR 300.33.
- (38) "Public School Unit (PSU)" is defined by G.S. 115C-5(7a).
- (39) "Record of the administrative proceeding" means the same as the Official Record defined by G.S. 150B-37.
- (40) "Resolution Form" means a form filed with OAH reporting the parties' decisions about whether to proceed to resolution, waive resolution for DPI Mediation, or not participate in a Resolution Session.
- (41) "Resolution Period" means the period following the initiation of the contested case, during which the parties may attempt to resolve the issues. The Resolution Period for a Regular FAPE Complaint is 30 calendar days from Respondent's receipt of the Complaint. The Resolution Period for an Expedited FAPE Complaint is 15 calendar days from filing with OAH.
- (42) "Resolution Session" is described in 20 U.S.C. 1415(f)(1)(B).
- (43) "Resolution process" means the process described in 34 CFR 300.510.
- (44) "Respondent" means the party against whom the Complaint is filed, usually a PSU or SEA, but it may also be a parent of a child with a disability or an adult student. Unless specified otherwise in the rules of this Section, "Respondent" means a PSU or SEA.
- (45) "Response to Complaint" means the response the Respondent is required to file within 10 calendar days of receiving a Regular FAPE Complaint if Respondent has not previously provided Petitioner with Prior Written Notice per 20 U.S.C. 1415(c)(2)(b).
- (46) "School day" means any day that children attend school for instructional purposes, including partial days.
- (47) "Serve" or "Service" means to simultaneously provide a copy of any document filed with OAH to the opposing party and the Due Process Hearing Coordinator, as outlined in Rule .0102(a)(3) of this Chapter.
- (48) "Settlement Conference" means another IDEA mediation process available after a DPI

Meditation as defined by Item (29) of this Rule has failed. A Settlement Conference shall be governed by Rules .0107 and .0611 of this Chapter.

- (49) "State Education Agency (SEA)" is defined by 34 CFR 300.41 and is also referred to as the State Board of Education.

- (50) "Transcript" means a written document created by a court reporter that captures everything said during the hearing.

Authority G.S. 7A-751; 115C-109.5; 150B-22.1; 20 U.S.C. 1415(k)(4)(B); 34 CFR 300.507.

26 NCAC 03 .0603 FILING OF COMPLAINT AND SERVICE OF DOCUMENTS

(a) Initiating the Complaint Process. To begin the Complaint process, the Petitioner shall file the Complaint with OAH in accordance with Rule .0101(b) of this Chapter.

(b) Service of Complaint:

- (1) Service to Opposing Party. Petitioner shall serve the opposing party with a copy of the Complaint. If the Respondent is a Public School Unit (PSU) or State Education Agency (SEA), Petitioner shall serve either the superintendent or the exceptional children director of the PSU or SEA;
- (2) Service to the Due Process Hearing Coordinator. Petitioner shall serve a copy of the Complaint and all subsequent filings on the DPI's Due Process Hearing Coordinator;
- (3) Certificate of Service. Petitioner shall simultaneously file a Certificate of Service as evidence that the Complaint has been served on both the opposing party and the Due Process Hearing Coordinator.

(c) Service by Electronic Mail. The three-day period for service under G.S. 1A-1, Rule 6(e) does not apply to service by e-filing or electronic mail.

(d) No Additional Mailing Requirement for E-Filers. E-filers are not required to send an additional copy of the document to OAH, as specified in Rule .0101(b) of this Chapter.

(e) Certificate of Service Required. All subsequent documents, notices, and orders filed in the case shall include a Certificate of Service, confirming service to both the parties and the Due Process Hearing Coordinator.

(f) Form Requirements. All documents filed with the Office of Administrative Hearings shall comply with the form requirements outlined in G.S. 1A-1, Rule 10, and, if filed electronically, with the requirements in Section .0500 of this Chapter.

Authority G.S. 7A-751; 115C-109.6; 150B-22.1.

26 NCAC 03 .0604 CONTENTS OF A COMPLAINT

(a) Complaint Contents. A Regular FAPE Complaint and an Expedited FAPE Complaint shall comply with 34 CFR 300.508(b) and the rules of this Section. A Petitioner may, but is not required to use, the model Complaint forms developed by the State Board of Education in accordance with G.S. 115C-107.2(d).

In addition, the Petitioner shall file and serve a separate document that includes:

- (1) A clear delineation of the contested issue or issues, separate from general background information.
- (2) If applicable, the names and last known contact information of any person who may be subject to joinder as a party under G.S. 1A-1, Rule 19, including noncustodial parents and any individual or entity with educational decision-making authority for the minor child.

(b) Non-Parent Filing on Behalf of a Student. When a non-parent files and serves a Complaint on behalf of a student, the Petitioner shall include a court order from the General Court of Justice or another signed and notarized document from the child's parents, legal guardians, or another authorized representative, granting the Petitioner legal authority to act on the child's behalf.

(c) Parent Filing on Behalf of an Adult Student. When a parent files and serves a Complaint on behalf of an adult student, the parent shall include proof of guardianship, power of attorney, or another written document granting him or her legal authority to act on the adult student's behalf.

Authority G.S. 7A-751; 115C-109.6; 150B-23; 1A-1, Rule 19(c).

26 NCAC 03 .0605 REGULAR FAPE COMPLAINT PROCESS

In a Regular FAPE Complaint, the Petitioner, the Respondent, and OAH shall adhere to the following procedures after the Complaint is filed:

- (1) Notice of Contested Case and Assignment. Within two business days of receiving the Complaint, the Clerk's Office shall serve the Notice of Contested Case and Assignment (the "First Notice") to the parties and the Due Process Hearing Coordinator.
- (2) Acknowledgment of Complaint Receipt. Within one business day of receiving the Complaint from the Petitioner, the PSU or the designated agency representative shall electronically transmit a date-stamped copy of the Complaint to OAH and the Due Process Hearing Coordinator.
- (3) Notice of Mandatory Statutory Deadlines. Within one business day of receiving the date-stamped copy of the Complaint, the Clerk's Office shall serve the parties with a Notice of Mandatory Statutory Deadlines for the Resolution Period and Hearing Period (the "Second Notice").
- (4) Failure to Acknowledge Receipt of Complaint. If the PSU fails to acknowledge receipt of the Complaint as required in Item (2) of this Rule within seven business days of the filing of the Complaint, the Clerk's Office shall file a Notice of Complaint, attach the Complaint, and serve a copy on the PSU. The timelines outlined in the rules of this Section and IDEA shall begin

within three business days after service of the Notice of Complaint.

- (5) Alternative Evidence of Service. If the Petitioner provides evidence of the date of service (e.g., certified mail, tracking information with address, signed affidavit, or other method), the presiding administrative law judge may adjust the Resolution Period and Hearing Period accordingly.
- (6) Scheduling Order. Within five business days of the issuance of the Second Notice by the Clerk's Office, the presiding administrative law judge shall issue a Scheduling Order for the Hearing Period to the parties.
- (7) Scheduling of Evidentiary and Motion Hearings. The administrative law judge shall schedule the evidentiary hearing in accordance with G.S. 115C-109.6(d). Virtual evidentiary hearings may only be scheduled with the consent of both parties and in accordance with Rule .0120(g) of this Chapter. A motion hearing may be scheduled virtually at the discretion of the administrative law judge
- (8) Federal Timelines Compliance. To ensure compliance with the federal timelines set out in 34 CFR 300.515(a), the administrative law judge shall:
 - (a) Schedule a hearing date within 15 calendar days after conclusion of the Resolution Period. To the extent possible, the hearing shall be held on consecutive business days.
 - (b) Set deadlines for the Prehearing Conference, five-day evaluation disclosures, five-day evidence exchanges, filing of admitted exhibits, Proposed Final Decisions, and issuance of the Final Decision.

Authority: G.S. 7A-751; 115C-109.6; 150B-33(b).

26 NCAC 03 .0606 EXPEDITED FAPE COMPLAINT PROCESS

The Expedited FAPE Complaint process follows the same procedures contained in Rule .0605 of this Section, except as stated below. The Petitioner, the Respondent, and OAH shall adhere to the following procedures with respect to an Expedited FAPE Complaint:

- (1) Expedited Deadlines. The timelines for scheduling the hearing, the Resolution Period, and the issuance of the Final Decision shall comply with expedited deadlines in 20 U.S.C. 1415(k)(4)(B) and 34 CFR 300.532(c).
- (2) Failure to Acknowledge Receipt of Expedited Complaint. If the Respondent fails to electronically transmit a date-stamped copy of the Expedited FAPE Complaint to OAH within three business days of the filing, the Clerk's Office shall serve Respondent with a Notice of

- Expedited FAPE Complaint with the attached Complaint.
- (3) Notice of Expedited Contested Case. The Notice of Expedited Contested Case Assignment shall include the expedited deadlines as required by 34 CFR 300.532(c).
 - (4) Order Setting Expedited Deadlines. Within one business day of acknowledgement or service by the Clerk's Office on the Respondent, the administrative law judge shall issue an Order Setting Expedited Deadlines for the adjudication of the case.
 - (5) Prehearing Conference. The administrative law judge shall conduct a Prehearing Conference at least three business days before the expedited evidentiary hearing, and the parties shall comply with Rule .0615 of this Section in preparing the Proposed Prehearing Conference Order.
 - (6) Filing of Exhibits and Proposed Final Decisions. The parties shall file their admitted exhibits and Proposed Final Decisions within five business days after the last day of the hearing.
 - (7) Issuance of Final Decision. The Final Decision shall be issued within 10 school days after the last day of the hearing.

Authority G.S. 7A-751; 115C-109.6; 150B-33(b); 20 U.S.C. 1415(k)(4)(B).

26 NCAC 03 .0607 PROCEDURES FOR BIFURCATION OF ISSUES

(a) Bifurcation of Regular FAPE Complaint and Expedited FAPE Complaint Issues. An administrative law judge, either on his or her own motion or upon the motion of a party, shall bifurcate the issues related to a Regular FAPE Complaint and an Expedited FAPE Complaint when they are combined in a single Complaint. In the event of bifurcation:

- (1) Issues related to the Expedited FAPE Complaint shall be adjudicated following the expedited resolution and hearing process as described in Rule .0606.
- (2) Issues related to the Regular FAPE Complaint shall be adjudicated following the regular resolution and hearing process in Rule .0605.

(b) Bifurcation of Other Issues in a Regular FAPE Complaint. A party may request bifurcation of other issues in a Regular FAPE Complaint either by mutual agreement, stipulation, or by filing a Motion to Bifurcate with OAH.

(c) If either party files a motion to bifurcate, the opposing party shall have five business days from the service of the motion to file a response.

Authority G.S. 7A-751(a); 115C-109.6; 150B-33.

26 NCAC 03 .0608 CONSOLIDATION OF REGULAR FAPE COMPLAINTS

(a) Consent and Approval for Consolidation. With the consent of all parties and the approval of the Chief administrative law judge,

multiple Regular FAPE Complaints shall be consolidated in accordance with Rule .0111 of this Chapter. However, consolidation shall not be used in lieu of amending a Complaint or to delay the hearing process.

(b) Scheduling After Consolidation. After consolidation, the parties shall confer with the presiding administrative law judge regarding the scheduling of the evidentiary hearing and adjustment of applicable timelines. A revised Consent Scheduling Order shall be issued, including the revised timeline for the issuance of the Final Decision.

Authority G.S. 7A-751, 150B-33(b).

26 NCAC 03 .0609 RESPONSE TO COMPLAINT, EXTENSIONS OF DEADLINE FOR THE RESPONSE

(a) Response Deadline. The opposing party shall file a Response to Complaint within 10 days of service of a Regular FAPE Complaint, unless the opposing party has previously provided Petitioner with a Prior Written Notice regarding the allegations.

(b) Extension of Response Deadline An administrative law judge may grant a motion for an extension of time to extend the response deadline for good cause or by mutual consent. In either case, the response deadline for a Regular FAPE Complaint shall initially be extended by no more than 10 days. The administrative law judge shall not grant any further extensions without the consent of both parties.

(c) Response to Expedited FAPE Complaint. No response is required to an Expedited FAPE Complaint.

(d) Impact on Notice of Insufficiency. An extension of the response deadline shall not affect the deadline for the filing of a Notice of Insufficiency.

Authority G.S. 7A-751; 150B-33(b).

26 NCAC 03 .0610 REQUESTS FROM PARTIES

(a) Motion Requirements. In addition to the requirements of Rule .0115 of this Chapter, any request for the administrative law judge to enter an order or act on behalf of any party shall be made in writing, through a motion filed in the record. With the administrative law judge's permission, an oral motion may be made on record during the hearing, and the opposing party shall be given an opportunity to respond before a ruling is made.

(b) Motion Content. A motion shall clearly state the reasons for the desired action and specify whether a hearing on the motion is being requested. A motion shall be decided without oral argument, unless a hearing is requested by either party. The administrative law judge has discretion to deny the request for a hearing if he or she finds a hearing would not aid in the decision-making process.

(c) Pre-filing Communication. Before filing a motion, the moving party shall inform the opposing party about the basis of the motion. The parties shall attempt to resolve the need for the motion. If the parties are unable to reach resolution, the moving party shall include a statement in the motion to that effect.

(d) Response to Motion. Regardless of whether the administrative law judge requests a response to the motion, a response may be filed within 10 days of service. Replies to responses and sur-replies shall not be filed without prior approval from the

administrative law judge; otherwise, they shall be stricken from the record.

(e) Supporting Documentation. Upon filing, the motion and response shall include all supporting documentation, legal memoranda, and a proposed order.

Authority G.S. 7A-751; 150B-33(3a).

26 NCAC 03 .0611 OPTIONS FOR SETTLEMENT OF COMPLAINT

(a) Within the applicable timelines during the Resolution Period and Hearing Period for a Regular or Expedited FAPE Complaint, the parties may choose to participate in the following options:

- (1) a Resolution Session,
- (2) DPI Mediation, and
- (3) if DPI Mediation is unsuccessful, a Settlement Conference

(b) Waiver of Resolution Session for DPI Mediation. If the parties agree to waive the Resolution Session in accordance with 34 CFR 300.506 and G.S. 115C-109.4 and participate in DPI Mediation, the Respondent shall file a Resolution Form noticing this decision.

(c) Request for DPI Mediation. If the parties agree to continue settlement negotiations after a Resolution Session or waive the Resolution Session to participate in DPI Mediation, they shall request the appointment of a DPI mediator through DPI's Due Process Hearing Coordinator and file a Mediation Request Form with both DPI's Due Process Hearing Coordinator and OAH.

(d) Notice of Mediation Date. Within 10 days of requesting the appointment of a DPI mediator, the parties shall file with OAH a Notice of Mediation Date or a Status Report if the mediation date has not yet been scheduled

(e) Status Report After Resolution Session or DPI Mediation. Within three days of the completion of a Resolution Session or DPI Mediation, the parties shall file with OAH a Status Report detailing the results.

(f) Request for Settlement Conference. After DPI Mediation has been attempted, the parties may file a joint motion requesting the appointment of an administrative law judge to hold a Settlement Conference pursuant to Rule .0107 of this Chapter.

(g) Report of Settlement Conference. Within three days of the completion of a Settlement Conference, the settlement administrative law judge shall file a Report of Settlement Conference.

(h) Enforceability of Written Agreements. A party may seek enforcement, through OAH, of a written agreement resulting from a resolution meeting, DPI Mediation, or Settlement Conference. This mechanism is not mandatory and cannot delay or deny a party the right to seek enforcement of the written agreement in a State court of competent jurisdiction, or a federal district court.

Authority G.S. 7A-751; 115C-107.2(d); 115C-109.4(h)(4); 34 CFR 300.537.

26 NCAC 03 .0612 EXTENSION OF THE RESOLUTION PERIOD

(a) No Extension in Expedited FAPE Complaints. No extension of the Resolution Period in an Expedited FAPE Complaint shall be allowed.

(b) Joint Motion for 30-Day Extension. Before the Resolution Period expires, the parties may jointly file a motion for a 30-day extension of the Resolution Period for a Regular FAPE Complaint. The administrative law judge shall grant further extensions for only the following reasons:

- (1) Finalization of a settlement agreement.
- (2) School board approval of a settlement agreement.
- (3) Additional time to obtain all necessary signatures.

(c) Impact of DPI Mediation or Settlement Conference on Resolution Period. The use of DPI Mediation or a Settlement Conference shall not affect the 30-day Resolution Period unless the administrative law judge grants a joint motion to extend the Resolution Period.

(d) Motion to Continue Hearing and Extension of Resolution Periods. If the parties jointly move for a continuance of the hearing deadline before the Resolution Period expires for settlement purposes, the motion shall be treated as a motion to extend the Resolution Period, which shall automatically extend the hearing deadlines.

(e) Extension Order Requirements. If an extension of the Resolution Period is granted, the administrative law judge shall specify:

- (1) the specific time period for the extension,
- (2) the end date of the Resolution Period,
- (3) the start date of the 45-day Hearing Period, and
- (4) the deadline for issuance of the Final Decision.

Authority G.S. 7A-751; 150B-33(b).

26 NCAC 03 .0613 CONTINUANCE OF HEARING PERIOD

(a) Expedited FAPE Complaints. No continuance of the hearing deadline shall be allowed for an Expedited FAPE Complaint.

(b) Motion for Continuance. After the Resolution Period ends and during the 45-day Hearing Period, either party may file a motion for a continuance of the hearing for good cause. However, the administrative law judge shall grant a further continuance only upon finding extraordinary cause exists.

(c) Motion Requirements. A motion to continue the Hearing Period shall include a Proposed Consent Scheduling Order, which sets deadlines for the following:

- (1) Expert witness designations.
- (2) Dispositive motions.
- (3) Prehearing Conference.
- (4) Court Reporter Contract.
- (5) Five-day evaluation disclosure and five-day evidence exchange.
- (6) Filing of admitted exhibits.
- (7) Proposed Final Decisions.
- (8) Final Decision issuance.

(d) Mediation or Settlement Conference Continuances. If continuance is requested and granted due to DPI Mediation or a Settlement Conference, the parties shall file the notices and Status Reports as required by Rules .0611 and .0612 of this Section.

Authority G.S. 7A-751; 150B-33(b).

26 NCAC 03 .0614 AMENDMENT OF COMPLAINT

(a) Allowable Amendments. Amendment of a Complaint shall only be allowed as prescribed by 20 U.S.C. 1415(c)(2)(E) and 34 CFR 300.508(d)(3).

(b) Motion for Leave to Amend. The administrative law judge shall decide a motion for leave to amend a Complaint without response unless, within three business days of receipt of the motion, the Respondent files a response or files notice that it intends to respond. In its response, the Respondent shall demonstrate how the amendment of the Complaint would be prejudicial.

(c) Effect of Amendment on Pending Motions and Notices. Once an amended Complaint is filed, all pending motions and notices shall be considered moot.

(d) Resetting of Timelines. The filing of an amended Complaint shall reset the timelines for the Resolution Period and Hearing Period, and the administrative law judge shall issue an Amended Scheduling Order.

Authority G.S. 7A-751; 150B-33(b).

26 NCAC 03 .0615 PREHEARING CONFERENCE

(a) Except as provided below, the Prehearing Conference shall be governed by Rule .0108 of this Chapter, and by Rule 7 of the North Carolina General Rules of Practice for the Superior and District Courts.

(b) Purpose and Requirements. A Prehearing Conference shall be held at least once before the evidentiary hearing to:

- (1) finalize the issues to be litigated;
- (2) establish the length of the hearing and the number of witnesses;
- (3) determine time limitations for each party's case;
- (4) discuss remaining matters not previously resolved; and
- (5) draft the Prehearing Conference Order.

(c) Timing of the Prehearing Conference.

- (1) The Prehearing Conference shall be held within two weeks prior to a Regular FAPE Complaint hearing;
- (2) The Prehearing Conference shall be held five business days prior to an Expedited FAPE Complaint hearing.

Authority G.S. 7A-751; 150B-33(b).

26 NCAC 03 .0616 RESERVED FOR FUTURE CODIFICATION

26 NCAC 03 .0617 MANDATORY PRODUCTION OF EDUCATION RECORDS, DISCLOSURES, AND EVIDENCE

Regardless of whether the parent or the PSU is the Petitioner or the Respondent, the following governs the exchange of education records, disclosures and evidence:

- (1) Provision of Education Records by PSU. Within 10 calendar days of service of a Regular FAPE Complaint, and five calendar days of an Expedited FAPE Complaint, the PSU shall provide the parent with copies of the student's

education records as defined in Rule .0602(12) of this Section.

- (2) Progress Monitoring and Email Communication Records. If all the progress monitoring and email communication records cannot be accessed within the timelines specified in Item (1) of this Rule, the PSU shall provide any accessible progress monitoring and email communication records. Any remaining records shall be provided at least 48 hours before a Resolution Session or DPI Mediation, if the Resolution Session is waived.

- (3) Provision of Education Records by Parent. Within 10 days of service of a Regular FAPE Complaint, or five days of an Expedited FAPE Complaint, the parent shall provide the PSU with copies of:

- (a) independent educational evaluations,
- (b) private school records,
- (c) service records for private related service providers, and
- (d) reimbursement documentation, or written releases for these records.

If the parent cannot obtain these records within the timelines specified in this Item, he or she shall provide them at least 48 hours before the Resolution Session or DPI Mediation, if resolution is waived.

- (4) Five-Day Evaluation Disclosure and Five-Day Evidence Exchange: The parties shall comply with the five-day evaluation disclosure and five-day evidence exchange requirements unless mutually agreed otherwise. If the parties agree to shorten either the five-day evaluation disclosure or the five-day evidence exchange period, they waive objections to timeliness and the introduction of the applicable disclosures.

- (5) Failure to Produce Required Documents: If either party fails to produce the records required by Items (1) through (4) of this Rule within the requisite time periods, the opposing party may file a motion to compel or a motion to exclude. If granted, the administrative law judge may exclude the records or impose sanctions, including attorney's fees, as allowed by G.S. 115C-109.6(j), G.S. 1A-1, Rule 37, and Rule .0114 of this Chapter.

Authority G.S. 7A-751; 150B-33(b); 34 CFR 300.613.

26 NCAC 03 .0618 FORMAL DISCOVERY LIMITATIONS

Beyond the mandatory disclosures required in Rule .0617 of this Section, formal discovery is available under the following conditions:

- (1) Mutual Agreement or Administrative Law Judge Approval. Formal discovery shall occur if the parties mutually agree to it, if it aligns with expert witness disclosures as outlined in

- Item (5) of this Rule, or if the administrative law judge grants prior approval.
- (2) Exhaustion of Informal Discovery. Informal means of obtaining materials shall be exhausted before formal discovery is sought.
- (3) Motion for Discovery Approval. If informal means are not productive, the party seeking discovery shall file for a motion requesting approval for formal discovery. The motion shall contain the following:
- (a) The reasons for the requested discovery.
 - (b) Any prior attempts to obtain the material.
 - (c) The unavailability of other means to obtain the material.
 - (d) A proposed discovery scheduling order which shall complete discovery within the deadlines set by the IDEA.
- (4) Depositions of Minor or Incompetent Adult Children. Depositions of minor children or incompetent adult children require prior approval and are subject to conditions imposed by the administrative law judge.
- (5) Expert Witness Disclosure. Expert witness facts and opinions shall be obtained in accordance with G.S. 1A-1, Rule 26(a)(4). However, the deadlines for written report disclosures are as follows:
- (a) Regular FAPE Complaints. Written reports shall be disclosed at least 15 days before the hearing.
 - (b) Expedited FAPE Complaints. Written reports shall be disclosed at least five business days before the hearing.
 - (c) Contradictory or Rebuttal Expert Evidence. Contradictory or rebuttal expert evidence is due within 10 days after the opposing party's disclosure for a Regular FAPE Complaint and three days after the opposing party's disclosure for an Expedited FAPE Complaint. These deadlines may be altered by mutual agreement or order.
- (6) Deposition Time Limitation. Depositions shall be limited to seven hours on record.
- (7) Noncompliance and Sanctions. Noncompliance with discovery deadlines or orders may result in sanctions, including attorney's fees, under G.S. 1A-1, Rule 37 and Rules .0112 and .0114 of this Chapter.

Authority G.S. 7A-751; 150B-33(b).

26 NCAC 03 .0619 TRANSCRIPT REQUIREMENTS

- (a) Petitioner's Court Reporter Contract. At least five business days before the hearing, the Petitioner shall contract with a court reporter and file the OAH Court Reporter Contract for a special education hearing.

(b) Court Reporter Fees and Transcript Costs. DPI shall pay the court reporter's appearance fee, expenses, and the costs for the Petitioner's and OAH's non-expedited transcripts.

(c) Transcript Requests and Delivery. Transcript requests shall be made before the hearing adjourns. The court reporter shall provide the transcripts to the parties and submit the original transcript to OAH within 15 business days following the last day of the hearing.

Authority G.S. 7A-761; 150B-37(b); 20 U.S.C. 1415(h)(3); 34 CFR 300-512(c)(3).

26 NCAC 03 .0620 PROPOSED FINAL DECISIONS

Each Proposed Final Decision shall contain citations to exhibits and transcripts that support factual allegations. Citations shall refer to the specific bates-stamped page numbers in the exhibits and the volume, page, and line numbers of the transcripts.

- (1) Submission Deadline. Within 30 days of receipt of the hearing transcripts, or as otherwise ordered by the administrative law judge, each party shall submit a Proposed Final Decision.
- (2) Transcript Citation. The proper citation format for transcripts is: [volume number: page number: line numbers]. Note: for example, T vol 2 p 35:2-5.
- (3) Exhibit Labeling. The proper labeling and citations to exhibits are as follows:
 - (a) Petitioner's Exhibits. Petitioner's exhibits shall be marked as: Pet'r Ex. 1, Pet'r Ex. 2, etc.
 - (b) Respondent's Exhibits. Respondent's exhibits shall be marked as: Resp't Ex. 1, Resp't Ex. 2, etc.
 - (c) Stipulations of Fact. Stipulations of fact shall be marked as: Stip. 1, Stip. 2, etc.
 - (d) Stipulated Exhibits. Stipulated exhibits shall be marked as: Stip. Ex. 1, Stip. Ex. 2, etc.
 - (e) Joint Exhibits. Joint exhibits shall be marked as: Jt Ex. 1, Jt Ex. 2, etc.
- (4) Offers of Proof. Offers of Proof shall be marked as follows: Petitioner's offers: Pet'r Offer 1, Pet'r Offer 2, etc. and Respondent's offers: Resp't Offer 1, Resp't Offer 2, etc.
- (5) Conclusions of Law Citation Requirements. Each Proposed Final Decision shall include conclusions of law with citations to legal authorities, in accordance with The Bluebook: A Uniform System of Citation (21st Edition). The Bluebook citation system is incorporated by reference, including any subsequent amendments or editions. The Bluebook may be purchased at <https://www.legalbluebook.com/> for forty-six dollars (\$46.00).

Authority G.S. 7A-751; 150B-29(b).

26 NCAC 03 .0621 FINAL DECISION

(a) Issuance Deadline. OAH shall issue the Final Decision separately to the parties or their attorneys on or before the deadline established in the final scheduling order, unless an extension is granted upon joint request of the parties.

(b) Appeal Information. The Final Decision shall include information on the judicial review process and advise the party seeking judicial review to file a copy of the Petition for Judicial Review in Superior Court or a copy of the Federal Complaint in the Federal District Court with the OAH.

(c) Redacted Version. Within 14 days of the issuance of the Final Decision, each party may file a redacted version of the Final Decision, indicating proposed redactions.

(d) Redacted Final Decision Filing. Within 30 days of the issuance of the Final Decision, a Redacted Final Decision shall be filed and published on the OAH website. The Redacted Final Decision shall conform to 34 CFR 300.32 and 34 CFR 99.3.

Authority G.S. 7A-751; 150B-33(b); 150B-34.

26 NCAC 03 .0622 JUDICIAL REVIEW

(a) Civil Action. Any party aggrieved by the Final Decision may bring a civil action in any State court of competent jurisdiction or federal district court of the United States.

(b) Filing in State Court. After filing a civil action in a State reviewing court, the aggrieved party shall file a copy of the petition for review with OAH within 10 days of initiating the review. The Clerk's Office shall forward the record of the administrative proceeding to the State court in accordance with G.S. 150B-37 and G.S. 150B-47.

(c) Filing in Federal District Court. After filing a civil action in federal district court, the aggrieved party shall file a copy of the federal district court complaint with OAH. Within the timeframe specified by the federal court, the parties are responsible for preparing the administrative record in compliance with Article IV of the North Carolina Rules of Appellate Procedure or as otherwise ordered by the federal district court judge. Once completed, the Clerk's office shall review and certify the record of the administrative proceedings, and the parties shall forward the record to the federal district court.

Authority G.S. 7A-751; 150B-34; 150B-37; 150B-43; 150B-47.

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 15A – DEPARTMENT OF ENVIRONMENTAL
QUALITY**

Rule-making Agency: *Wildlife Resources Commission*

Rule Citation: *15A NCAC 10C .0325*

Effective Date: *July 7, 2025*

Date Approved by the Rules Review Commission: *June 26, 2025*

Reason for Action: *The N.C. Marine Fisheries Commission adopted the Spotted Seatrout Fishery Management Plan Amendment 1 at their March 2025 meeting. To be consistent with the Spotted Seatrout Fishery Management Plan, a slot limit for Spotted Seatrout where the minimum size limit remains 14 inches, but no fish may be possessed between 20 and 26 inches and only one fish in the creel may be over 26 inches in length is proposed. The daily creel limit will be reduced from four fish to three fish per person. Current data indicates that the Spotted Seatrout population is not overfished but overfishing is occurring. These measures should end overfishing within two years.*

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

SUBCHAPTER 10C - INLAND FISHING REGULATIONS

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

15A NCAC 10C .0325 SEA TROUT

(a) The daily creel limit for sea trout (spotted or speckled) is ~~four~~ three fish.

(b) The minimum size limit is ~~14 inches.~~ inches, but no fish between 20 and 26 inches in length may be possessed and only one sea trout greater than 26 inches may be possessed.

(c) There is no closed season.

History Note: Authority G.S. 113-134; 113-292; 113-304; 113-305;

Temporary Adoption Eff. September 1, 2022;

Eff. March 15, 2023;

Temporary Amendment Eff. July 1, 2025.

Rule-making Agency: *Wildlife Resources Commission*

Rule Citation: *15A NCAC 10D .0260*

Effective Date: *July 7, 2025*

Date Approved by the Rules Review Commission: *June 26, 2025*

Reason for Action: *The Lutz Tract portion of the game land is heavily used and overcrowded in the summer months with people camping and gathering. This use results in litter and human waste that creates environmental hazards and habitat degradation. The overcrowding also creates safety issues along the narrow roadway where cars block the thoroughfare on a NCDOT roadway, hindering access for emergency vehicles if needed. The Caldwell County Sheriff's Office has expressed concern and asked for allowed activities on the property to be restricted.*

The US Forest Service is closing the southern section of the Wilson Creek corridor, and NCDOT is beginning construction on the access road which will exacerbate issues on the game land. The portion of Wilson Creek on the Lutz Tract is designated as Delayed Harvest Trout Waters, and additional use of the Lutz Tract will impact angler access and experience. The proposed amendment should help reduce overcrowding.

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

SUBCHAPTER 10D - GAME LANDS REGULATIONS

SECTION .0200 - USE OF GAME LANDS

**15A NCAC 10D .0260 PISGAH GAME LAND IN
AVERY, BUNCOMBE, BURKE, CALDWELL,
HAYWOOD, HENDERSON, MADISON, MCDOWELL,
MITCHELL, TRANSYLVANIA, WATAUGA, AND
YANCEY COUNTIES**

Pisgah ~~game land~~ Game Land is a Seven Days per Week Area, in which the following applies:

- (1) Deer of either sex may be taken the first open Saturday of the applicable Deer With Visible Antlers Season.
- (2) Horseback riding is prohibited on the Black Bear (McDowell County), Linville River (Burke County), and Little Tablerock Tracts (Avery, McDowell, and Mitchell counties).
- (3) The use of bicycles shall be restricted to designated trails on the Linville River Tract (Burke County). Persons engaged in the act of hunting on the Linville River Tract during any open day of an applicable season for game birds or game animals shall be exempt from this restriction.
- (4) Alcohol and fires are prohibited on the Lutz Tract (Caldwell County). ~~in the Wilson Creek~~

TEMPORARY RULES

- ~~portion of Pisgah Game Land (Caldwell County)~~ prohibited. ~~[are prohibited on the Lutz Tract (Caldwell County)]~~.
- (5) Target shooting is prohibited on the Black Bear (McDowell County), Linville River (Burke County), and Little Tablerock Tracts (Avery, McDowell, and Mitchell counties).
- (6) [Activities] Entry on the Lutz Tract (Caldwell County) for purposes other than hunting, fishing, trapping, and [authorized] posted use of [posted] trails and parking areas is
- History Note: Authority G.S. 113-134; 113-264; 113-291.2; 113-291.5; 113-296; 113-305; Eff. October 1, 2022; Temporary Amendment Eff. July 1, 2025.*

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 June 26, 2025 Meeting.

REGISTER CITATION TO THE NOTICE OF TEXT

CHILD CARE COMMISSION

<u>Definitions</u>	10A NCAC	09	.0102	39:15 NCR
<u>License</u>	10A NCAC	09	.2902	39:15 NCR
<u>Family Services</u>	10A NCAC	09	.2905*	39:15 NCR
<u>Facility Requirements</u>	10A NCAC	09	.3002	39:15 NCR
<u>Staff-to-Child Ratio and Class Size</u>	10A NCAC	09	.3009*	39:15 NCR
<u>Family Engagement</u>	10A NCAC	09	.3010*	39:15 NCR
<u>Scope</u>	10A NCAC	09	.3201	39:15 NCR
<u>Application for a Two Through Five Start Rated License</u>	10A NCAC	09	.3202*	39:15 NCR
<u>Program Assessment Pathway for Child Care Centers</u>	10A NCAC	09	.3203*	39:15 NCR
<u>Program Assessment Pathway for Family Child Care Homes</u>	10A NCAC	09	.3204*	39:15 NCR
<u>Classroom and Instructional Quality Pathway for Child Car...</u>	10A NCAC	09	.3205*	39:15 NCR
<u>Classroom and Instructional Quality Pathway for Family Ch...</u>	10A NCAC	09	.3206*	39:15 NCR
<u>Accreditation and Head Start Pathway for Child Care Facil...</u>	10A NCAC	09	.3207*	39:15 NCR
<u>Enhanced Staff/Child Ratios for a Rated License for Child...</u>	10A NCAC	09	.3208*	39:15 NCR
<u>Reduced, Enhanced Staff/Child Care Ratios for a Rated Li...</u>	10A NCAC	09	.3209	39:15 NCR
<u>Enhanced Space Requirements for Child Care Centers</u>	10A NCAC	09	.3210*	39:15 NCR
<u>Enhanced Education Standards for Child Care Center On-...</u>	10A NCAC	09	.3211	39:15 NCR
<u>Enhanced Education Standards for Child Care Center Lead...</u>	10A NCAC	09	.3212	39:15 NCR
<u>Enhanced Education Standards for Child Care Center Teachers</u>	10A NCAC	09	.3213	39:15 NCR
<u>Enhanced Education Standards for Program Coordinators...</u>	10A NCAC	09	.3214	39:15 NCR
<u>Enhanced Education Standards for Group Leaders in Child...</u>	10A NCAC	09	.3215	39:15 NCR
<u>Enhanced Education Standards for Administrators of Child ...</u>	10A NCAC	09	.3216*	39:15 NCR
<u>Enhanced Education Standards for Family Child Care Home...</u>	10A NCAC	09	.3217*	39:15 NCR
<u>Competency Evaluations</u>	10A NCAC	09	.3218*	39:15 NCR
<u>Family and Community Engagement Standards for Child...</u>	10A NCAC	09	.3219	39:15 NCR
<u>Family and Community Engagement Standards for Family...</u>	10A NCAC	09	.3220	39:15 NCR
<u>Continuous Quality Improvement (CQI) Standards</u>	10A NCAC	09	.3221*	39:15 NCR
<u>Maintaining the Star Rating</u>	10A NCAC	09	.3222	39:15 NCR
<u>How an Operator May Request or Appeal a Change in Rating</u>	10A NCAC	09	.3223	39:15 NCR
<u>Recognition of Quality Initiatives</u>	10A NCAC	09	.3224*	39:15 NCR
<u>Accrediting Organizations and Star Rating Equivalency</u>	10A NCAC	09	.3225	39:15 NCR
<u>Approval of Formative Assessments</u>	10A NCAC	09	.3226	39:15 NCR

SHERIFFS' EDUCATION AND TRAINING STANDARDS COMMISSION

<u>Lateral Transfer/Reinstatements</u>	12 NCAC	10B	.0406*	39:14 NCR
<u>In-State Lateral Transfer of a Deputy Sheriff</u>	12 NCAC	10B	.0411*	39:14 NCR
<u>Evaluation for Training Waiver</u>	12 NCAC	10B	.0505*	39:14 NCR

ENVIRONMENTAL QUALITY, DEPARTMENT OF

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<u>Definitions</u>	15A NCAC	01X	.0102*	39:17 NCR
<u>Applicability</u>	15A NCAC	01X	.0103*	39:17 NCR
<u>Requests for Express Review</u>	15A NCAC	01X	.0104*	39:17 NCR
<u>Granting Requests for Express Review</u>	15A NCAC	01X	.0105*	39:17 NCR
<u>Processing of Requests for Express Review</u>	15A NCAC	01X	.0106*	39:17 NCR
<u>Project Eligibility</u>	15A NCAC	01X	.0201*	39:17 NCR
<u>Application Submission Requirements</u>	15A NCAC	01X	.0202*	39:17 NCR
<u>Review of Applications</u>	15A NCAC	01X	.0203*	39:17 NCR
<u>Project Eligibility</u>	15A NCAC	01X	.0301*	39:17 NCR
<u>Application Submission Requirements</u>	15A NCAC	01X	.0302	39:17 NCR
<u>Review of Applications</u>	15A NCAC	01X	.0303*	39:17 NCR

OIL AND GAS COMMISSION

<u>Definitions</u>	15A NCAC	05C	.0101	39:12 NCR
<u>Correspondence</u>	15A NCAC	05C	.0103	39:12 NCR
<u>Site Regulation</u>	15A NCAC	05C	.0104	39:12 NCR
<u>Permit Required</u>	15A NCAC	05C	.0105	39:12 NCR
<u>Permit Application</u>	15A NCAC	05C	.0106	39:12 NCR
<u>Permit Duration</u>	15A NCAC	05C	.0107	39:12 NCR
<u>Geographic Limits on Work</u>	15A NCAC	05C	.0108	39:12 NCR
<u>Seismic Agents</u>	15A NCAC	05C	.0109	39:12 NCR
<u>Daily Report Required</u>	15A NCAC	05C	.0110	39:12 NCR
<u>Notification</u>	15A NCAC	05C	.0111	39:12 NCR
<u>Size of Explosive Charges</u>	15A NCAC	05C	.0112	39:12 NCR
<u>Placing of Charges</u>	15A NCAC	05C	.0113	39:12 NCR
<u>Removal</u>	15A NCAC	05C	.0115	39:12 NCR
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<u>Shooting</u>	15A NCAC	05C	.0119	39:12 NCR
<u>Minimum Depths</u>	15A NCAC	05C	.0120	39:12 NCR
<u>Detailed Provisions</u>	15A NCAC	05C	.0121	39:12 NCR
<u>Powers of Seismic Agents</u>	15A NCAC	05C	.0123	39:12 NCR
<u>Duties of Party Chief</u>	15A NCAC	05C	.0124	39:12 NCR
<u>Release From These Regulations</u>	15A NCAC	05C	.0125	39:12 NCR
<u>Duties of Operators</u>	15A NCAC	05C	.0126	39:12 NCR

REVENUE, DEPARTMENT OF

<u>Independent Bookingkeeping</u>	17 NCAC	04B	.0603*	G.S. 150B-21.5(b)(1)
<u>CPA's: Not a Regulatory License</u>	17 NCAC	04B	.0604*	G.S. 150B-21.5(b)(1)
<u>Draftsman</u>	17 NCAC	04B	.0605*	G.S. 150B-21.5(b)(1)
<u>Grave Plots</u>	17 NCAC	04B	.0606*	G.S. 150B-21.5(b)(1)
<u>Optician</u>	17 NCAC	04B	.0609*	G.S. 150B-21.5(b)(1)
<u>Physical Therapist</u>	17 NCAC	04B	.0610*	G.S. 150B-21.5(b)(1)
<u>Practicing Physicians</u>	17 NCAC	04B	.0611*	G.S. 150B-21.5(b)(1)

APPROVED RULES

<u>Government Attorneys-at-Law and Other Professionals...</u>	17 NCAC	04B	.0612*	G.S. 150B-21.5(b)(1)
<u>Psychologist</u>	17 NCAC	04B	.0614*	G.S. 150B-21.5(b)(1)

CHIROPRACTIC EXAMINERS, BOARD OF

<u>Licensure; Renewal of License</u>	21 NCAC	10	.0204*	39:17 NCR
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LOCKSMITH LICENSING BOARD

<u>Fees</u>	21 NCAC	29	.0404	39:16 NCR
<u>Due Date</u>	21 NCAC	29	.0702	39:16 NCR
<u>Reinstatement of Expired License</u>	21 NCAC	29	.0703*	39:16 NCR

AGRICULTURAL FINANCE AUTHORITY

<u>Purpose</u>	24 NCAC	02D	.0101	39:15 NCR
<u>Definitions</u>	24 NCAC	02D	.0102*	39:15 NCR
<u>Evaluation of Applications</u>	24 NCAC	02D	.0103*	39:15 NCR
<u>Grant Agreement</u>	24 NCAC	02D	.0104	39:15 NCR
<u>Reporting</u>	24 NCAC	02D	.0105	39:15 NCR
<u>Records</u>	24 NCAC	02D	.0106	39:15 NCR

The following rule is subject to Legislative Review.

COASTAL RESOURCES COMMISSION

<u>Installation and Maintenance of Wheat Straw Bales for San...</u>	15A NCAC	07H	.0314*	39:15 NCR
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TITLE 10A - DEPARTMENT OF HEALTH AND HUMAN SERVICES**10A NCAC 09 .0102 DEFINITIONS**

The terms and phrases used in this Chapter are defined as follows:

- (1) "Activity area" means a space that is accessible to children and where related equipment and materials are kept in accordance with G.S. 110-91(12).
- (2) "Administrative work experience" shall mean verifiable experience in completing administrative duties such as planning, implementation and oversight for operational and personnel systems in a licensed child care arrangement or a child care arrangement not required to be licensed as identified in G.S. 110-86(2).
- (3) "Agency" as used in this Chapter means Division of Child Development and Early Education, Department of Health and Human Services located at 333 Six Forks Road, Raleigh, North Carolina 27609.
- (4) "Appellant" means the person or persons who request a contested case hearing.
- (5) "Asbestos hazard" means a condition that results in an exposure to asbestos in excess of the standards set forth in 10A NCAC 41C

- (6) .0607(a) or a category of asbestos containing material defined at 40 C.F.R. 763.88(b)(1)-(6). "Basic School-Age Care" training (BSAC training) means the training on the elements of quality afterschool care for school-age children, developed by the North Carolina State University Department of 4-H Youth Development and subsequently revised by the North Carolina School-age Quality Improvement Project.
- (7) "Biocontaminant" means blood, bodily fluids, or excretions that may spread infectious disease.
- (8) "Centers Located In a Residence" means a child care center located in a residence where, at any one time, more than two children, but less than 15 children, receive child care.
- (9) "Child Care Center" means an arrangement where, at any one time, there are three or more preschool-age children or nine or more school-age children receiving child care. This does not include arrangements described in Item (22) of this Rule regarding Family Child Care Homes.
- (10) "Child Care Facility" means child care centers, family child care homes, and any other child care arrangement not excluded by G.S. 110-86(2) that provides child care, regardless of the

- time of day, wherever operated, and whether or not operated for profit.
- (11) "Child care provider" as defined by G.S. 110-90.2(a)(2) includes the following employees who have contact with the children in a child care program:
- (a) facility directors;
 - (b) child care administrative staff;
 - (c) teachers;
 - (d) teachers' aides;
 - (e) substitute providers;
 - (f) uncompensated providers;
 - (g) cooks;
 - (h) maintenance personnel; and
 - (i) drivers.
- (12) "Child Development Associate Credential" means the national early childhood credential administered by the Council for Early Childhood Professional Recognition.
- (13) "Curriculum" means a curriculum that has been approved as set forth in these Rules by the NC Child Care Commission as comprehensive, evidenced-based, and with a reading and literacy component.
- (14) "Developmentally appropriate" means suitable to the chronological age range and developmental characteristics of a specific group of children.
- (15) "Division" means the Division of Child Development and Early Education within the Department of Health and Human Services.
- (16) "Domains" means the developmental areas of learning described in the North Carolina Foundations for Early Learning and Development © 2013, available on the Division's website at https://ncchildcare.nc.gov/providers/pv_foundations.asp. This instrument is incorporated by reference and does not include subsequent editions. The domains address children's emotional and social development, health and physical development, approaches to play and learning, language development, and communication and cognitive development.
- (17) "Drop-in care" means a child care arrangement where children attend on an intermittent, unscheduled basis.
- (18) "Early Childhood Environment Rating Scale – Third Edition" (Harms, Clifford, and Cryer, 2014, published by Teachers College Press, New York, NY) is the instrument used to evaluate the quality of care received by a group of children in a child care center using the program assessment licensure pathway. This instrument is incorporated by reference and does not include subsequent editions. A copy of the scale is available for purchase on the Teachers College Press website at https://www.tcpres.com/search?search_term=
- assessment+materials. The cost of this scale is twenty-eight dollars and ninety-five cents (\$28.95). A copy of this instrument is on file at the Division at the address given in Item (3) of this Rule and is available for public inspection during regular business hours. For the purposes of this Rule, "regular business hours" for the Division means 8 a.m. to 5 p.m. during weekdays, excluding state holidays.
- (19) "Early childhood education work experience" shall mean verifiable caregiving experience with children ages birth through five years of age in licensed child care arrangements or child care arrangements not required to be licensed as identified in G.S. 110-86(2).
- (20) "Experience working with school-age children" means working with school-age children as a child care administrator, program coordinator, group leader, assistant group leader, lead teacher, teacher or aide.
- (21) "Family Child Care Environment Rating Scale – Third Edition" (Harms, Cryer and Clifford, 2019, published by Teachers College Press, New York, NY) is the instrument used to evaluate the quality of care received by children in family child care homes using the program assessment licensure pathway. This instrument is incorporated by reference and does not include subsequent editions. A copy of the scale is available for purchase on the Teachers College Press website at https://www.tcpres.com/search?search_term= assessment+materials. The cost of the scale is twenty-eight dollars and ninety-five cents (\$28.95). A copy of this instrument is on file at the Division at the address given in Item (3) of this Rule and is available for public inspection during regular business hours.
- (22) "Family Child Care Home", as defined by G.S. 110-86(3)(b) means a child care arrangement located in a residence where, at any one time, more than two children, but less than 11 children, receive child care. Family child care home operators must reside at the location of the family child care home.
- (23) "First aid kit" is a collection of first aid supplies (such as bandages, tweezers, disposable nonporous gloves, micro shield or face mask, liquid soap, cold pack) for treatment of minor injuries or stabilization of major injuries.
- (24) "Group" means the children assigned to a specific caregiver or caregivers, to meet the staff/child ratios set forth in G.S. 110-9(7) and this Chapter, using space the Division has identified for each group.
- (25) "Health care professional" means:
- (a) a physician licensed in North Carolina
 - (b) a nurse practitioner approved to practice in North Carolina; or

- (c) a licensed physician assistant.
- (26) "Household member" means a person who resides in a family home as evidenced by factors including maintaining clothing and personal effects at the household address, receiving mail at the household address, using identification with the household address, or eating and sleeping at the household address on a regular basis.
- (27) "If weather conditions permit" means:
 - (a) temperatures that fall within the guidelines developed by the Iowa Department of Public Health and specified on the Child Care Weather Watch chart. These guidelines shall be used when determining appropriate weather conditions for taking children outside for outdoor learning activities and playtime. This chart may be downloaded free of charge from <https://idph.iowa.gov/Portals/1/Files/HCCI/weatherwatch.pdf>;
 - (b) following the air quality standards as set forth in 15A NCAC 18A .2832(d). The Air Quality Color Guide can be found on the Divisions website at <https://www.deq.nc.gov/mitigation-services/publicfolder/library/news/brochures/air-quality-color-guide/download>; and
 - (c) no active precipitation. Caregivers may choose to go outdoors when there is active precipitation if children have appropriate clothing such as rain boots and rain coats, or if they are under a covered area.
- (28) "Infant" means any child from birth through 12 months of age.
- (29) "Infant Toddler Environment Rating Scale – Third Edition" (Harms, Clifford, Cryer, and Yazejian, 2017, published by Teachers College Press, New York, NY) is the instrument used to evaluate the quality of care received by a group of children in a child care center using the program assessment licensure pathway. This instrument is incorporated by reference and does not include subsequent editions. A copy of the scale is available for purchase on the Teachers College Press website at https://www.tcpspress.com/search?search_term=assessment+materials. The cost of this scale is twenty-eight dollars and ninety-five cents (\$28.95). A copy of this instrument is on file at the Division at the address given in Item (3) of this Rule and is available for public inspection during regular business hours. For the purposes of this Rule, "regular business hours" for the Division means 8 a.m. to 5 p.m. during weekdays, excluding state holidays.
- (30) "ITS-SIDS training" means the Infant/Toddler Safe Sleep and SIDS Risk Reduction Training developed by the NC Healthy Start Foundation and administered by the North Carolina Child Care Health and Safety Resource Center for the Division of Child Development and Early Education for caregivers of children ages 12 months and younger. Information regarding trainer and training availability can be found on the Division's website at https://ncchildcare.ncdhhs.gov/providers/pv_itssidsproject.asp.
- (31) "Lead Teacher" means an individual who is responsible for planning and implementing the daily program of activities for a group of children in a child care facility. A lead teacher is counted in staff/child ratio, has unsupervised contact with children, and is monetarily compensated by the facility.
- (32) "Licensee" means the person or entity that is granted permission by the State of North Carolina to operate a child care facility. The owner of a facility is the licensee.
- (33) "Lockdown drill" means an emergency safety procedure in which occupants of the facility remain in a locked indoor space and is used when emergency personnel or law enforcement determine a dangerous person is in the vicinity.
- (34) "North Carolina Early Childhood Administration Credential" means the state early childhood administration credential that is based on completion of required early childhood coursework taken at any NC Community College. Other post secondary curriculum coursework shall be approved as equivalent if the Division determines that the content of the other post secondary curriculum coursework offered is substantially equivalent to the NC Early Childhood Administration Credential Coursework. A copy of the North Carolina Early Childhood Administration Credential requirements is on file at the Division at the address given in Item (2) of this Rule and is available for public inspection or copying at no charge during regular business hours. This information can be found on the Division's website at <https://ncchildcare.ncdhhs.gov/providers/credential.asp>.
- (35) "North Carolina Early Educator Certification (certification)" is an acknowledgement of an individual's verified level of educational achievement based on a standardized scale. The North Carolina Institute for Child Development Professionals certifies individuals and assigns a certification level on two scales:
 - (a) the Early Care and Education Professional Scale (ECE Scale) in effect as of July 1, 2010; or

- (b) the School Age Professional Scale (SA Scale) in effect as of May 19, 2010. Each scale reflects the amount of education earned in the content area pertinent to the ages of children served. The ECE scale is designed for individuals working with or on behalf of children ages birth to five. The SA scale is designed for individuals working with or on behalf of children ages five to 12 who are served in school age care settings. Information on the voluntary certification process can be found on the North Carolina Institute for Child Development Professionals website at <https://ncicdp.org/certification-licensure/eec-overview/>.
- (36) "North Carolina Early Childhood Credential" means the state early childhood credential that is based on completion of required early childhood coursework taken at any North Carolina Community College. Other equivalences shall be approved by the Division if the Division determines that the content of other coursework or other pathways are substantially equivalent to the North Carolina Early Childhood Credential coursework. Substantially equivalent coursework shall include, but not be limited to:
- (a) a current active Child Development Associate Credential from the Council for Professional Recognition, a Certified Child Care Professional Credential from the National Early Childhood Program Accreditation, or a Montessori Credential from any of the Montessori Accreditation Council for Teacher Education, American Montessori Society, National center for Montessori Education, or Association Montessori Internationale; or
- (b) a passing score on a test developed by the early childhood faculty of the North Carolina Community College System designed to demonstrate an individual's mastery of the concepts taught in early childhood coursework taken at any North Carolina community college.
- A copy of the North Carolina Early Childhood Credential requirements is on file at the Division at the address given in Item (3) of this Rule and is available for public inspection or copying at no charge during regular business hours. This information can be found on the Division's website at <https://ncchildcare.ncdhhs.gov/providers/credential.asp>.
- (37) "Operator" means the owner, director, or other person having responsibility for operation of a child care facility subject to licensing.
- (38) "Owner" means any person with a five percent or greater equity interest in a child care facility; however, stockholders of corporations who own child care facilities shall not be subject to mandatory criminal history checks pursuant to G.S.110-90.2 unless they are a child care provider.
- (39) "Parent" means a child's parent, legal guardian, or full-time custodian.
- (40) "Passageway" means a hall or corridor.
- (41) "Person" means any individual, trust, estate, partnership, corporation, joint stock company, consortium, or any other group, entity, origination or association.
- (42) "Premises" means the entire child care building and grounds including natural areas, outbuildings, dwellings, vehicles, parking lots, driveways and other structures located on the property.
- (43) "Preschooler" or "preschool-age child" means any child who is at least three years of age and does not fit the definition of school-age child in this Rule.
- (44) "Reside" refers to any person that lives at a child care facility location. Factors for determining residence include:
- (a) use of the child care facility address as a permanent address for personal identification or mail delivery;
- (b) use of the child care facility to store personal belongings such as furniture, clothing, and toiletry items; and
- (c) name listed on official documents such as criminal records or property tax records.
- (45) "School-Age Care Environment Scale Rating Scale, Updated Edition" (Harms, Jacobs, and White, 2014, published by Teachers College Press) is the instrument used to evaluate the quality of care received by a group of children in a child care center using the program assessment licensure pathway. This instrument is incorporated by reference and does not include subsequent editions. A copy of the scale is available for purchase on the Teacher College Press website at https://www.tcpress.com/search?search_term=assessment+materials. The cost of this scale is twenty-eight dollars and ninety-five cents (28.95). A copy of this instrument is on file at the Division at the address in Item (3) of this Rule and is available for public inspection during regular business hours.

- (46) "School-age child" means any child who is attending or who has attended public or private grade school or kindergarten and meets age requirements as specified in G.S. 115C-364.
- (47) "Seasonal Program" means a recreational program as set forth in G.S. 110-86(b).
- (48) "Shelter-in-Place drill" means staying in place to take shelter rather than evacuating. It involves selecting a small interior room, with no or few windows, and used when emergency personnel or law enforcement determine there is a threat.
- (49) "Staff" or "staff member" as used in this Chapter includes child care providers, substitute workers, and uncompensated providers. Volunteers, as defined in this Rule, are not staff members.
- (50) "Substitute provider" means any person who temporarily assumes the duties of a staff person for a time period not to exceed two consecutive months and may or may not be monetarily compensated by the facility. Any substitute provider must be at least 18 years of age and literate.
- (51) "Teacher" means an individual who assists the Lead Teacher in planning and implementing the daily program of activities for a group of children in a child care facility. A teacher is counted in staff/child ratio, has unsupervised contact with children, and is monetarily compensated by the facility.
- (52) "Teacher's aide" or "Aide" means a person who assists the lead teacher or the teacher in planning and implementing the daily program. A teacher's aide shall be at least 16 years old and less than 18 years old, shall be literate, and may count in staff/child ratio as long as there is also a credentialed staff person who is at least 21 years of age present in the room and available to respond to the needs of the teacher's aide and children in care.
- (53) "Toddler" means any child ages 13 months to 35 months of age.
- (54) "Track-Out Program" means any child care provided to school-age children when they are out of school on a year-round school calendar.
- (55) "Uncompensated provider" means a person who works in a child care facility and is counted in staff/child ratio or has unsupervised contact with children, but who is not monetarily compensated by the facility. An uncompensated provider must be at least 18 years of age and literate.
- (56) "Volunteer" means a person who works in a child care facility and is not counted in staff/child ratio, does not have unsupervised contact with children, and is not monetarily compensated by the facility. A person who is at least 13 years of age, but less than 16 years age,

may work on a volunteer basis, as long as he or she is supervised by and works with a staff person who is at least 21 years of age and meets staff qualification requirements.

History Note: Authority G.S. 110-85; 110-88; 110-90.2; 143B-168.3; 45 CFR 98.41; S.L. 2021-180; S.L. 2022-71; 45 CFR 98.16; S.L. 2024-34;
Eff. January 1, 1986;
Amended Eff. April 1, 1992; October 1, 1991; October 1, 1990; November 1, 1989;
Temporary Amendment Eff. January 1, 1996;
Amended Eff. March 1, 2015; May 1, 2013; September 1, 2012; July 3, 2012; July 1, 2012; November 1, 2007; May 2006; May 1, 2004; April 1, 2003; July 1, 2000; April 1, 1999; July 1, 1998; April 1, 1997;
Readopted Eff. October 1, 2017;
Amended Eff. July 1, 2025; January 1, 2024; July 1, 2023; February 1, 2022; February 1, 2021; September 1, 2019.

10A NCAC 09 .2902 LICENSE

(a) Developmental Day services shall be available for preschool children for a minimum of 8 hours per day, 5 days per week, Monday through Friday, and 12 months per year except in the following circumstances:

- (1) in counties where no Community-Based Developmental Day Center operates, a Developmental Day program operated by the Local Education Agency may provide services for the 10 month school year (as defined by the State Board of Education); or
- (2) if a Community-Based Developmental Day center opens in a county where Developmental Day services are only provided by a Developmental Day program operated by the Local Education Agency, the Developmental Day program operated by the Local Education Agency shall continue to provide services for the 10 month school year until the end of the following school year. At the end of the following school year, all Developmental Day services in the county shall be available as described in Paragraph (a) of this Rule.

(b) For purposes of this Rule, a "Community-Based Developmental Day Center" means a Developmental Day Center not operated by the Local Education Agency.

(c) Developmental Day Centers shall maintain a four or five star rated license as set forth in Section .3200 of this Chapter.

(d) A child care center with a temporary license may receive certification status if all rules in this Section are met, except for Paragraph (c) of this Rule, and an application for a two to five star rated licensed has been submitted in accordance with Section .2800 of this Chapter. At the end of the temporary license period the child care center shall obtain a four or five star rated license as specified in Paragraph (c) of this Rule. Failure to receive and maintain a four or five star rated license shall result in the removal of certification status as a Developmental Day Center.

(e) The child care center license shall indicate certification as a Developmental Day Center.

(f) The center shall comply with the staff-child ratio and maximum group size as follows:

MAXIMUM

AGE	RATIO STAFF/ CHILDREN	GROUP SIZE
0-12 Months	1/4	8
1 to 2 Years	1/5	10
2 Years and Older	1/6	18

(g) A minimum of two staff members shall be on site at all times while children are in attendance at the facility.

(h) A child care center may appeal the removal of certification status in accordance with G.S. 110-94; however, an appeal shall not preclude a Local Education Agency from removing contracted children from the program before a final decision on the appeal is reached.

History Note: Authority G.S. 110-85; 110-88(5); 110-88(10); 110-88(14); S.L. 2024-34; 42 USCS 9858c; 45 CFR 98.41; 45 CFR 98.68; S.L. 2024-34;

Eff. July 1, 2010;

Amended Eff. August 1, 2016;

Readopted Eff. October 1, 2017;

Amended Eff. July 1, 2025.

10A NCAC 09 .2905 FAMILY SERVICES

The center shall facilitate family involvement as evidenced by meeting the following requirements. The activities used to meet this requirement may not be used to meet the requirements set forth in Rule .3219 of this Chapter.

- (1) Providing quarterly parent education sessions;
- (2) Communicating on an individual basis with parents daily; and
- (3) Having parents as members of a center advisory board.

History Note: Authority G.S. 110-85(3); 110-88(14); 42 USCS 9858; 45 CFR 98.1; 45 CFR 98.16; S.L. 2024-34;

Eff. July 1, 2010;

Readopted Eff. October 1, 2017;

Amended Eff. July 1, 2025.

10A NCAC 09 .3002 FACILITY REQUIREMENTS

(a) Programs serving NC Pre-K children shall maintain a four-or five-star rated license in accordance with G.S. 110-90(4) and Section .3200 of this Chapter.

(b) NC Pre-K programs that have earned a four-or five-star rated license using the program assessment licensure pathway or the classroom instructional quality licensure pathway in Rules .3203 and .3205 of this Chapter shall have an assessment completed every three years using the Early Childhood Environment Rating Scale-Third Edition assessment tool. Classrooms that score below 5.0 shall be reassessed the following year and a minimum score of 5.0 must be achieved in order to continue to be approved as a NC Pre-K site. At least one NC Pre-K classroom shall be selected for an assessment during the reassessment process. NC Pre-K programs that have earned a four-or five-star rated license using the accreditation and Head Start licensure pathway in Rule .3207 of this Section are not required to have an assessment and shall

instead comply with standards set forth by those organizations regarding program quality standards.

(c) During the NC Pre-K day, classrooms serving NC Pre-K children shall provide outdoor time, either as part of a small group, whole group, or individual activity, for no less than 45 minutes per day when weather conditions permit as defined in Rule .0102 of this Chapter.

History Note: Authority G.S. 110-85; 110-88; S.L. 2011-145, s. 10.7(a); S.L. 2024-34;

Eff. November 1, 2012;

Readopted Eff. October 1, 2017;

Amended Eff. July 1, 2025.

10A NCAC 09 .3009 STAFF-TO-CHILD RATIO AND CLASS SIZE

The classroom shall not exceed a maximum staff-to-child ratio of one to 10 with a maximum class size of 20 children, with at least one teacher and one teacher assistant per classroom. A classroom of 10 children or less is not required to have a teacher assistant.

History Note: Authority G.S. 110-85; 110-88; S.L. 2011-145, s. 10.7(a); S.L. 2023-134;

Eff. November 1, 2012;

Readopted Eff. October 1, 2017;

Amended Eff. July 1, 2025.

10A NCAC 09 .3010 FAMILY ENGAGEMENT

NC Pre-K programs shall develop a plan for family engagement consisting of strategies designed to develop partnerships with families that promote shared decision-making opportunities. These opportunities shall include:

- (1) An enrollment orientation that includes an opportunity for families and child(ren) to visit the assigned classroom and lead teacher prior to the first day of enrollment.
- (2) Family and teacher conferences are offered at least twice annually to discuss child needs and progress toward individual goals and to receive feedback from families regarding their child(ren)'s experiences at home and at the child care facility. During each conference, families are offered an opportunity to set goals for their child. Conferences shall be conducted in a manner that is convenient for the family such as by telephone, virtually or in-person.
- (3) Classroom visits and options for parents and families to participate in classroom activities.
- (4) At least one family event annually that includes an educational opportunity for staff and families to learn together.
- (5) Allowing family members the opportunity for involvement in decision making about their own child and about their child's early childhood program; and
- (6) Opportunities to engage families outside of the regular school day, including at least two family events annually.

Items (1), (2), (4) and (6) of this Rule may be used to meet requirements set forth in Rule .3219 of this Chapter regarding family and community engagement.

History Note: Authority G.S. 110-85; 110-88; S.L. 2011-145, s. 10.7(a); 42 USCS 9858c; 45 CFR 98.1; 45 CFR 98.16; S.L. 2024-34;
Eff. November 1, 2012;
Readopted Eff. October 1, 2017;
Amended Eff. July 1, 2025.

10A NCAC 09 .3201 SCOPE

- (a) This Section shall apply to all child care facilities that have met requirements for a one-star rated license and choose to apply for and earn a rated license of two-stars or higher.
- (b) A child care facility shall be eligible for a rated license of two through five-stars upon application and assessment of compliance with the requirements of this Section.
- (c) No requirement in any component of a two-star or higher rating shall be less than the requirements for a one-star rating described in G.S. 110-91 and this Chapter. Prior to issuance of an initial two through five-star rating, all requirements in G.S. 110-91 and this Chapter shall be met at the time the program is assessed for a higher rating. The requirements for a rated license of two-stars or higher shall be in addition to the standards found in G.S. 110-91 and this Chapter.
- (d) Nothing in this Section shall preclude or interfere with the issuance of an administrative action as allowed by G.S. 110, Article 7 and this Chapter.

History Note: Authority G.S. 110-85(3); 110-88(7); 110-90(4); 143B-168.3; 42 USCS 9858e; 45 CFR 98.45;
Eff. July 1, 2025.

10A NCAC 09 .3202 APPLICATION FOR A TWO THROUGH FIVE STAR RATED LICENSE

- (a) After a licensed child care facility has demonstrated compliance with applicable child care requirements while operating with a temporary license as set forth in Rules .0403 and .1701 of this Chapter, the operator may apply for an initial two through five-star rated license.
- (b) The operator shall submit a completed application to the Division for a two through five-star rated license on the form provided by the Division. The substance of the form shall cover requirements established by statute and the rules of this Chapter.
- (c) An operator may select one of three licensure pathways in order to earn a two through five-star rated license. The operator shall meet the requirements set forth in this Section for the star rating desired within the selected licensure pathway. Requirements for licensure pathways may not be combined. The three licensure pathways are as follows:
 - (1) Program Assessment Pathway as set forth in Rules .3203 and .3204 of this Section;
 - (2) Classroom and Instructional Quality Pathway as set forth in Rules .3205 and .3206 of this Section; and
 - (3) Accreditation and Head Start Pathway as set forth in Rule .3207 of this Section.

(d) A Division representative shall assess a facility requesting a two through five-star rated license to determine if all applicable requirements have been met to achieve the requested star rating. The assessment shall include a review of Division records and site visits.

(e) Upon completion of the Divisions assessment:

- (1) If the assessment indicates all the applicable requirements to achieve the requested rating have been met, the Division shall issue the rating.
- (2) If the assessment indicates all the applicable requirements to achieve the requested rating have not been met, the Division shall notify the operator of the requirements that were not met and the requested two through five-star rating shall not be issued. The operator may:
 - (A) accept the rating for which the Division has found the operator to be eligible;
 - (B) withdraw the request and reapply when the identified requirements to achieve the requested rating have been met; or
 - (C) appeal the denial of the requested rating as provided in G.S. 110-91.

History Note: Authority G.S. 110-85(3); 110-88(7); 110-90(4); 143B-168.3; S.L. 2011-145, s.10.7(b); 42 USCS 9858e; 45 CFR 98.45;
Eff. July 1, 2025.

10A NCAC 09 .3203 PROGRAM ASSESSMENT PATHWAY FOR CHILD CARE CENTERS

- (a) This Rule shall apply to child care centers, including centers located in a residence, that choose to earn a two through five-star rated license using the program assessment licensure pathway.
- (b) As used in this Rule, "educators" shall mean teachers, group leaders, and administrative staff, including directors, assistant directors, program coordinators, education coordinators, curriculum specialists, and other staff that have responsibility for planning, caregiving, mentoring or training on-site in a child care center. Educators shall meet the education standards of a position as set forth in Rules .3211, .3213, .3214, .3215, .3216 and .3218 of this Section and work full-time. If a program operates less than 40 hours per week, full-time shall mean the hours the program is in operation.
- (c) As used in this Rule, "structured self-study" shall mean the process used to reflect on current teaching practices and educational environments, and identify areas of strength, needs, and action steps required to achieve the standards of the applicable program assessment tool(s) as set forth in Paragraph (d) of this Rule, based on the age of the children served. A structured self-study shall be completed over a minimum of three consecutive months and include a self-assessment using the appropriate program assessment tool and additional resources located at <https://ncrlap.org/Resources/>, a written reflection of the self-assessment, including identification of goals for continuous quality improvement, and documentation of the structured self-study. Sample self-study forms may be found on the Division's

website at <http://ncchildcare.ncdhhs.gov/Provider/Provider-Documents-and-Forms>.

(d) Child care centers shall be evaluated using "Infant/Toddler Environment Rating Scale, Third Edition" (ITERS-3), "Early Childhood Environment Rating Scale, Third Edition" (ECERS-3), and "School-Age Care Environment Rating Scale, Updated Edition" (SACERS-U), based on the ages of children served. Centers located in a residence, as described in Rule .0102 of this Chapter, shall be evaluated using "Family Child Care Environment Rating Scale, Third Edition" (FCCERS-3). Alternatively, the Commission may approve additional program assessment tools that meet the following criteria:

- (1) the program assessment tool is research-based;
- (2) the program assessment tool has demonstrated reliability and validity;
- (3) the program assessment tool has been developed and validated for the intended population;
- (4) the standards being evaluated by the program assessment tool are measurable;
- (5) the program assessment tool is published or otherwise publicly available;
- (6) the program assessment tool assesses and supports early childhood environments in a way that is sensitive and responsive to the needs of all children and families from culturally, linguistically, economically, and ability diverse backgrounds; and
- (7) the program assessment tool and training for its use has a process to reduce bias.

Upon approval of additional program assessment tools, a child care center may choose which assessment tool they utilize to earn a star rating in this licensure pathway, as long as their choice is applicable to the ages of children served, the type of facility in operation, or other criteria specified by the Commission in its approval.

(e) For a child care center to earn a two-star rated license, the following requirements shall be met:

- (1) The child care center shall meet either the enhanced ratio requirements set forth in Rule .3208 of this Section or the enhanced space requirements set forth in Rule .3210 of this Section.
- (2) At least fifty percent of lead teachers and at least fifty percent of educators shall meet the individual education standards at the two-star level, as set forth in Rules .3211, .3212, .3213, .3214, .3215, .3216 and .3218 of this Section, or higher.
- (3) The child care center shall implement family and community engagement foundational practices set forth in Rule .3219 of this Section.
- (4) The child care center shall implement the continuous quality improvement standards set forth in Rule .3221 of this Section.
- (5) All administrators and lead teachers shall complete a structured self-study.

(f) For a child care center to earn a three-star rated license, the following requirements shall be met:

- (1) The child care center shall meet either the enhanced ratio requirements set forth in Rule .3208 of this Section or the enhanced space requirements set forth in Rule .3210 of this Section.
 - (2) At least fifty percent of lead teachers and at least fifty percent of educators shall meet the individual education standards at the three-star level, as set forth in Rules .3211, .3212, .3213, .3214, .3215, .3216 and .3218 of this Section, or higher.
 - (3) The child care center shall implement the family and community engagement standards set forth in Rule .3219 of this Section for a three-star rated license.
 - (4) The child care center shall implement the continuous quality improvement standards set forth in Rule .3221 of this Section.
 - (5) All administrators and lead teachers shall complete a structured self-study.
 - (6) The child care center shall request and complete an external program assessment and use the results of the assessment in the continuous quality improvement plan set forth in Rule .3221 of this Section.
- (g) For a child care center to earn a four-star rated license, the following requirements shall be met:
- (1) The child care center shall meet either the enhanced ratio requirements set forth in Rule .3208 of this Section or the enhanced space requirements set forth in Rule .3210 of this Section.
 - (2) At least fifty percent of lead teachers and at least fifty percent of educators shall meet the individual education standards at the four-star level, as set forth in Rules .3211, .3212, .3213, .3214, .3215, .3216 and .3218 of this Section, or higher.
 - (3) The child care center shall implement the family and community engagement standards set forth in Rule .3219 of this Section for a four-star rated license.
 - (4) The child care center shall implement the continuous quality improvement standards set forth in Rule .3221 of this Section.
 - (5) All administrators and lead teachers shall complete a structured self-study.
 - (6) The child care center shall request and complete an external program assessment:
 - (A) For any assessment that occurs prior to January 1, 2028, the child care center must earn an average score of 3.5 or higher for its ITERS-3 and ECERS-3 classrooms and an average score of 4.0 or higher for its SACERS-U classrooms. When calculating an average score for ITERS-3 and ECERS-3 or SACERS-U, the child care center may drop one classroom's

assessment score, so long as there is at least one additional classroom serving the same age children and that classroom's score is included in the average score. A child care center using an alternative approved program assessment tool shall earn a comparable assessment score based on the tool's scoring scale, as determined by the Commission.

- (B) For any assessment that occurs on or after January 1, 2028, a child care center using the ITERS-3, ECERS-3, or SACERS-U assessments must earn an average score of 4.0 or higher by averaging all classroom scores. The child care center may drop one classroom's assessment score, so long as there is at least one additional classroom serving the same age children and that classroom's score is included in the average score. A child care center using an alternative approved program assessment tool shall earn a comparable score based on the tool's scoring scale, as determined by the Commission.

- (7) Child care centers that are licensed to serve four-year-old children shall implement a curriculum as defined in Rule .0102(11) of this Chapter in any classroom serving four-year-old children and older.

(h) For a child care center to earn a five-star rated license, the following requirements shall be met:

- (1) The child care center shall meet the enhanced ratio requirements set forth in Rule .3208 of this Section. Meeting the enhanced space requirements set forth in Rule .3210 of this Section is optional.
- (2) At least fifty percent of all lead teachers and at least fifty percent of educators shall meet the individual education standards at the five-star level, as set forth in Rules .3211, .3212, .3213, .3214, .3215, .3216 and .3218 of this Section, or higher.
- (3) The child care center shall implement the family and community engagement standards set forth in Rule .3219 of this Section for a five-star rated license.
- (4) The child care center shall implement the continuous quality improvement standards set forth in Rule .3221 of this Section.
- (5) All administrators and lead teachers shall complete a structured self-study.
- (6) The child care center shall request and complete an external program assessment:

- (A) For any assessment that occurs prior to January 1, 2028, the child care center must earn an average score of 4.0 or

higher for its ITERS-3 and ECERS-3 classrooms and an average score of 5.0 or higher for its SACERS-U classrooms. When calculating an average score for the ITERS-3 and ECERS-3 or SACERS-U, the child center may drop one classroom's assessment score, so long as there is at least one additional classroom serving the same age children and that classroom's score is included in the average score. A child care center using an alternative approved program assessment tool shall earn a comparable assessment score based on the tool's scoring scale, as determined by the Commission.

- (B) For any assessment that occurs on or after January 1, 2028, a child care center using the ITERS-3, ECERS-3, or SACERS-U assessments must earn an average score of 5.0 or higher by averaging all classroom scores. The child care center may drop one classroom's assessment score, so long as there is at least one additional classroom serving the same age children and that classroom's score is included in the average score. A child care center using an alternative approved program assessment tool shall earn a comparable score based on the tool's scoring scale, as determined by the Commission.

- (7) Child care centers that are licensed to serve four-year-old children shall implement a curriculum as defined in Rule .0102(11) of this Chapter in any classroom serving four-year-old children and older.

(i) For any child care center serving pre-school age children, the following shall also apply:

- (1) Each child care center shall comply with the requirements set forth in Rule .0508 of this Chapter for written activity schedules and plans and Rule .0509 of this Chapter for general activity requirements;
- (2) Each child care center shall comply with the requirements for activity areas for preschool-age children as set forth in Rule .0510 of this Chapter, except that all five of the activity areas listed in G.S. 110-91(12) shall be available each day and the activities listed in Rule .0510 of this Chapter shall be offered for each group of children at least once per week; and
- (3) The requirements for activities for infants and toddlers set forth in Rule .0511 of this Chapter shall apply for children under three years of age.

(j) For child care centers with a licensed capacity of 200 or more, there shall be a second administrator on-site for a minimum of 20 hours per week who shall have the Level I North Carolina Early Childhood Administration Credential or its approved equivalent.

(k) For child care centers providing school-age care with 200 or more school-aged children enrolled, there shall be two program coordinators on-site, one of whom shall not have concurrent group leader responsibilities. The additional program coordinator shall have completed all the applicable staff requirements in Rule .2510(b) of this Chapter.

(l) The above requirements shall apply to centers located in a residence, as described in Rule .0102 of this Chapter, except that the following shall apply when determining individual staff education standards;

- (1) If the operator is the only lead teacher, the operator shall meet the individual education standards at the desired star level, as set forth in Rule .3212 of this Section, or higher.
- (2) If additional lead teachers are employed by the operator, at least fifty percent of all lead teachers, including the operator, shall meet the individual education standards at the desired star level, as set forth in Rule .3212, or higher.

History Note: Authority G.S. 110-85(3); 110-88(7); 110-90(4); 143B-168.3; S.L. 2011-145, s.10.7(b) and (d); 42 USCS 9858e; 45 CFR 98.45; Eff. July 1, 2025.

10A NCAC 09 .3204 PROGRAM ASSESSMENT PATHWAY FOR FAMILY CHILD CARE HOMES

(a) This Rule shall apply to operators of family child care homes that choose to earn a two through five-star rated license using the program assessment licensure pathway.

(b) For purposes of this Rule, "structured self-study" shall mean the process that family child care home operators use to reflect on current teaching practices and educational environments, and identify areas of strength, needs and action steps required to achieve the standards of the program assessment tool as set forth in Paragraph (c) of this Rule. A structured self-study shall be completed over a minimum of three consecutive months and include a self-assessment using the appropriate program assessment tool and additional resources located at <https://ncrlap.org/Resources/>, a written reflection of the self-assessment, including identification of goals for continuous quality improvement, and documentation of the structured self-study using forms found on the Division's website at <http://ncchildcare.ncdhhs.gov/Provider/Provider-Documents-and-Forms>.

(c) Family child care homes shall be evaluated using "Family Child Care Environment Rating Scale, Third Edition" (FCCERS-3). Alternatively, the Commission may approve additional program assessment tools that meet the following criteria:

- (1) the program assessment tool is research-based;
- (2) the program assessment tool has demonstrated reliability and validity;
- (3) the program assessment tool has been developed and validated for the intended population;

- (4) the standards being evaluated by the program assessment tool are measurable;
- (5) the program assessment tool is published or otherwise publicly available;
- (6) the program assessment tool assesses and supports early childhood environments in a way that is sensitive and responsive to the needs of all children and families from culturally, linguistically, economically, and ability diverse backgrounds; and
- (7) the program assessment tool and training for its use has a process to reduce bias.

Upon approval of additional program assessment tools, the operator of a family child care home may choose which assessment tool they utilize to earn a star rating in this licensure pathway, as long as their choice is applicable to the ages of children served, the type of facility in operation, or other criteria specified by the Commission in its approval.

(d) For a family child care home to earn a two-star rated license, the following requirements shall be met:

- (1) The operator shall meet education standards at the two-star level set forth in Rule .3217 of this Section or higher.
- (2) The operator shall implement the family and community engagement foundational practices set forth in Rule .3220 of this Section.
- (3) The operator shall implement the continuous quality improvement standards set forth in Rule .3221 of this Section.
- (4) The operator shall complete a structured self-study.

(e) For a family child care home to earn a three-star rated license, the following requirements shall be met:

- (1) The operator shall meet education standards at the three-star level set forth in Rule .3217 of this Section or higher.
- (2) The operator shall implement the family and community engagement standards set forth in Rule .3220 of this Section for a three-star rated license.
- (3) The operator shall implement the continuous quality improvement standards set forth in Rule .3221 of this Section.
- (4) The operator shall complete a structured self-study.
- (5) The operator shall request and complete an external program assessment and use the results of the assessment in the continuous quality improvement plan set forth in Rule .3221 of this Section.

(f) For a family child care home to earn a four-star rated license, the following requirements shall be met:

- (1) The operator shall meet education standards at the four-star level set forth in Rule .3217 of this Section or higher.
- (2) The operator shall implement the family and community engagement standards set forth in Rule .3220 of this Section for a four-star rated license.

- (3) The operator shall implement the continuous quality improvement standards set forth in Rule .3221 of this Section.
 - (4) The operator shall complete a structured self-study.
 - (5) The family child care home operator shall request and complete external program assessment:
 - (A) For any assessment that occurs prior to January 1, 2028, the family child care home must earn a score of 3.5 or higher on its FCCERS-3 assessment. An operator using an approved alternative program assessment tool shall earn a comparable score based on the tool's scoring scale, as determined by the Commission.
 - (B) For any assessment that occurs on or after January 1, 2028, the family child care home shall earn a score of 4.0 or higher on its FCCERS-3 assessment. An operator using an alternative approved program assessment tool shall earn a comparable score based on the tool's scoring scale, as determined by the Commission.
 - (6) Operators that are licensed to serve four-year-old children shall implement a curriculum as defined in Rule .0102(11) of this Chapter for use with children four years old and older.
- (g) For a family child care home to earn a five-star rated license, the following requirements shall be met:
- (1) The operator shall meet education standards at the five-star level set forth in Rule .3217 of this Section, or higher.
 - (2) The operator shall implement the family and community engagement standards set forth in Rule .3220 of this Section for a five-star rated license.
 - (3) The operator shall implement the continuous quality improvement standards set forth in Rule .3221 of this Section.
 - (4) The operator shall complete a structured self-study.
 - (5) The operator shall request and complete an external program assessment:
 - (A) For any assessment that occurs prior to January 1, 2028, the family child care home must earn a score of 4.0 or higher on its FCCERS-3 assessment. An operator using an approved alternative program assessment tool shall earn a comparable score based on the tool's scoring scale, as determined by the Commission.
 - (B) For any assessment that occurs on or after January 1, 2028, the family child care home shall earn a score of 5.0 or higher on its FCCERS-3 assessment.
- An operator using an alternative approved program assessment tool shall earn a comparable score based on the tool's scoring scale, as determined by the Commission.
- (6) Operators that are licensed to serve four-year-old children shall implement a curriculum as defined in Rule .0102(11) of this Chapter for use with children four years old or older.
- History Note: Authority G.S. 110-85 (3); 110-88(7); 110-90(4); 143B-168.3; S.L. 2011-145, s.10.7(b) and (d); 42USCS 9858e; 45 FR 98.45; Eff. July 1, 2025.*
- 10A NCAC 09 .3205 CLASSROOM AND INSTRUCTIONAL QUALITY PATHWAY FOR CHILD CARE CENTERS**
- (a) This Rule shall apply to child care centers that choose to earn two through five star rated license using the classroom and instructional quality licensure pathway.
 - (b) As used in this Rule, "educators" shall mean teachers, group leaders, and administrative staff, including directors, assistant directors, program coordinators, education coordinators, curriculum specialists, and other staff that have responsibility for planning, caregiving, mentoring or training on-site in a child care center. Educators shall meet the education standards of a position as set forth in Rules .3211, .3213, .3214, .3214, .3216 and .3218 of this Section and work full-time. If a program operates less than forty hours per week, full-time shall mean the hours the program is in operation.
 - (c) For a child care center to earn a two-star rated license, the following requirements shall be met:
 - (1) The child care center shall meet either the enhanced ratio requirements set forth in Rule .3208 of this Section or the enhanced space requirements set forth in Rule .3210 of this Section.
 - (2) A least fifty percent of lead teachers and at least fifty percent of educators shall meet the individual education standards at the two-star level as set forth in Rules .3211, .3212, .3213, .3214, .3215, .3216 and .3218 of this Section or higher.
 - (3) The child care center shall implement the family and community engagement foundational practices set forth in Rule .3219 of this Section.
 - (4) The child care center shall implement the continuous quality improvement standards set forth in Rule .3221 of this Section.
 - (5) The child care center shall implement a curriculum for all ages served that is:
 - (A) aligned with the North Carolina Foundations for Early Learning and Development;
 - (B) child focused;
 - (C) developmentally appropriate; and

- (D) culturally and linguistically appropriate.
- (6) In curriculum planning, the child care center shall ensure modifications and adaptations are made to involve all children with special health and developmental needs.
- (d) For a child care center to earn a three-star rated license, the following requirements shall be met:
 - (1) The child care center shall meet either the enhanced ratio requirements set forth in Rule .3208 of this Section or the enhanced space requirements set forth in Rule .3210 of this Section.
 - (2) At least fifty percent of the lead teachers and fifty percent of the educators shall meet the individual education standards at the three-star level as set forth in Rules .3211, .3212, .3213, .3214, .3215, .3216 and .3218 of this Section or higher.
 - (3) The child care center shall implement the family and community engagement standards set forth in Rule .3219 of this Section for a three-star rated license.
 - (4) The child care center shall implement continuous quality improvement standards set forth in Rule .3221 of this Section.
 - (5) The child care center shall implement a curriculum for all ages served that is:
 - (A) aligned with the North Carolina Foundations for Early Learning and Development;
 - (B) child focused;
 - (C) developmentally appropriate; and
 - (D) culturally and linguistically appropriate.
 - (6) In curriculum planning, the child care center shall ensure modifications and adaptations are made to involve all children with special health and developmental needs.
 - (7) The child care center shall ensure child observations are conducted for each child enrolled in the facility. Child observations shall include evidence of the child's activities and may include the following:
 - (A) anecdotal notes;
 - (B) portfolio of child's work samples;
 - (C) developmental screenings
 - (D) formative assessment tools; or
 - (E) photographs, audio, or video recordings with permission from the child's family.
 - (8) The administrator participates in one of the following activities regarding classroom and instructional quality practices:
 - (A) annual completion of five hours of coaching or mentoring by another administrator of a licensed child care center with a star rating of three stars
- or higher, or a community resource partner;
- (B) annual completion of five on-going training hours, in addition to applicable requirements in Rule .1103 of this Chapter and Rules .3211, .3212, .3213, .3214, .3215, .3216 and .3218 of this Section; or
- (C) annual completion of 0.5 continuing education unit, in addition to applicable requirements in Rule .1103 of this Chapter and Rules .3211, .3212, .3213, .3214, .3215, .3216 and .3218 of this Section.
- (e) For a child care center to earn a four-star rated license, the following requirements shall be met:
 - (1) The child care center shall meet the enhanced ratio requirements set forth in Rule .3208 of this Section. The child care center may choose to meet the enhanced space requirements set forth in Rule .3210 of this Section.
 - (2) At least fifty percent of lead teachers and at least fifty percent of educators shall meet the individual education standards at the four-star level as set forth in Rules .3211, .3212, .3213, .3214, .3215, .3216 and .3218 of this Section or higher.
 - (3) The child care center shall implement the family and community engagement standards set forth in Rule .3219 of this Section for a four-star license.
 - (4) The child care center shall implement the continuous quality improvement standards set forth in Rule .3221 of this Section.
 - (5) The child care center shall implement a curriculum that has been approved by the Commission as defined in Rule .0102(11) of this Chapter for all ages served. A list of curricula that has been approved by the Commission is available at <http://ncchildcare.ncdhhs.gov/Services/Licensing/Star-Rated-License/Curriculum>.
 - (6) In curriculum planning, the child care center shall ensure modifications and adaptations are made to involve all children with special health and developmental needs.
 - (7) The child care center shall conduct on-going formative assessments to gather information about each child's growth and skill development based on individual development and learning needs and maintain evidence of each child's on-going assessment. The child care center shall use a formative assessment(s) that has been approved by the Commission, available at <https://ncchildcare.ncdhhs.gov/Services/Licensing/Star-Rated-License/Curriculum>. Evidence of formative assessments shall include documentation required or contemplated by the

- approved formative assessment and may also include:
- (A) anecdotal notes;
 - (B) portfolio of child's work samples;
 - (C) developmental screenings; or
 - (D) photographs, audio, or video recordings with permission from the child's family.
- (8) The lead teacher shall share the results of the formative assessment with families at least once annually. The manner in which the results are shared shall be convenient for the family such as by telephone, email, virtually, or in-person.
- (9) The administrator shall complete training related to the approved curriculum and formative assessment tool that is used by center staff with children, in addition to applicable requirements in Rule .1103 of this Chapter. Verification of this training shall be maintained in the administrator's personnel file.
- (10) The administrator shall participate in one of the following activities regarding classroom and instructional quality practices:
- (A) annual completion of five hours of coaching or mentoring by another administrator of a licensed child care facility with a star-rating of four or five stars or a community resource partner;
 - (B) annual completion of five on-going training hours, in addition to applicable requirements in Rule .1103 of this Chapter and Rules .3211, .3212, .3213, .3214, .3215, .3216 and .3218 of this Section; or
 - (C) annual completion of 0.5 continuing education unit, in addition to applicable requirements in Rule .1103 of this Chapter and Rules .3211, .3212, .3213, .3214, .3215, .3216 and .3218 of this Section.
- (11) All lead teachers shall participate in one of the following activities regarding classroom and instructional quality practices:
- (A) annual completion of five hours of coaching or mentoring by the administrator, another lead teacher in the center, a lead teacher in another licensed child care center with a star-rating of four or five stars, an administrator of another licensed child care center with a star-rating of four or five stars, or a community resource partner;
 - (B) annual completion of five on-going training hours, in addition to applicable requirements in Rule .1103 of this Chapter and Rules .3211, .3212, .3213, .3214, .3215, .3216 and .3218 of this Section; or
 - (C) annual completion of 0.5 continuing education unit, in addition to applicable requirements in Rule .1103 of this Chapter and Rules .3211, .3212, .3213, .3214, .3215, .3216 and .3218 of this Section.
- (f) For a child care center to earn a five-star rated license, the following requirements shall be met:
- (1) The child care center shall meet the reduced, enhanced ratio requirements set forth in Rule .3209 of this Section. The child care center may choose to meet the enhanced space requirements set forth in Rule .3210 of this Section.
 - (2) At least fifty percent of lead teachers and at least fifty percent of educators shall meet the individual education standards at the five-star level as set forth in Rules .3211, .3212, .3213, .3214, .3215, .3216 and .3218 of this Section, or higher.
 - (3) The child care center shall implement the family and community engagement standards set forth in Rule .3219 of this Section for a five-star rated license.
 - (4) The child care center shall implement the continuous quality improvement standards set forth in Rule .3221 of this Section.
 - (5) The child care center shall implement a curriculum that has been approved by the Commission as defined in Rule .0102(11) of this Chapter for all ages served. A list of curricula that has been approved by the Commission is available at <https://ncchildcare.ncdhhs.gov/Services/Licensing/Star-Rated-License/Curriculum>.
 - (6) In curriculum planning, the child care center shall ensure modifications and adaptations are made to involve all children with special health and developmental needs.
 - (7) The child care center shall conduct on-going formative assessments to gather information about each child's growth and skill development based on individual development and learning needs and maintain evidence of each child's on-going assessment. The child care center shall use a formative assessment(s) that has been approved by the Commission, available at <http://ncchildcare.ncdhhs.gov/Services/Licensing/Star-Rated-License/Curriculum>. Evidence of formative assessments shall include documentation required or contemplated by the approved formative assessment and may also include:
 - (A) anecdotal notes;
 - (B) portfolio of child's work samples;
 - (C) developmental screenings; or

- (D) photographs, audio, or video recordings with permission from the child's family.
- (8) The lead teacher shall share the results of the formative assessment with families at least twice annually. While sharing the results, the lead teacher shall provide an opportunity for families to contribute additional information to the formative assessment. The manner in which the results are shared shall be convenient for the family such as by telephone, email, virtually, or in-person.
- (9) The administrator and all lead teachers shall complete training related to the curriculum and formative assessment tool that is used by the center with children, in addition to applicable requirements in Rule .1103 of this Chapter. Verification of this training shall be maintained in the individual's' personnel file.
- (10) The administrator participates in one of the following activities regarding classroom and instructional quality practices:
 - (A) annual completion of five hours of coaching or mentoring by an administrator of another licensed child care center with a star-rating of five stars, or a community resource partner;
 - (B) annual completion of five on-going training hours, in addition to applicable requirements in Rule .1103 of this Chapter and Rules .3211, .3212, .3213, .3214, .3215, .3216 and .3218 of this Section; or
 - (C) annual completion of 0.5 continuing education unit, in addition to applicable requirements in Rule .1103 of this Chapter and Rules .3211, .3212, .3213, .3214, .3215, .3216 and .3218 of this Section.
- (11) All lead teachers participate in one of the following activities regarding classroom and instructional quality practices:
 - (A) annual completion of five hours of coaching or mentoring by the administrator, another lead teacher in the center, a lead teacher in another licensed child care center with a star-rating of five stars, an administrator of another licensed child care center with a star-rating of five stars, or a community resource partner;
 - (B) annual completion of five on-going training hours, in addition to applicable requirements in Rule .1103 of this Chapter and Rules .3211, .3212, .3213, .3214, .3215, .3216 and .3218 of this Section; or
 - (C) annual completion of 0.5 continuing education unit, in addition to applicable requirements in Rule .1103 of this Chapter and Rules .3211, .3212, .3213, .3214, .3215, .3216 and .3218 of this Section.
- (g) For any child care center serving pre-school age children, the following shall also apply:
 - (1) Each child care center shall comply with the requirements set forth in Rule .0508 of this Chapter for written activity schedules and plans and Rule .0509 of this Chapter for general activity requirements;
 - (2) Each child care center shall comply with the requirements for activity areas for preschool-age children as set forth in Rule .0510 of this Chapter, except that all five of the activity areas listed in G.S. 110-91(12) shall be available each day and the activities listed in Rule .0510(c) of this Chapter shall be offered for each group of children at least once per week; and
 - (3) The requirements for activities for infants and toddlers set forth in Rule .0511 of this Chapter shall apply for children under three years of age.
- (h) For centers with a licensed capacity of two hundred or more, there shall be a second administrator on-site for a minimum of twenty hours per week who shall have the Level I North Carolina Early Childhood Administrator Credential or its approved equivalent.
- (i) For centers providing school-age care with two hundred or more school-aged children enrolled, there shall be two program coordinators on-site, one of whom shall not have concurrent group leader responsibilities. The additional program coordinator shall have completed all the applicable staff requirements in Rule .2510(b) of this Chapter.
- (j) The above requirements shall apply to centers located in a residence, as describes in Rule .0102 of this Chapter, except that the following shall apply when determining individual staff education standards:
 - (1) If the operator is the only lead teacher, the operator shall meet the individual education standards at the desired star level, as set forth in Rule .3212 of this Section, or higher.
 - (2) If additional lead teachers are employed by the operator, at least fifty percent of all lead teachers, including the operator, shall meet the individual education standard at the desired star level, as set forth in Rule .3212, or higher.

History Note: Authority G.S. 110-85(3); 110-88(7); 110-90(4); 143B-168.3, S.L. 2011-145, s.10.7(b) and (d); S.L. 2024-34; 42 USCS 9858e; 45 CFR 98.45; Eff. July 1, 2025.

10A NCAC 09 .3206 CLASSROOM AND INSTRUCTIONAL QUALITY PATHWAY FOR FAMILY CHILD CARE HOMES

(a) This Rule shall apply to family child care homes that choose to earn two through five-star rated license using the classroom and instructional quality licensure pathway.

(b) For a family child care home to earn two-star rated license, the following requirements shall be met:

- (1) The operator shall meet education standards at the two-star level as set forth in Rule .3217 of this Section or higher.
- (2) The operator shall implement the family and community engagement foundational practices set forth in Rule .3220 of this Section for a two-star rated license.
- (3) The operator shall implement the continuous quality improvement standards set forth in Rule .3221 of this Section.
- (4) The operator shall implement a curriculum for all ages served that is:
 - (A) aligned with the North Carolina Foundations for Early Learning and Development;
 - (B) child focused;
 - (C) developmentally appropriate; and
 - (D) culturally and linguistically appropriate.
- (5) In curriculum planning, the operator shall ensure modifications and adaptations are made to involve all children with special health and developmental needs.

(c) For a family child care home to earn a three-star rated license, the following requirements shall be met:

- (1) The operator shall meet education standards at the three-star level as set forth in Rule .3217 of this Section or higher.
- (2) The operator shall implement the family and community engagement standards set for in Rule .3220 of this Section for a three-star rated license.
- (3) The operator shall implement the continuous quality improvement standards set forth in Rule .3221 of this Section.
- (4) The operator shall implement a curriculum for all ages served that is:
 - (A) aligned with the North Carolina Foundations for Early Learning and Development;
 - (B) child focused;
 - (C) developmentally appropriate; and
 - (D) culturally and linguistically appropriate.
- (5) In curriculum planning the operator shall ensure modifications and adaptations are made to involve all children with special health and developmental needs.
- (6) The operator shall ensure child observations are conducted for each child enrolled in the family child care home. Child observations shall

include evidence of the child's activities and may include the following:

- (A) anecdotal notes;
- (B) portfolio of child's work samples;
- (C) developmental screenings;
- (D) formative assessment tools; or
- (E) photographs, audio, or video recordings with permission from the child's family.

(7) The operator participates in one of the following activities regarding classroom and instructional quality practices:

- (A) annual completion of five hours of coaching or mentoring by a center administrator of a licensed child care center with a star-rating of three stars or higher, an operator of another licensed family child care home with a star-rating of three stars or higher, or a community resource partner;
- (B) annual completion of five on-going training hours, in addition to applicable requirements in Rule .1703(f) of this Chapter and Rule .3217 of this Section; or
- (C) annual completion of 0.5 continuing education unit, in addition to applicable requirements in Rule .1703(f) of this Chapter and Rule .3217 of this Section.

(d) For a family child care home to earn a four-star rated license, the following requirements shall be met:

- (1) The operator shall meet education standards at the four-star level as set forth in Rule .3217 of this Section or higher.
- (2) The operator shall implement the family and community engagement standards set forth in Rule .3220 of this Section for a four-star rated license.
- (3) The operator shall implement the continuous quality improvement standards set forth in Rule .3221 of this Section.
- (4) The operator shall implement a curriculum that has been approved by the Commission as defined in Rule .0102(13) of this Chapter for all ages served. A list of curricula that has been approved by the Commission is available at <http://ncchildcare.ncdhhs.gov/Services/Licensing/Star-Rated-License/Curriculum>.
- (5) In curriculum planning, the operator shall ensure modifications and adaptations are made to involve all children with special health and developmental needs.
- (6) The operator shall conduct on-going formative assessments to gather information about each child's growth and skill development based on individual development and learning needs and maintain evidence of each child's on-going assessment. The operator shall use a formative

assessment(s) that has been approved by the Commission, available at <http://ncchildcare.ncdhhs.gov/Services/Licensing/Star-Rated-License/Curriculum>. Evidence of formative assessments shall include documentation required or contemplated by the approved formative assessment and may also include:

- (A) anecdotal notes;
- (B) portfolio of child's work samples;
- (C) developmental screenings; or
- (D) photographs, audio, or video recordings with permission from the child's family.

(7) The operator shall share the results of the formative assessment with families at least once annually. The manner in which the results are shared shall be convenient for the family such as by telephone, email, virtually, or in-person.

(8) The operator shall complete training related to the curriculum and formative assessment tool that is used by center staff with children, in addition to applicable requirements in Rule .1703(f) of this Chapter. Verification of this training shall be maintained in the operator's personnel file.

(9) The operator participates in one of the following activities regarding classroom and instructional quality practices:

- (A) annual completion of five hours of coaching or mentoring by a center administrator of a licensed child care center with a star-rating of four or five stars, an operator of another licensed family child care home with a star-rating of four or five stars, or a community resource partner;
- (B) annual completion of five on-going training hours, in addition to applicable requirements in Rule .1703(f) of this Chapter and Rule .3217 of this Section; or
- (C) annual completion of 0.5 continuing education unit, in addition to applicable requirements in Rule .1703(f) of this Chapter and Rule .3217 of this Section.

(e) For a family child care home to earn a five-star rated license, the following requirements shall be met:

- (1) If the family child care home is meeting license capacity requirements in G.S. 110-91(7)(b)(1), no more than four children shall be under the age of twenty-four months of the children who are birth to five years of age. This requirement shall not reduce the licensed capacity of the family child care home.
- (2) The operator shall meet the education standards at the five-star level set forth in Rule .3217 of this Section, or higher.

(3) The operator shall implement the family and community engagement standards set forth in Rule .3220 of this Section for a five-star rated license.

(4) The operator shall implement the continuous quality improvement standards set forth in Rule .3221 of this Section.

(5) The operator shall implement a curriculum that has been approved by the Commission as defined in Rule .0102(13) of this Chapter for all ages served. A list of curricula that has been approved by the Commission is available at <http://ncchildcare.ncdhhs.gov/Services/Licensing/Star-Rated-License/Curriculum>.

(6) In curriculum planning, the operator shall ensure modifications and adaptations are made to involve all children with special health and developmental needs.

(7) The operator shall conduct on-going formative assessments to gather information about each child's growth and skill development based on individual development and learning needs and maintain evidence of each child's on-going assessment. The operator shall use a formative assessment(s) that has been approved by the Commission, available at <http://ncchildcare.ncdhhs.gov/Services/Licensing/Star-Rated-License/Curriculum>. Evidence of formative assessments shall include documentation required or contemplated by the approved formative assessment and may also include:

- (A) anecdotal notes;
- (B) portfolio of child's work samples;
- (C) developmental screenings; or
- (D) photographs, audio, or video recordings with permission from the child's family.

(8) The operator shall share the results of the formative assessment with families at least twice annually. While sharing the results, the operator shall provide an opportunity for families to contribute additional information to the formative assessment. The manner in which the results are shared shall be convenient for the family such as by telephone, email, virtually, or in-person.

(9) The operator shall complete training related to the curriculum and formative assessment tool that is used, in addition to applicable requirements in Rule .1703(f) of this Chapter. Verification of this training shall be maintained in the operator's personnel file.

(10) The operator participates in one of the following activities regarding classroom and instructional quality practices:

- (A) annual completion of five hours of coaching or mentoring by a center administrator of a licensed child care

- center with a star-rating of five stars, an operator of another licensed family child care home with a star-rating of five stars, or a community resource partner;
- (B) annual completion of five on-going training hours, in addition to applicable requirements in Rule .1703(f) of this Chapter and Rule .3217 of this Section; or
- (C) annual completion of 0.5 continuing education unit, in addition to applicable requirements in Rule .1703(f) of this Chapter and Rule .3217 of this Section.

History Note: Authority G.S. 110-85(3); 110-88(7); 110-90(4); 143B-168.3; S.L. 2011-145, s.10.7(b) and (d); S.L. 2024-32; 42 USCS 9858e; 45 CFR 98.45; Eff. July 1, 2025.

10A NCAC 09 .3207 ACCREDITATION AND HEAD START PATHWAY FOR CHILD CARE FACILITIES

(a) This Rule shall apply to child care facilities that choose to earn a two through five-star rated license using the accreditation and Head Start licensure pathway.

(b) As used the Rule, "educators" shall mean teachers, group leaders, and administrative staff, including directors, assistant directors, program coordinators, education coordinators, curriculum specialists, and other staff that have responsibility for planning, caregiving, mentoring or training on-site in a child care center. Educators shall meet the education standards of a position as set forth in Rules .3211, .3213, .3214, .3215, .3216 and .3218 of this Section and work full-time. If a program operates less than forty hours per week, full-time shall mean the hours the program is in operation.

(c) When a child care facility is accredited by one of the following organizations, a three-star license may be issued based on programmatic standards:

- (1) National Association for Family Child Care (NAFCC)
- (2) National Early Childhood Program Accreditation (NECPA)
- (3) American Montessori Society (AMS)
- (4) International Montessori Council (IMC)

(d) A child care facility accredited by one of the organizations listed in Paragraph (c) of this Rule may increase its star rating to a four- star rated license, by requesting an evaluation of its education standards and be issued a four-star rated license if the following applicable standard is met:

- (1) For child care centers, at least fifty percent of lead teachers and at least fifty percent of educators shall meet the individual education standards at the four-star level, as set forth in Rules .3211, .3212, .3213, .3214, .3215, .3216 and .3218 of this Section or higher.
- (2) For a family child care home, the operator shall meet education standards at the four-star level,

as set forth in Rule .3217 of this Section or higher.

(e) A child care facility accredited by one of the organizations listed in Paragraph (c) of this Rule may increase its star rating to a five-star rated license, by requesting an evaluation of its education standards and be issued a five-star rated license if the following applicable standard is met:

- (1) For child care centers, at least fifty percent of all lead teachers and at least fifty percent of all other educators shall meet individual education standards at the five-star level, as set forth in Rules .3211, .3212, .3213, .3214, .3215, .3216 and .3218 of this Section or higher.
- (2) The operator of a family child care home shall meet education standards at the five-star level, as set forth in Rule .3217 of this Section or higher.

(f) When a child care facility is accredited by one of the following organizations, a five-star rated license may be issued based on educational and programmatic standards:

- (1) National Association for the Education of Young Children (NAEYC)
- (2) National Accreditation Commission for Early Care and Education Programs (NAC)
- (3) Cognia, that includes early learning standards
- (4) Cognia, that includes extended learning standards for school age care only programs

(g) When a child care facility is designated as Head Start or Early Head Start, a five-star rated license may be issued based on educational and programmatic standards,

(h) Verification of accreditation status, Head Start designation or Early Head Start designation shall be maintained at the child care facility at all times and be provided to the Division on request.

(i) Accredited, Head Start and Early Head Start facilities shall meet the staff/child ratio requirements of the organization when required to obtain and maintain the accreditation or designation. If a facility may receive an accreditation award or Head Start designation without adhering to the accreditation standards or Head Start performance standards, the facility shall meet the organization's staff/child ratio standard or enhanced staff/child ratio requirements specified in Rule .3208 of this Section.

(j) Accredited facilities, Head Start facilities and Early Head Start facilities are not required to meet additional programmatic requirements described in this Section when in good standing with accreditation or performance standards. Programmatic requirement topics include curriculum, continuous quality improvement, and family and community engagement.

(k) For any child care center serving pre-school age children, the following shall also apply:

- (1) Each child care center shall comply with the requirements set forth in Rule .0508 of this Chapter for written activity schedules and plans and Rule .0509 of this Chapter for general activity requirements;
- (2) Each child care center shall comply with the requirements for activity areas for preschool-age children as set forth in Rule .0510 of this Chapter, except that all five of the activity areas listed in G.S. 110-91(12) shall be available each

day and the activities listed in Rule .0510(c) of this Chapter shall be offered for each group of children at least once per week; and

- (3) The requirements for activities for infants and toddlers set forth in Rule .0511 of this Chapter shall apply for children under three years of age.

(l) For centers with a licensed capacity of 200 or more, there shall be a second administrator on-site for a minimum of 20 hours per week who shall have the Level I North Carolina Early Childhood Administration Credential or its approved equivalent.

(m) For centers providing school-age care with two hundred or more school-age children enrolled, there shall be two program coordinators on-site, one of whom shall not have concurrent group leader responsibilities. The additional program coordinator shall have completed all the applicable staff requirements in Rule .2510(b) of this Chapter.

History Note: Authority G.S. 110-85(3); 110-88(7); 110-90(4); 143B-168.3; S.L. 2011-145, s.10.7(b) and (d); S.L. 2024-34; 42 USCS 9858e; 45 CFR 98.45; Eff. July 1, 2025.

10A NCAC 09 .3208 ENHANCED STAFF/CHILD RATIOS FOR A RATED LICENSE FOR CHILD CARE CENTERS

(a) This Rule shall apply to evaluating the staff/child ratios and maximum group sizes for a rated license for child care centers.

(b) Enhanced staff/child ratio means that the center shall comply with the following staff/child ratios and maximum group sizes.

Age	Ratio Staff/Children	Maximum Group Size
0 to 12 Months	1/5	10
1 to 2 Years	1/6	12
2 to 3 Years	1/9	18
3 to 4 Years	1/10	20
4 to 5 Years	1/13	25
5 to 6 Years	1/15	25
6 Years and Older	1/20	25

(c) The provisions of Rule .0713(a) through (e) of this Chapter shall apply in evaluating the staff/child ratios and maximum group sizes within this Rule.

(d) Enhanced staff/child ratios shall not apply to facilities who choose to use multi-age group staff child ratios as set forth in Rule .0713(f) of this Chapter.

(e) The staff/child ratio applicable to a classroom shall be posted in that classroom in an area that parents are able to view at all times.

History Note: Authority G.S. 110-88(7); 143B-168.3; 42 USCS 9858e; 45 CFR 98.45; Eff. July 1, 2025.

10A NCAC 09 .3209 REDUCED, ENHANCED STAFF/CHILD RATIOS FOR A RATED LICENSE FOR CHILD CARE CENTERS

(a) This Rule shall apply to evaluating the staff/child ratios and maximum group sizes for a rated license for child care centers.

(b) Enhanced staff/child ratio means that the center shall comply with the following staff/child ratios and maximum group sizes.

Age	Ratio Staff/Children	Maximum Group Size
0 to 12 Months	1/4	8
1 to 2 Years	1/5	10
2 to 3 Years	1/8	16
3 to 4 Years	1/9	18
4 to 5 Years	1/12	24
5 to 6 Years	1/14	25
6 Years and Older	1/19	25

(c) The provisions of Rule .0713(a) through (e) of this Chapter shall apply in evaluating the staff/child ratios and maximum group sizes within this Rule.

(d) Reduced, enhanced staff/child ratios shall not apply to facilities who choose to use multi-age group staff/child ratios as set forth in Rule .0713(f) of this Chapter.

(e) The staff/child ratio applicable to a classroom shall be posted in that classroom in an area that parents are able to view at all times.

History Note: Authority G.S. 110-88(7); 143B-168.3; 42 USCS 9858e; 45 CFR 98.45; Eff. July 1, 2025.

10A NCAC 09 .3210 ENHANCED SPACE REQUIREMENTS FOR CHILD CARE CENTERS

In order for a child care center to meet enhanced space requirements:

- (1) There shall be at least 30 square feet inside space per child per the total licensed capacity and 100 square feet outside space for each child using the outdoor learning environment at any one time; and
- (2) There shall be an area that can be arranged for administrative and private conference activities.

History Note: Authority G.S. 110-88(7); 143B-168.3; 42 USCS 9858e; 45 CFR 98.45; Eff. July 1, 2025.

10A NCAC 09 .3211 ENHANCED EDUCATION STANDARDS FOR CHILD CARE CENTER ON-SITE ADMINISTRATORS

(a) This Rule shall apply when evaluating the education of an on-site administrator, as defined in G.S. 110-86(2a), in a child care center.

(b) A child care provider meets the two-star education standard for on-site administrators if the provider meets, at minimum, the requirements set forth in Option One or Option Two as follows:

- (1) Option One:
 - (A) Level I NC Early Childhood Administration Credential or its approved equivalent or higher; and
 - (B) Successful completion at least six semester hours in early childhood education or child development coursework at an accredited college or university; and
 - (C) Annual completion of at least 1.0 continuing education credit in early childhood education and school-age related topics in addition to applicable requirements in Rule .1103 of this Chapter; and
 - (D) If the center is licensed for school-age care, have at least three months licensed or unlicensed school-age care work experience or successful completion of BSAC training.
 - (2) Option Two:
 - (A) Level I NC Childhood Administration Credential or its approved equivalent or higher; and
 - (B) Have at least two years of early childhood education work experience or have at least one year of administrative work experience; and
 - (C) If the center is licensed for school-age care, have at least three months licensed or unlicensed school-age care work experience or successful completion of BSAC training.
- (c) A child care provider meets the three-star education standard for on-site administrators if the provider meets, at minimum, the requirements set forth in Option One or Option Two as follows:
- (1) Option One:
 - (A) Level I NC Early Childhood Administration Credential or its approved equivalent or higher; and
 - (B) Successful completion of at least 12 semester hours in early childhood education or child development coursework at an accredited college or university; and
 - (C) Have at least one year of administrative work experience or, if the center is licensed for school-age care, have at least six months licensed or unlicensed school-age care work experience or, if the center is licensed for school-age care, successful completion of BSAC training.
 - (2) Option Two:
 - (A) Level I NC Early Childhood Administration Credential or its approved equivalent or higher; and
 - (B) Successful completion of at least 12 semester hours in early childhood education or child development coursework at an accredited college or university; and
 - (C) Be enrolled in or have completed an associate or bachelor's degree program; and
 - (D) Have at least two years of early childhood education or administrative work experience or, if the center is licensed for school-age care, successful completion of BSAC training.
- (d) A child care provider meets the four-star education standard for on-site administrators if the provider meets, at minimum, the requirements set forth in Option One or Option Two as follows:
- (1) Option One:
 - (A) Level I NC Early Childhood Administration Credential or its approved equivalent or higher; and
 - (B) Successful completion of at least 12 semester hours in early childhood education or child development coursework at an accredited college or university; and
 - (C) Be enrolled in or have completed an associate or bachelor's degree program; and
 - (D) Have at least two years of early childhood education or administrative work experience or, if the center is licensed for school-age care, successful completion of BSAC training.
 - (2) Option Two:
 - (A) Level II NC Early Childhood Administration Credential or its approved equivalent or higher; and
 - (B) Be enrolled in or have completed an associate or bachelor's degree program; and
 - (C) Have at least two years of early childhood education work experience; and
 - (D) If the center is licensed for school-age care, have at least one year licensed or unlicensed school-age care work experience or successful completion of BSAC training.
- (e) A child care provider meets the five-star education standard for on-site administrators if the provider meets, at minimum, the requirements set forth in Option One, Option Two, or Option Three as follows:
- (1) Option One:
 - (A) Level II NC Early NC Early Childhood Administration Credential or its approved equivalent or higher; and

- (B) Successful completion of at least 18 semester hours in early childhood education or child development coursework at an accredited college or university; and
- (C) Be enrolled in or have completed a bachelor's degree program; and
- (D) Have at least four years of work experience in early childhood education, administrative duties, or a combination of both types of experience; and
- (E) If the center is licensed for school-age care, have at least two years licensed or unlicensed school-age care work experience or successful completion of BSAC training.

(2) Option Two:

- (A) Level II NC Early childhood Administration Credential or its approved equivalent or higher; and
- (B) Successful completion of at least 18 semester hours in early childhood education or child development coursework at an accredited college or university; and
- (C) Be enrolled in or have completed a bachelor's degree program; and
- (D) Have at least four years combined early childhood education and administrative work experience; and
- (E) If the center is licensed for school-age care, successful completion of BSAC training.

(3) Option Three:

- (A) Level III NC Early Childhood Administration Credential or its approved equivalent; and
- (B) Have at least three years of work experience in early childhood education, administrative duties. Or a combination of both types of experience; and
- (C) If the center is licensed for school-age care, have at least one year licensed or unlicensed school-age care experience or successful completion of BSAC training.

(f) Semester hours in early childhood education or child development coursework required to meet the education standards set forth in this Rule shall not include the coursework necessary for the North Carolina Early Childhood Administration Credential (NCECAC).

(g) Completion of school-age experience requirements shall count toward meeting work experience requirements.

(h) For centers located in a residence, if an individual has responsibility both for administering the child care program and for planning and implementing the daily activities of a group of children, the educational requirements for lead teacher in Rule

.3212 of this Section shall apply. All other teachers shall follow the educational requirements for teachers in this Section.

History Note: Authority G.S. 110-85; 110-88(7); 110-90(4); 143B-18.3; S.L. 2023-40; S.L. 2024-34; USCS 9858e; 45 CFR 98.45;

Eff. July 1, 2025.

10A NCAC 09 .3212 ENHANCED EDUCATION STANDARDS FOR CHILD CARE CENTER LEAD TEACHERS

(a) This Rule shall apply when evaluating the education of a lead teacher, as defined by G.S. 110-86(5a), in a child care center.

(b) A child care provider meets the two-star education standard for lead teachers if the provider meets, at minimum, the requirements set forth in Option One, Option Two, or Option Three as follows:

- (1) Option One: Completion of a Child Development Associate (CDA) that is active with no credit for prior learning.
- (2) Option Two: Successful completion of at least three semester hours in early childhood education or child development coursework at an accredited college or university.
- (3) Option Three:
 - (A) Have at least one year of early childhood education work experience; and
 - (B) Annual completion of at least 0.5 continuing education credit specific to the ages and needs of children in care, in addition to applicable requirements in Rule .1103 of this Chapter, or successful completion of a competency evaluation as set forth in Rule .3218 of this Section.

(c) A child care provider meets the three-star education standard for lead teachers if the provider meets, at minimum, the requirements set forth in Option One, Option Two, Option Three, or Option Four as follows:

- (1) Option One: Completion of a Child Development Associate (CDA) that is active with credit for prior learning.
- (2) Option Two: Successful completion of at least nine semester hours in early childhood education or child development coursework at an accredited college or university.
- (3) Option Three:
 - (A) Successful completion of at least three semester hours in early childhood education or child development coursework at an accredited college or university; and
 - (B) Have at least three years of early childhood education work experience.
- (4) Option Four:
 - (A) Have at least three years of early childhood education work experience; and

- (B) Annual completion of at least 1.0 continuing education credit specific to the ages and needs of children in care, in addition to applicable requirements in Rule .1103 of this Chapter, or successful completion of a competency evaluation as set forth in Rule .3218 of this Section.

(d) A child care provider meets the four-star education standard for lead teachers if the provider meets, at minimum, the requirements set forth in Option One, Option Two, or Option Three as follows:

- (1) Option One:
 - (A) Successful completion of at least 12 semester hours in early childhood education or child development coursework at an accredited college or university; and
 - (B) Have at least two years of early childhood work experience.
- (2) Option Two: Completion of an Early Childhood Certificate.
- (3) Option Three:
 - (A) Have at least five years of early childhood work experience;
 - (B) Annual completion of at least of at least 2.0 continuing education credits specific to the ages and needs of children in care, in addition to applicable requirements in Rule .1103 of this Chapter, or successful completion of a competency evaluation as set forth in Rule .3218 of this Section.

(e) A child care provider meets the five-star education standard for lead teachers if the provider meets, at minimum, the requirements set forth in Option One, Option Two, Option Three, Option Four, or Option Five as follows:

- (1) Option One:
 - (A) Completion of an AAS degree or higher in early childhood education or child development; and
 - (B) Have at least one year early childhood work experience or at least six months of coaching/mentoring by a Level II or higher administrator for at least five hours per week. A coach/mentor shall be responsible for no more than two lead teachers who require coaching/mentoring at any given time.
- (2) Option Two:
 - (A) Enrollment in an AAS degree program and successful completion of all required early childhood education coursework for an AAS degree program, without full completion of the degree; and
 - (B) Have at least one year of early childhood education work experience.

- (3) Option Three:
 - (A) Successful completion of at least 60 semester hours toward a bachelor's degree at an accredited college or university with at least 12 semester hours in early childhood education or child development coursework; and
 - (B) Have at least two years of early childhood work experience.
- (4) Option Four:
 - (A) Completion of an AAS degree or higher at an accredited college or university in any major with at least 12 semester hours in early childhood education or child development coursework; and
 - (B) Have at least two years of early childhood work experience or at least six months of coaching/mentoring by a Level II or higher administrator for at least five hours per week. A coach/mentor shall be responsible for no more than two lead teachers who require coaching/mentoring at any given time.
- (5) Option Five:
 - (A) Have at least 10 years of early childhood work experience; and
 - (B) Annual completion of at least 2.5 continuing education credits specific to the ages and needs of children in care, in addition to applicable requirements in Rule .1103 of this Chapter; and
 - (C) Successful completion of a competency evaluation as set forth in Rule .3218 of this Section.

(f) Semester hours in early childhood education or child development coursework required to meet the education standards set forth in this Rule shall not include the coursework necessary for the North Carolina Early Childhood Credential.

History Note: Authority G.S. 110-85(3); 110-88(7); 110-90(4); 143B-168.3; S.L. 2023-40; S.L.2024-34; 42 USCS 9858e; 45 CFR 98.45; Eff. July 1, 2025.

10A NCAC 09 .3213 ENHANCED EDUCATION STANDARDS FOR CHILD CARE CENTER TEACHERS

(a) This Rule shall apply when evaluating the education of a teacher, defined in Rule .0102(47) of this Chapter, for a child care center.

(b) A child care provider meets the two-star education standard for teachers if the provider meets, at minimum, the requirements set forth in Option One or Option Two as follows:

- (1) Option One: Be enrolled in at least three semester hours in early childhood education or child development coursework at an accredited college or university.

- (2) Option Two: Have at least one year of early childhood work experience.
- (c) A child care provider meets the three-star education standard for teachers if the provider meets, at minimum, the requirements set forth in Option One, Option Two, Option Three, or Option Four as follows:
- (1) Option One: NC Early Childhood Credential or its approved equivalent.
 - (2) Option Two: Successful completion of at least three semester hours in early childhood education or child development coursework at an accredited college or university.
 - (3) Option Three: Have at least two years of early childhood work experience.
 - (4) Option Four:
 - (A) Have at least one year of early childhood work experience; and
 - (B) Annual completion of at least 0.5 continuing credit specific to the ages and needs of children in care, in addition to applicable requirements in Rule .1103 of this Chapter, or successful completion of a competency evaluation as set forth in Rule .3218 of this Section.
- (d) A child care provider meets the four-star education standard for teachers if the provider meets, at minimum, the requirements set forth in Option One, Option Two, or Option Three as follows:
- (1) Option One:
 - (A) NC Early Childhood Credential or its approved equivalent; and
 - (B) Successful completion of at least three semester hours in early childhood education or child development coursework at an accredited college or university; and
 - (C) Have at least one year of early childhood work experience.
 - (2) Option Two:
 - (A) Have at least two years of early childhood work experience; and
 - (B) Annual completion of at least 1.0 continuing education credit specific to the ages and needs of children in care, in addition to applicable requirements in Rule .1103 of this Chapter, or successful completion of a competency evaluation as set forth in Rule .3218 of this Section.
 - (3) Option Three: Completion of a Child Development Associate (CDA) that is active with no credit for prior learning
- (e) A child care provider meets the five-star education standard for teachers if the provider meets, at minimum, the requirements set forth in Option One, Option Two, Option Three, or Option Four as follows:
- (1) Option One:
 - (A) NC Early Childhood Credential or its approved equivalent; and

- (B) Successful completion of at least six semester hours in early childhood education or child development coursework at an accredited college or university; and
 - (C) Have at least two years of early childhood work experience.
- (2) Option Two:
- (A) NC Early Childhood Credential or its approved equivalent; and
 - (B) Successful completion of at least three semester hours in early childhood education or child development coursework at an accredited college or university; and
 - (C) Annual completion of at least 1.5 continuing education credits specific to the ages and needs of children in care, in addition to applicable requirements in Rule .1103 of this Chapter; and
 - (D) Have at least two years of early childhood work experience.
- (3) Option Three:
- (A) NC Early Childhood Credential or its approved equivalent; and
 - (B) Annual completion of at least 1.5 continuing education credits specific to the ages and needs of children in care, in addition to applicable requirements in Rule .1103 of this Chapter; and
 - (C) Successful completion of a competency evaluation as set forth in Rule .3218 of this Section; and
 - (D) Have at least three years of early childhood work experience.
- (4) Option Four: Completion of a Child Development Associate (CDA) that is active with credit for prior learning.
- (f) Semester hours in early childhood education or child development coursework required to meet the standards set forth in this Rule shall not include the coursework necessary for the North Carolina Early Childhood Credential.

History Note: Authority G.S. 110-85(3); 110-88(7); 110-90(4); 143B-168.3; S.L. 2023-40; S.L. 2024-34; 42 USCS 9858e; 45 CFR 98.45; Eff. July 1, 2025.

10A NCAC 09 .3214 ENHANCED EDUCATION STANDARDS FOR PROGRAM COORDINATORS IN CHILD CARE CENTERS THAT PROVIDE CARE FOR SCHOOL-AGE CHILDREN

- (a) This Rule shall apply when evaluating the education of a program coordinator for a child care center that serves school-age children, as required by Rule .2510(b) of this Chapter.

(b) A child care provider meets the two-star education standard for program coordinators if the providers meets, at minimum, the requirements set forth in Option One or Option Two as follows:

- (1) Option One: Be enrolled in at least three semester hours of school-age care coursework at an accredited college or university.
- (2) Option Two: Have at least three months licensed school-age care experience or have at least six months unlicensed school-age care experience.

(c) A child care provider meets the three-star education standard for program coordinators if the provider meets, at minimum, the requirements set forth in Option One or Option Two as follows:

- (1) Option One:
 - (A) Successful completion of at least three semester hours of school-age care coursework at an accredited college or university; and
 - (B) Have three months licensed school-age care experience or have six months unlicensed school-age care experience.
- (2) Option Two: Have six months licensed school-age care experience or have nine months unlicensed school-age care experience.

(d) A child care provider meets the four-star education standard for program coordinators if the provider meets, at minimum, the requirements set forth in Option One, Option Two, or Option Three as follows:

- (1) Option One:
 - (A) Successful completion of at least three semester hours of school-age care coursework at an accredited college or university; and
 - (B) Be enrolled in an additional three semester hours of school-age care coursework at an accredited college or university or have nine months licensed school-age care experience or have one year unlicensed school-age care experience.
- (2) Option Two: Completion of an AAS degree in early childhood education, child development or school-age related field at an accredited college or university.
- (3) Option Three:
 - (A) Completion of an AAS degree in any field at an accredited college or university; and
 - (B) Successful completion of three semester hours of school-age care coursework at an accredited college or university.

(e) A child care provider meets the five-star education standard for program coordinator if the provider meets, at minimum, the requirements set forth in Option One, Option Two, Option Three, or Option Four as follows:

- (1) Option One: Completion of a bachelor's degree in early childhood, child development, or a

school-age related field at an accredited college or university.

(2) Option Two:

- (A) Completion of a bachelor's degree in any field at an accredited college or university; and
- (B) Successful completion of six semester hours of school-age care coursework at an accredited college or university.

(3) Option Three:

- (A) Successful completion of nine semester hours of school-age care coursework at an accredited college or university; and
- (B) Have three months licensed school-age care experience or have six months unlicensed school-age care experience.

(4) Option Four:

- (A) Successful completion of six semester hours of school-age care coursework at an accredited college or university; and
- (B) Have six months licensed school-age care experience or have nine months unlicensed school-age care experience.

History Note: Authority G.S. 110-85(3); 110-88(7); 110-90(4); 143B-168.3; S.L. 2023-40; S.L. 2024-34; 42 USCS 9858e; 45 CFR 98.45; Eff. July 1, 2025.

10A NCAC 09 .3215 ENHANCED EDUCATION STANDARDS FOR GROUP LEADERS IN CHILD CARE CENTERS

(a) This Rule shall apply when evaluating the education of a group leader for a child care center, as required by Rule .2510(c) of this Chapter.

(b) A child care provider meets the two-star education standard for group leaders if the provider successfully completes BSAC training.

(c) A child care provider meets the three-star education standard for group leaders if the provider meets, at minimum, the following requirements:

- (1) Successful completion of BSAC training; and
- (2) Annual completion of at least 0.5 continuing education credits related to school-age care, in addition to applicable requirements in Rules .1103 and .2510 of this Chapter; or
- (3) Has at least three months licensed or unlicensed school-age care experience.

(d) A child care provider meets the four-star education standard for group leaders if the provider meets, at minimum, the requirements set forth in Option One, Option Two, or Option Three as follows:

(1) Option One:

- (A) Successful completion of BSAC training; and

- (B) Annual completion of at least 1.0 continuing education credit related to school-age care, in addition to applicable requirements in Rules .1103 and .2510 of this Chapter.
 - (2) Option Two: Is currently enrolled in at least two semester hours of school-age care coursework at an accredited college or university if BSAC has not yet been completed as set forth in Rule .2510(j) of this Chapter.
 - (3) Option Three:
 - (A) Successful completion of BSAC training; and
 - (B) Have at least three months licensed or unlicensed school-age care experience.
- (e) A child care provider meets the five-star education standard for group leaders if the provider meets, at minimum, the requirements set forth in Option One or Option Two as follows:
- (1) Option One:
 - (A) Group leader is at least eighteen years of age; and
 - (B) Successful completion of BSAC training; and
 - (C) Be enrolled in or have successfully completed at least two semester hours of school-age care coursework at an accredited college or university; and
 - (D) Have at least six months licensed or unlicensed school-age care experience.
 - (2) Option Two:
 - (A) Group leader is at least eighteen years of age; and
 - (B) Successful completion of BSAC training; and
 - (C) Annual completion of at least 1.5 continuing education credits related to school-age care, in addition to applicable requirements in Rules .1103 and .2510 of this Chapter; and
 - (D) Have at least nine months licensed or unlicensed school-age care experience.

History Note: Authority G.S. 110-85(3); 110-88(7); 110-90(4); 143B-168.3; S.L. 2023-40; S.L. 2024-34; 42 U.S.C. 9858e; 45 CFR 98.45; Eff. July 1, 2025.

10A NCAC 09 .3216 ENHANCED EDUCATION STANDARDS FOR ADMINISTRATORS OF CHILD CARE CENTERS THAT ONLY PROVIDE CARE FOR SCHOOL-AGE CHILDREN

(a) This Rule and not Rule .3211 of this Section shall apply when evaluating the education of an administrator, as defined by G.S. 110-86(2a), for a child care center that only provides care to school-age children.

(b) A child care provider meets the two-star education standard for administrators if the provider meets, at minimum, the requirements set forth in Option One or Option Two as follows:

- (1) Option One:
 - (A) Completed or be enrolled in coursework for the NC Early Childhood Administration Credential; and
 - (B) Have at least one year licensed or unlicensed school-age care experience.
- (2) Option Two:
 - (A) Level I NC Early Childhood Administration Credential or its approved equivalent or higher; and
 - (B) Have at least three months licensed or unlicensed school-age care experience.

(c) A child care provider meets the three-star education standard for administrators if the provider meets, at minimum, the requirements set forth in Option One or Option Two as follows:

- (1) Option One:
 - (A) Level I NC Early Childhood Administration Credential or its approved equivalent or higher; and
 - (B) Have at least six months licensed or unlicensed school-age care experience.
- (2) Option Two:
 - (A) Level I NC Early Childhood Administration Credential or its approved equivalent or higher; and
 - (B) Have at least three months licensed or unlicensed school-age care experience; and
 - (C) Successful completion of BSAC training.

(d) A child care provider meets the four-star education standard for administrators if the provider meets, at minimum, the requirements set forth in Option One or Option Two as follows:

- (1) Option One:
 - (A) Level I NC Early Childhood Administration credential or its approved equivalent or higher; and
 - (B) Have at least one year licensed and unlicensed school-age care experience.
- (2) Option Two:
 - (A) Level II NC Early Childhood Administration Credential or its approved equivalent or higher; and
 - (B) Have at least six months licensed or unlicensed school-age care experience.

(e) A child care provider meets the five-star education standard for administrators if the provider meets, at minimum, the requirements set forth in Option One or Option Two as follows:

- (1) Option One:

- (A) Level II NC Early Childhood Administration Credential or its approved equivalent or higher; and
 - (B) Have at least one year experience licensed or unlicensed school-age care experience; and
 - (C) Successful completion of BSAC training.
- (2) Option Two:
- (A) Level III NC Early Childhood Administration Credential or its approved equivalent; and
 - (B) Have at least six months licensed school-age care experience or have eight months unlicensed school-age care experience.

History Note: Authority G.S. 110-85(3); 110-88(7); 110-90(4); 143B-168.3; S.L. 2023-40; S.L. 2024-34; 42 U.S.C. 9858e, 45 CFR 98.45; Eff. July 1, 2025.

10A NCAC 09 .3217 ENHANCED EDUCATION STANDARDS FOR FAMILY CHILD CARE HOME OPERATORS

(a) This Rule shall apply when evaluating the education of a family child care home operator.

(b) A child care provider meets the two-star education standard for a family child care home operator if the provider meets, at minimum, the requirements set forth in Option One, Option Two, Option Three, or Option Four as follows:

- (1) Option One: Completion of a Child Development Associate (CDA) that is active with no credit for prior learning.
- (2) Option Two: Successful completion of at least four semester hours in early childhood education or child development coursework at an accredited college or university.
- (3) Option Three: NC Family Child Care Credential or its approved equivalent.
- (4) Option Four:
 - (A) Have at least three years of early childhood work experience; and
 - (B) Annual completion of at least 0.5 continuing education credit specific to the ages and needs of children in care, in addition to applicable requirements in Rule .1703 of this Chapter; or successful completion of a competency evaluation as set forth in Rule .3218 of this Section.

(c) A child care provider meets the three-star education standard for a family child care home operator if the provider meets, at minimum, the requirements set forth in Option One, Option Two, or Option Three as follows:

- (1) Option One: Completion of a Child Development Associate (CDA) that is active with credit for prior learning.
- (2) Option Two:

- (A) NC Family Child Care Credential or its approved equivalent; and
- (B) Successful completion of at least six semester hours in early childhood education or child development coursework at an accredited college or university.

(3) Option Three:

- (A) Have at least five years of early childhood work experience; and
- (B) Annual completion of at least 1.0 continuing education credit specific to the ages and needs of children in care, in addition to applicable requirements in Rule .1703 of this Chapter; or successful completion of a competency evaluation as set forth in Rule .3218 of this Section.

(d) A child care provider meets the four-star education standard for a family child care home operator if the provider meets, at minimum, the requirements set forth in Option One, Option Two, Option Three, or Option Four as follows:

(1) Option One:

- (A) NC Family Child Care Credential or its approved equivalent; and
- (B) Successful completion of at least 12 semester hours in early childhood education or child development coursework at an accredited college or university; and
- (C) Have at least one year early childhood work experience.

(2) Option Two:

- (A) NC Family Child Care Credential or its approved equivalent; or
- (B) Successful completion of at least 15 semester hours in early childhood education or child development coursework at an accredited college or university; and
- (C) Have at least one year early childhood work experience.

(3) Option Three: Completion of an Early Childhood Certificate.

(4) Option Four:

- (A) Have at least eight years of early childhood work experience; and
- (B) Annual completion of at least 1.5 continuing education credits specific to the ages and needs of children in care, in addition to applicable requirements in Rule .1703 of this Chapter; or successful completion of a competency evaluation as set forth in Rule .3218 of this Section.

(e) A child care provider meets the five-star education standard for a family child care home operator if the provider meets, at minimum, the requirements set forth in Option One, Option Two, Option Three, Option Four, or Option Five as follows:

- (1) Option One:
 - (A) Completion of an AAS degree in early childhood education or child development at an accredited college or university; and
 - (B) Have at least eighteen months early childhood work experience.
- (2) Option Two:
 - (A) Successful completion of all required early childhood education coursework for an AAS degree program an individual is enrolled in at an accredited college or university, without full completion of the degree; and
 - (B) Have at least three years of early childhood education work experience.
- (3) Option Three:
 - (A) Completion of an AAS degree or higher in any major with at least 12 semester hours in early childhood education or child development coursework at an accredited college or university; and
 - (B) Have at least two years of early childhood work experience.
- (4) Option Four:
 - (A) NC Family Child Care Credential or its approved equivalent; and
 - (B) Successful completion of at least 18 semester hours in early childhood education or child development coursework at an accredited college or university; and
 - (C) Have at least four years early childhood work experience.
- (5) Option Five:
 - (A) Have at least 10 years of early childhood work experience; and
 - (B) Annual completion of at least 2.5 continuing education credits specific to the ages and needs of children in care, in addition to applicable requirements in Rule .1703 of this Chapter; and
 - (C) Successful completion of a competency evaluation as set forth in Rule .3218 of this Section.

(f) Semester hours in early childhood education or child development coursework required to meet the standards set forth in this Rule shall not include the coursework necessary for the North Carolina Family Child Care Credential.

History Note: Authority G.S. 110-85(3); 110-88(7); 110-90(4); 143B-168.3; S.L. 2023-40; S.L. 2024-34; 42 U.S.C. 9858e; 45 CFR 98.45; Eff. July 1, 2025.

- 10A NCAC 09 .3218 COMPETENCY EVALUATIONS**
- (a) This Rule shall apply to operators of a family child care home, lead teachers, and teachers that choose an education standard option in this Section that requires successful completion of a competency evaluation.
 - (b) Successful completion of a competency evaluation means that an individual has demonstrated the knowledge, skills, and abilities set forth in Paragraph (c) of this Rule.
 - (c) Competency evaluations shall align with the developmental domains described in the North Carolina Foundations for Early Learning and Development and address an individual's knowledge, skills, and abilities to provide developmentally, linguistically, and culturally appropriate experiences and interactions that support children's development and learning by:
 - (1) supporting children's approaches to learning by providing engaging experiences and interactions that nurture:
 - (A) curiosity, information-seeking, and eagerness;
 - (B) play and imagination;
 - (C) risk-taking, problem-solving, and flexibility; and
 - (D) attentiveness, effort, and persistence.
 - (2) engaging in responsive, respectful interactions with each child and offering guidance that supports children's emotional and social development including:
 - (A) developing a sense of self;
 - (B) developing a sense of self with others; and
 - (C) learning about feelings.
 - (3) providing developmentally appropriate learning opportunities to promote children's health and physical development including:
 - (A) physical health and growth;
 - (B) motor development;
 - (C) self-care; and
 - (D) safety awareness.
 - (4) facilitating verbal and non-verbal communication through back-and-forth exchanges and use developmentally appropriate, play-based experiences to promote language development and foundational emergent literacy skills such as:
 - (A) learning to communicate;
 - (B) foundations for reading; and
 - (C) foundations for writing.
 - (5) fostering children's cognitive development by providing experiences and interactions that support children's exploration, thinking, and knowledge or the world around them including:
 - (A) construction of knowledge;
 - (B) thinking and reasoning;
 - (C) creative expression;
 - (D) social connections;
 - (E) mathematical thinking and expression; and
 - (F) scientific exploration and knowledge.

(d) An initial competency evaluation shall be completed by individuals approved by the Division to perform the evaluation and shall include:

- (1) One in-person unannounced observation of the family child care home operator, lead teacher or teacher performing the duties of their position. The evaluator shall provide written notification to the individual requesting the competency evaluation regarding the unannounced observation to be conducted during operating hours; and
- (2) A review of documentation submitted by the family child care home operator, lead teacher or teacher that provides evidence of each applicable competency for their employment position, age range of children served, and education standards as set forth in this Rule. Evidence may include:
 - (A) sample activity plans written by the individual requesting a competency evaluation;
 - (B) anecdotal notes regarding how competencies are implemented;
 - (C) observation of the individual by a center administrator or other licensed family child care home operator;
 - (D) surveys or other type of feedback from families of children enrolled in the individual's classroom or family child care home;
 - (E) audio or video recordings of activities with permission from families of children who are participants;
 - (F) self-assessment of the classroom or program using a program assessment tool;
 - (G) performance-based evaluations; and
 - (H) participation in apprenticeships, technical assistance, coaching, or mentoring processes.

(e) The evaluator shall document the individual's competency evaluation using a form approved by the Division that includes all applicable competencies and documents how each competency was met or not met.

(f) If the evaluator determines that the provider meets the competencies set forth in Paragraph (c) of this Rule, the provider will be notified in writing, and the successful completion determination shall be valid for a period of three years.

(g) To renew a competency evaluation determination, the provider shall submit updated evidence of each applicable competency for their employment position and education standards as set forth in Paragraph (d)(2) of this Rule at least thirty days prior to expiration of the determination.

(h) If the evaluator determines that the provider does not meet the competencies in Paragraph (c) of this rule, the provider shall be notified in writing and have an opportunity to provide additional information within 30 days regarding the competency evaluation before a final decision is made by a different evaluator.

(i) When an individual does not meet the requirements for successful completion of the competency evaluation, whether or not they submit additional information for a record review, they may resubmit for a competency evaluation six months after the letter notifying them of their unsuccessful evaluation is issued, or when the second review decision is issued, whichever is later.

(j) Competency evaluation standards and forms may be found on the Division's website at <http://ncchildcare.ncdhhs.gov/Provider/Provider-Documents-and-Forms>.

History Note: Authority G.S. 110-85(3); 110-88(7); 110-90(4); 143B-168.3; S.L. 2023-40; S.L. 2024-34; 42 USCS 9858e; 45 CFR 98.45; Eff. July 1, 2025.

10A NCAC 09 .3219 FAMILY AND COMMUNITY ENGAGEMENT STANDARDS FOR CHILD CARE CENTERS

(a) The rule shall apply to child care centers that have earned a two through five-star rated license using the program assessment licensure pathway or the classroom and instructional quality licensure pathway in Rules .3203 and .3205 of this Section. A child care center that has earned a two through five-star rated license using the accreditation and Head Start licensure pathway in Rule .3207 of this Section shall comply with standards set forth by those organizations for family and community engagement.

(b) For a child care center to meet family and community engagement standards at the two-star level, the center administrator shall implement the following foundational practices:

- (1) Provide communication from the center to families regarding program activities in a manner that is responsive to the needs of the families served, such as via text, email, and electronic applications, and considering language comprehension.
- (2) Offer an annual family conference with teaching staff for the purpose of providing information to the family about their child. During the conference, families are offered an opportunity to set a goal(s) for their child. Conferences shall be conducted in a manner that is convenient for the family such as by telephone, virtually or in person.
- (3) Offer annual opportunities for families to share cultural heritage in their child's classroom.
- (4) Offer annual volunteer opportunities for families.
- (5) Communicate with families regarding community resources and services that are available, upon request from the family or when a need is identified by a child's lead teacher.

(c) For a child care center to meet family and community engagement standards at the three-star level, the center administrator shall ensure that the child care facility meets the foundational practices as set forth in Paragraph (b) of this Rule plus two additional family and community engagement options from separate categories set forth in Subparagraphs (f)(1), (f)(2)

- and (f)(3) of this Rule. A single activity shall not be used to meet multiple requirements or categories of engagement.
- (d) For a child care center to meet family and community engagement standards at the four-star level, the center administrator shall ensure that the child care facility meets the foundational practices set forth in Paragraphs (b) of this Rule plus three additional family and community engagement options, one from each category set forth in Subparagraphs (f)(1), (f)(2) and (f)(3) of this Rule. A single activity shall not be used to meet multiple requirements or categories of engagement.
- (e) For a child care center to meet family and community engagement standards at the five-star level, the center administrator shall ensure that the child care facility meets the foundational practices set forth in Paragraph (b) of this Rule plus four additional family and community engagement options, with at least one from each category set forth in Subparagraphs (f)(1), (f)(2) and (f)(3) of this Rule. A single activity shall not be used to meet multiple requirements or categories of engagement.
- (f) Categories of family and community engagement shall include the following:
- (1) Communications Options:
 - (A) Two-way communication with families. "Two-way communication" means that the child care center shares information with families about their child(ren) and that families may share information with the child care center about their child(ren) in a manner that is available and accessible to the family.
 - (B) A family resource area is accessible in the child care center that includes information regarding community resources and services that assist families with knowledge, support, and advocacy for their child in the languages of the children and families being served by the child care center.
 - (C) Family and teacher conferences are offered at least twice annually to discuss child needs and progress towards individual goals and to receive feedback from families regarding their child(ren)'s experiences at home and at the child care facility. During each conference, families are offered an opportunity to set a goal(s) for their child. Conferences shall be conducted in a manner that is convenient for the family such as by telephone, virtually or in person.
 - (D) The child care center offers families connection to local community services and resources on at least a quarterly basis, such as via newsletters, email, text, electronic applications, community resource

websites, and in-person opportunities with local community services.

- (2) Engagement and Leadership Options:
 - (A) The child care center has a structured, ongoing process to receive and review suggestions and recommendations from families, including anonymously. The center administrator considers these suggestions and recommendations for planning within the child care center.
 - (B) The child care center offers an enrollment orientation that includes an opportunity for families and child(ren) to visit the assigned classroom and lead teacher prior to the first day of enrollment.
 - (C) The child care center offers at least two family events annually.
 - (D) The child care center offers a family event that is culturally responsive to the heritage and practices of enrolled families at least once annually.
 - (E) The center administrator, the lead teacher, families and service providers shall collaboratively plan to ensure children's needs and goals are being addressed in the classroom, not only during scheduled time with the service provider. Service providers include, but are not limited to, speech therapists, occupational therapists, behavior specialists, physical therapists, and intervention service specialists.
 - (F) The center administrator offers an annual evaluation or survey of the child care center to families, including the option to reply anonymously. The center administrator considers these evaluations or surveys for planning within the child care center.
 - (G) The center administrator has a plan for children's transitions that is shared with families at the time of enrollment. The transition plan shall include the child's transition from home to enrollment in the child care center, a child's transition to a new classroom within the child care center, and a child's transition to another program, including Kindergarten. The center administrator provides families the opportunity to provide feedback on transition plans to address the individual needs of their child(ren).
 - (H) The child care center offers a family council, advisory board, or family representative role to act as a liaison to

the center administrator for responsive and reciprocal planning within the child care center.

- (3) Educational Opportunity Options:
 - (A) The center administrator offers at least one family event annually that includes an educational opportunity for staff and families to learn together.
 - (B) The center administrator offers at least one educational opportunity annually for staff and families that addresses a topic identified as a need for the program based on family feedback.
 - (C) The center administrator offers at least one educational opportunity annually for staff and families that includes the participation of a local community resource.
 - (D) The center administrator offers at least one educational opportunity annually for staff and families regarding one of the following topics: social emotional health; challenging behaviors; or culturally responsive practices.
 - (E) The center administrator provides supports that anticipate and remove barriers for families and enable family involvement, at the child care facility, such as but not limited to, virtual options with technology support, interpreter services, child appropriate activities, care for children during the event, meals or snacks during events or providing materials for families to take home related to the event.
 - (F) The center administrator provides paid planning time for lead teachers to prepare information for family and teacher conferences, time to conduct the conferences and supports needed to conduct conferences by telephone, virtually or in-person.

(g) Options set forth in Subparagraphs (f)(1)(C), (f)(2)(B), (f)(2)(C), and (f)(3)(A) of this Rule shall be used to meet requirements set forth in Rule .3010 of this Chapter regarding family engagement for NC Pre-K Programs.

History Note: Authority G.S. 110-85(3); 110-88(7); 110-90(4); 143B-168.3; S.L. 2024-34; 42 U.S.C. 9858c; 45 CFR 98.1; 45 CFR 98.16; Eff. July 1, 2025.

10A NCAC 09 .3220 FAMILY AND COMMUNITY ENGAGEMENT STANDARDS FOR FAMILY CHILD CARE HOME OPERATORS

(a) This rule shall apply to operators of a family child care home that have earned a two through five-star rated license using the program assessment licensure pathway or the classroom and instructional quality licensure pathway in Rules .3204 and .3206

of this Section. Operators of a family child care home that have earned a two through five-star rated license using the accreditation and Head Start licensure pathway in Rule .3207 of this Section shall comply with standards set forth by those organizations for family and community engagement.

(b) For a family child care home to meet family and community engagement standards for a two-star level, the operator shall implement the following foundational practices:

- (1) Have a plan that will encourage family participation that shall be reviewed with the family on or before the child's first day of attendance. A copy of this plan shall be given to the family at the time of review. The plan shall include the following:
 - (A) a procedure for enrolling a child that encourages families to visit the family child care home prior to the first day of attendance;
 - (B) encouragement of family participation in the family child care home, including information regarding scheduled activities, sharing cultural heritage and volunteer opportunities;
 - (C) opportunities for the operator to meet with families to discuss their child's needs and progress and to exchange information about the family child care home;
 - (D) a procedure for families who need information or who have complaints about the family child care home.
- (2) Provide communication to families regarding family child care home activities in a manner that is responsive to the needs of the families served, such as via text, email, and electronic applications, and considering language comprehension.
- (3) Communicate with families regarding community resources and services that are available, upon request from the family or when a need is identified by the operator.

(c) For a family child care home to meet family and community engagement standards at the three-star level, the operator shall ensure implementation of foundational practices set forth in Paragraph (b) of this Rule plus one additional family and community engagement option from the categories set forth in Subparagraphs (f)(1), (f)(2) and (f)(3) of this Rule.

(d) For a family child care home to meet family and community engagement standards at the four-star level, the operator shall ensure implementation of foundational practices set forth in Paragraph (b) of this Rule plus two additional family and community engagement options from separate categories set forth in Subparagraphs (f)(1), (f)(2) and (f)(3) of this Rule. A single activity shall not be used to meet multiple requirements or categories of engagement.

(e) For a family child care home to meet family and community engagement standards at the five-star level, the operator shall ensure implementation of foundational practices set forth in Paragraph (b) of this Rule plus three additional family and

community engagement options, with at least one from each category set forth in Subparagraphs (f)(1), (f)(2), and (f)(3) of this Rule. A single activity shall not be used to meet multiple requirements or categories of engagement.

(f) Categories of family and community engagement shall include the following:

(1) Communication Options:

(A) Two-way communication with families. "Two-way communication" means that the operator shares information with families about their child(ren) and that the families may share information with the operator about their child child(ren) in a manner that is available and is accessible for the families in care.

(B) Resources for families are accessible in the family child care home that include information regarding community resources and services that assist families with knowledge, support and advocacy for their child in the languages of the children and families being served by the operator of the family child care home.

(C) A family conference with the operator is offered at least twice annually to discuss child needs and progress toward individual goals and to receive feedback from families regarding their child(ren)'s experiences at home and at the family child care home. During the conference, families are offered an opportunity to set a goal(s) for their child. Conferences shall be conducted in a manner that is convenient for the family such as by telephone, virtually or in-person.

(D) The operator offers families connection to local community services and resources on at least a quarterly basis, such as via newsletters, email, text, electronic applications, community resource websites, and in-person opportunities with local community services.

(2) Engagement and Leadership Options:

(A) The operator has a structured, ongoing process to receive and review suggestions and recommendations from families, including anonymously. The operator considers family feedback for planning within the family child care home.

(B) The operator offers an enrollment orientation that includes an opportunity for families and child(ren) to visit the family child care home prior to the first day of enrollment.

(C) The operator offers at least one family event annually, which may include activities that are culturally responsive to the heritage and practices of enrolled families.

(D) The operator, families, and service providers shall collaboratively plan to ensure children's needs and goals are being addressed during their daily activities, not only during scheduled time with the service provider. Service providers include, but are not limited to, speech therapists, occupational therapists, behavior specialists, physical therapists, and intervention service specialists.

(E) The operator offers an annual evaluation or survey to families, including the option to reply anonymously. The operator considers family feedback for reciprocal planning within the family child care home.

(F) The operator has a plan for children's transitions that is shared with families at the time of enrollment. The transition plan shall include a child's transition from home to enrollment in the family child care home and a child's transition to another program, including Kindergarten. The operator provides families the opportunity to provide feedback on transition plans to address the individual needs of their child(ren).

(G) The operator offers a family council, advisory board, or family representative role to act as a liaison for responsive and reciprocal planning with the family child care home.

(3) Educational Opportunities Options:

(A) The operator communicates with families regarding at least one educational opportunity annually where the operator and families learn together.

(B) The operator communicates with families regarding at least one educational opportunity annually where the operator and families learn together about a topic identified as a need for the family child care home based on family feedback.

(C) The operator communicates with families regarding at least one educational opportunity annually hosted by a local community resource that the operator and families may attend together.

- (D) The operator communicates with families regarding at least one educational opportunity annually regarding the following topics: social emotional health; challenging behaviors; or culturally responsive practices.
- (E) The operator provides supports that anticipate and remove barriers for families and enable family involvement, at the family child care home, such as but not limited to, virtual options with technology support, interpreter services, child appropriate activities, care for children during the event, meals or snacks during the events or providing materials for families to take home related to the event.

History Note: Authority G.S. 110-85(3); 110-88(7); 110-90(4); 143B-168.3; S.L. 2024-34; 42 U.S.C. 9858c; 45 CFR 98.1; 45 CFR 98.16; Eff. July 1, 2025.

10A NCAC 09 .3221 CONTINUOUS QUALITY IMPROVEMENT (CQI) STANDARDS

(a) This rule shall apply to child care facilities that have earned a two through five star rated license using the program assessment licensure pathway or the classroom and instructional quality licensure pathway in Rules .3203, .3204, .3205 and .3206 of this Section. Child care facilities that have earned a two through five star rated license using the accreditation and Head Start licensure pathway in Rule .3207 of this Section shall comply with standards set forth by those organizations for continuous quality improvement.

(b) Continuous Quality Improvement (CQI) means a process that individuals and facilities shall use to identify areas of growth and determine a path toward enhanced teaching, learning and practices to achieve better outcomes for children, staff, and programs. The CQI process builds over time, using established goals to support individuals and facilities in achieving and sustaining continual improvements.

(c) All administrators and other staff members with caregiving responsibilities on a routine schedule of at least once per week shall complete an individual continuous quality improvement plan. This shall also apply to operators of centers located in a residence, as described in Rule .0102 of this Chapter, and their employed staff members. Each individual continuous quality improvement plan shall be reviewed annually, accompany the professional development plan required in Rule .1104 of this Chapter, be maintained in the individual's personnel file, and include:

- (1) Identification of the resources or supports needed by the individual to achieve the established goal(s) of the professional development plan, including but not limited to, the time estimated to achieve the goal and

- specific support needed from the operator to complete the goal;
 - (2) Documentation of the individual's efforts toward completion of the established goal(s), changes to the established goal and challenges experienced;
 - (3) Development of a new goal during the annual review if established goal is achieved or changed; and
 - (4) Documentation from the individual regarding how their progress or completion of a goal has enhanced their knowledge, skills, and abilities.
- (d) A child care center's administrator shall also complete a continuous quality improvement plan that addresses programmatic goals. The programmatic continuous quality improvement plan shall be updated annually, maintained on file at the center, and include:
- (1) Identification of at least one programmatic goal, the timeframe estimated to achieve the goal and the steps that will be taken by the center administrator to complete the goal;
 - (2) Documentation of the reason or source of need for each goal, such as sustaining programmatic achievements, feedback received from staff or families, or licensure pathway requirements;
 - (3) Identification of resources needed by the center administrator to achieve the programmatic goal, including but not limited to materials, technical assistance, participation of staff, or other items specific to the goal;
 - (4) Documentation of supports offered by the program to encourage longevity and retention of staff;
 - (5) Documentation of efforts toward completion of the established goal, changes to the established goal and challenges experienced; and
 - (6) Development of a new goal during the annual review if established goal is achieved or changed.
- (e) The operator of a family child care home and any additional caregivers, as set forth in Rule .1729 of this Chapter, shall complete a continuous quality improvement plan that addresses professional goals. The continuous quality improvement plan shall be updated annually, accompany the professional development plan required in Rule .1703(f) of this Chapter, be maintained in the operators personnel file, and include:
- (1) Identification of at least one professional goal, the timeframe estimated to achieve the goal, the resources needed to achieve the goal, and the steps that will be taken by the operator to complete the goal;
 - (2) Documentation of the reason or source of need for the goal, such as sustaining programmatic achievements, feedback received from families, or licensure pathway requirements;
 - (3) Documentation of efforts toward completion of the established goal, changes to the established goal and challenges experienced;

- (4) Development of a new goal during the annual review if the established goal is achieved or changed; and
- (5) Documentation from the operator regarding how progress toward or completion of a goal has enhanced their knowledge, skills, and abilities.

(f) Sample continuous quality improvement plan templates may be found on the Division's website at <https://ncchildcare.ncdhhs.gov/Provider/Provider-Documents-and-Forms>. Another form may be used other than the sample template provided by the Division as long as the form includes the information set forth in this Rule.

History Note: Authority G.S. 110-85(3); 110-88(7); 110-90(4); 143B-168.3; S.L. 2024-34; 42 USCS 9858e; 45 CFR 98.45; Eff. July 1, 2025.

10A NCAC 09 .3222 MAINTAINING THE STAR RATING

(a) A representative of the Division may make announced or unannounced visits to facilities to assess on-going compliance with requirements of a star rating after it has been issued. When the division representative documents violations with the standards that determine a rating, the representative shall take one or more of the following actions:

- (1) advise the operator to submit written verification that the violation has been corrected;
- (2) return to the facility for an unannounced visit at a later date to determine if compliance has been achieved;
- (3) require a program assessment be conducted pursuant to Rule .3203 or .3204 of this Section, if applicable to the licensure pathway;
- (4) request verification of accreditation award status from the accrediting organization, if applicable to the licensure pathway;
- (5) request verification of Head Start designation from grantee, if applicable to the licensure pathway;
- (6) require a complete assessment of requirements of the star rating issued to the facility;
- (7) require that the star rating be reduced; or
- (8) recommend administrative action in accordance with G.S. 110, Article 7 of this Chapter.

(b) If changes unrelated to employment occur at a facility that result in noncompliance with the standards in this Section for the star rating issued, the operator shall correct the noncompliance within 30 days. If the operator does not correct the noncompliance within 30 days, the operator shall notify the Division. Based upon the information obtained, the Division shall take any of the actions described in Paragraph (a) of this Rule.

(c) If employment-related changes occur at a facility that result in noncompliance with or failure to meet the standards in the Section for the star rating issued, the operator shall correct the noncompliance within six months. If the operator does not correct the noncompliance within six months, the operator shall notify the

Division. Based upon the information obtained, the Division shall take any of the actions described in Paragraph (a) of this Rule.

(d) Each child care facility licensed under this Section with a two through five-star rated license shall be reassessed by the Division at least once every three years to ensure compliance with pathway requirements.

(e) The Division shall provide for one evaluation using an approved program assessment tool referenced in Rules .3202 and .3204 of this Section, free of charge, once every three years when reassessing the ratings of operators that select the program assessment licensure pathway.

(f) Notwithstanding the above, if a facility loses its accreditation or Head Start designation, it shall notify the Division within 30 calendar days from the date of termination and submit an application at that time for a two through five-star rated license that indicates the alternate licensure pathway selection. The operator of the child care facility shall have a complete assessment conducted within six months from the date of termination or be reduced to one-star so long as the requirements for a one-star rating described in G.S. 110-91 and this Chapter are met.

(g) Notwithstanding the above, if a facility allows its accreditation or Head Start designation to lapse or expire prior to applying for a two through five- star rated license using an alternate licensure pathway, the license shall be reduced to one-star so long as the requirements for a one-star rating described in G.S. 110-91 and this Chapter are met.

History Note: Authority G.S. 110-88(7); 110-90(4); 143B-168.3; 42 USCS 9858e; 45 CFR 98.45; Eff. July 1, 2025.

10A NCAC 09 .3223 HOW AN OPERATOR MAY REQUEST OR APPEAL A CHANGE IN RATING

(a) An operator may request a change in the star rating, including licensure pathway selection, by following the procedures in Rule .3202 of this Section.

(b) After an initial four or five-star rating is issued, the Division shall provide one evaluation of program standards using the program assessment tool referenced in Rules .3202 and .3204 of this Section during each three-year period thereafter at no cost to the operator. An operator may have extra program assessments, as referenced in Rules .3203 and .3204 of this Section, performed at his or her own expense in addition to the free one performed by the Division. The additional program assessments shall be completed by individuals approved by the Division to perform them.

(c) An operator may appeal the reduction of a star rating as provided in G.S. 110-94.

History Note: Authority G.S. 110-88(7); 110-90(4); 143B-168.3; Eff. July 1, 2025.

10A NCAC 09 .3224 RECOGNITION OF QUALITY INITIATIVES

(a) A child care operator may choose to request one or more areas of recognition to accompany the issuance of a two through five-star rated license earned through compliance with any licensure pathway requirement of this Section. Quality initiatives shall not

be used to earn a star rating. Verification of requirements for each recognition shall be reassessed at least every three years, at the time of reassessment for a two through five-star rated license.

(b) The Division shall issue recognition of quality initiatives upon verification of the requirements set forth in this Rule.

(c) An Education Recognition may be requested when at least one of the following requirements are met:

- (1) 75 percent of teachers employed by a child care facility have earned an AAS degree or higher in early childhood education, child development or related field.
- (2) 75 percent of lead teachers employed by a child care facility have earned a BA/BS degree or higher in early childhood education, child development, or related field.
- (3) All lead teachers employed by a child care facility have earned an AAS degree or higher in early childhood education, child development or related field.
- (4) The operator of a family child care home has earned a BS/BS degree in early childhood education, child development or related field.
- (5) The operator of a family child care home has earned an AAS degree in early childhood education, child development or related field and is enrolled in a BA/BS degree program in early childhood education or child development.
- (6) 75 percent of teachers employed by a child care facility have an active Child Development Associate (CDA).
- (7) The operator of a child care facility participates in the T.E.A.C.H. program or other education initiative that supports employed staff that want to enroll in or who are enrolled in college coursework.
- (8) 75 percent of lead teachers and educators, as defined in this Section, have an active certification in the NC Early Care and Education Professional Certification Scale at https://www.ncidp.org/documents/EEC_EDE_Scale.pdf.
- (9) The operator of a family child care home has an active certification in the NC Early Care and Education Professional Certification Scale at https://www.ncidp.org/documents/EEC_ECE_Scale.pdf.

(d) A Professional Development Recognition may be requested when at least one of the following requirements is met:

- (1) The operator of a family child care home completes 20 training hours annually, in addition to training hours required for their licensure level as set forth in this Section and in addition to ongoing training requirements set forth in Rule .1703 of this Chapter and education requirements set forth in Rule .3217 of this Section.
- (2) The operator of a family child care home is an approved trainer for an established course as set

forth in Rule .1703 of this Chapter and provides at least one training course for early childhood professionals in their community annually or when the operator develops a training course, obtains approval for training as set forth in Rule .1703 of this Chapter, and provides at least one training course for early childhood professionals in their community annually.

- (3) A center administrator or operator of a family child care home provides evidence of active membership in a professional or community organization.
- (4) A child care facility operator compensates staff members for time spent completing professional development activities.
- (5) A child care facility operator compensates staff members for the cost of professional development activities.
- (6) A child care center operator pays for at least 50 percent of staff members to have an active membership in a professional or community organization and provides evidence of the paid costs and memberships.
- (7) A child care center operator employs at least one staff member who is an approved trainer for an established training course as set forth in Rule .1103 of this Chapter and the approved trainer provides at least one training course for all employees annually or when the child care center operator, administrator or staff member develops a training course, obtains approval for training as set forth in Rule .1103 of this Chapter, and provides at least one training course annually for employed staff members.
- (8) A child care facility allows early childhood education practicum students to complete required activities in their facility when the individuals are not employed by the facility.

(e) A Longevity and Experience Recognition may be requested when at least one of the following requirements is met:

- (1) The operator of a family child care home has been in operation for at least five years with a compliance history score of 90 percent or higher.
- (2) The operator of the family child care home has been in operation for at least five years with a four or five-star rated license.
- (3) A center administrator has at least 10 years of child care administrative work experience in a licensed child care facility.
- (4) 75 percent of lead teachers and teachers have at least 10 years of early childhood work experience in a licensed child care facility.
- (5) All lead teachers and teachers have at least five years of early childhood work experience in a licensed child care facility and have been employed by no more than two different child care facilities.

- (6) The child care center has a combined turnover rate of 20 percent or less for the administrator, lead teacher and teacher positions over the last 12 months.
 - (7) In stand-alone school age care facilities, 75 percent of group leaders have at least five years of school age care work experience in a licensed or unlicensed school age program and have been employed by no more than two different child care facilities.
- (f) A Staff Supports and Benefits Recognition may be requested when at least one of the following requirements is met:
- (1) A child care facility offers a staff benefits package that includes at least three of the following benefits: paid time off for vacation, sick and/or personal leave, paid family and medical leave, fully or partially paid health insurance, retirement contribution or annual bonuses.
 - (2) A child care facility offers two hours of paid planning time for lead teachers on a weekly basis, during a time when the lead teacher is not responsible for supervising children.
 - (3) A child care facility offers at least two mental health supports such as training offered on-site, paid time off for wellness, mental health coverage as part of health benefits or assistance in obtaining access to other services as requested.
 - (4) A child care center pays for costs associated with enrolling in and completing early childhood education or child development coursework.
- (g) A Program Features Recognition may be requested when at least one of the following requirements is met:
- (1) A child care facility implements an approved curriculum for all age groups served as defined in Rule .0102(11) of this Chapter when not required for licensure level or pathway.
 - (2) A child care facility uses a program assessment tool for self-study, self-assessment and continuous quality improvement when not required for licensure level or pathway.
 - (3) A child care center earns a 5.0 on every classroom assessed with ERS-3 and SACERS-U.
 - (4) A child care facility uses an approved formative assessment tool for all age groups served as defined in Rules .3205 or .3206 of this Section when not required for licensure level or pathway.
 - (5) A child care facility implements all family and community engagement practices as set forth in Rules .3219 and .3220 of this Section, rather than only the practices required for licensure level or pathway.
 - (6) A child care administrator or operator of a family child care home participates in a coaching or mentoring process as set forth in Rules .3205 and .3206 of this Section when not required for licensure level or pathway.
- (h) A Health & Wellness Opportunities Recognition may be requested when at least one of the following requirements is met:
- (1) A child care facility provides support to staff members and families regarding challenging behaviors using community, regional or state resources.
 - (2) A child care center has a licensed or registered nurse on staff for at least half of the operating hours of the program.
 - (3) A child care facility offers oral health education and opportunities such as dental screenings and outreach with community, regional and state resources.
 - (4) A child care facility offers supplemental programs or contracts with external vendors to provide opportunities for growth in specialty areas, including but not limited to tumbling, art, bookmobile, sports, dance, music or yoga.
 - (5) A child care facility completes REACH Healthy Child Care recognition. Information for this program is Available at <https://reach-recognition.org/>.
 - (6) A child care facility completes Be Active Kids/Go NAPSACC Program. Information for this program is available at <https://www.beactivekids.org/>.
 - (7) A child care facility participates in Farm to Early Education. Information for this program is available at <https://cefs.ncsu.edu/food-system-initiatives/nc-farm-to-early-care-and-education/>.
 - (8) A child care facility engages with a Child Care Health Consultant by participating in one cycle of assessments using the NC Health and Safety Assessment Tool annually.
 - (9) A child care facility implements five of six of the following educational opportunities regarding green environment practices:
 - (A) Provides outdoor learning environments that have areas of shade provided by trees that use heat tolerant /drought resistant plant material.
 - (B) Provides an indoor play space allowing gross motor play, running, jumping and physically active games in an air conditioned/heated environment.
 - (C) Paints walkways and pavement in heat reflecting colors in an effort to decrease surface temperatures and associated burn hazards.
 - (D) Ensure use of non-toxic cleaning products throughout the facility
 - (E) Creates and maintains a pollinator and/or a vegetable garden as a method to educate and emphasize ecofriendly change and lifestyle.

- (F) Implement teaching practices that support reducing and recycling such as ensuring use of recyclable products when reusable products are unavailable, providing reusable food service products for meals and/or snacks, and installing a system of recycling in the facility where trash and recyclables are in separate containers and disposed of properly.
- (i) A Language Concentration Recognition may be requested when at least one of the following requirements is met:
- (1) Children enrolled in a child care facility are participating in use of languages other than English on a regular basis.
 - (2) A child care facility is a language immersion program.
 - (3) A child care facility is a bilingual program.
- (j) A Culinary Emphasis Recognition may be requested when at least one of the following requirements is met:
- (1) An operator of a family child care home has completed a food handler program training or certification, such as ServSafe.
 - (2) A chef or cook position at a child care center has completed culinary classes or has completed food handler program training or certification, such as ServSafe.
 - (3) A child care facility utilizes farm-to-table practices as part of their food and nutrition program.
- (k) A Ratio, Group Size, and Enrollment Practices Recognition may be requested when at least one of the following requirements is met:
- (1) A child care center reduces staff to child ratios or group sizes when not required for licensure level or pathway.
 - (2) An operator of a family child care home voluntarily reduces enrollment when not required for licensure level or pathway.
- (l) A Supplemental Environments Recognition may be requested when at least one of the following areas are provided within a child care center or family child care home: gyms, active play area, sensory focused environments, gardens or naturalized outdoor play environments.
- (m) A NC Breastfeeding-Friendly Child Care Designation Program Recognition may be requested when this designation is earned by meeting program requirements set forth at <https://fs27.formsite.com/nutritionnc/xghrnuq0td/index.html>, incorporated by reference and available for free.
- (n) A Military Child Care in Your Neighborhood – PLUS Recognition may be requested by child care facilities participating in the free assistance program for military families after meeting the eligibility requirements set forth at <https://www.childcareaware.org/fee-assistancerespice/feeassistancerespiceproviders/feeassistance>, incorporated by reference and available for free.

History Note: Authority G.S. 110-85(3); 110-88(7); 110-90(4); 143B-168.3; S.L. 2024-34; 42 U.S.C. 9858e; 45 CFR 98.45;
Eff. July 1, 2025.

10A NCAC 09 .3225 ACCREDITING ORGANIZATIONS AND STAR RATING EQUIVALENCY

- (a) The Commission shall reassess an accreditation's star-rating equivalency, as set forth in Rule .3207 of this Section, if the standard for earning the accreditation is revised and may increase or decrease the accreditation's star rating equivalency based on the assessment in its discretion.
- (b) The Commission may approve additional accreditations from national early childhood education accreditation organizations and determine their star-rating equivalency upon request by the accrediting organization.
- (c) Reassessments and assessments described in Paragraphs (a) and (b) of this Rule shall be based on educational and programmatic standards of the accrediting organization and how they compare to or exceed the requirements of this Section.

History Note: Authority S.L. 2024-34; 42 USCS 9858e; 45 CFR 98.45;
Eff. July 1, 2025.

10A NCAC 09 .3226 APPROVAL OF FORMATIVE ASSESSMENTS

- (a) The Commission may approve formative assessments to support implementation of classroom and instructional quality licensure requirements set forth in Rules .3205 and .3206 of this Section upon request.
- (b) The Commission shall approve formative assessments that meet the following criteria:
- (1) the formative assessment aligns with the developmental domains described in the North Carolina Foundations for Early Learning and Development;
 - (2) the formative assessment is research based;
 - (3) the formative assessment has been developed and validated for the intended population;
 - (4) the formative assessment requires collection of information in a variety of ways such as observances of children during daily routines, play and group activities; teacher documentation of children's activities, experiences at work; collaboration with families; and communication with service providers when applicable; and
 - (5) the formative assessment promotes documentation of children's development and progress in a way that is sensitive and responsive to the needs of all children from culturally, linguistically, economically, and ability diverse backgrounds.

Information regarding approved formative assessments may be found on the Divisions website at <https://ncchildcare.ncdhhs.gov/Services/Licensing/Star-Rated-License/Curriculum>.

History Note: Authority S.L. 2024-34; 42 U.S.C. 9858e; 45 CFR 98.45;
Eff. July 1, 2025.

TITLE 12 - DEPARTMENT OF JUSTICE

12 NCAC 10B .0406 LATERAL TRANSFERS AND REINSTATEMENTS

(a) The general certification, pursuant to Rule .0404 of this Section, or grandfather certification, as defined in G.S. 17E-7(a), of a detention officer, as defined in Rule .0103(6) of this Subchapter, or a telecommunicator, as defined in Rule .0103(20) of this Subchapter, is eligible for lateral transfer to an agency and be certified upon compliance with Paragraphs (b) and (c) of this Rule.

(b) The employing agency shall verify the applicant's certification status with the Division prior to submission of the application for certification as a lateral transfer.

(c) In order for a detention officer or telecommunicator to be certified pursuant to Paragraph (a) of this Rule, the employing agency shall submit to the Division, along with the Report of Appointment (F-4 or F-4T), the documents required in Rule .0408 of this Section.

(d) A justice officer whose certification was suspended pursuant to Rule .0204(b)(1) of this Subchapter is eligible to have the certification reinstated provided that:

- (1) the period of suspension was six months or less;
- (2) the employing agency submits to the Division, along with a Report of Appointment, the documents required in Rule .0408 of this Subchapter except Subparagraphs (1), (2), (3), (4), and (5) of Paragraph (a); and
- (3) the officer has successfully completed the basic training requirements as prescribed in Sections .0500, .0600, or .1300 of this Subchapter.

(e) A justice officer for whom a Report of Separation (Form F-5) has been submitted to the Division, and who is re-appointed in the same agency, is eligible for reinstatement provided that:

- (1) the period of separation has been six-months or less; and
- (2) the employing agency submits to the Division, along with a Report of Appointment, the documents required in Rule .0408 of this Subchapter except Subparagraphs (1), (2), (3), (4), and (5) of Paragraph (a).

History Note: Authority G.S. 17E-4; 17E-7;
Eff. January 1, 1989;
Amended Eff. January 1, 1994; January 1, 1993; January 1, 1992;
July 1, 1990;
Temporary Amendment Eff. March 1, 1998;
Amended Eff. January 1, 2009; January 1, 2005; 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. July 1, 2025; December 1, 2023.

12 NCAC 10B .0411 IN-STATE LATERAL TRANSFER OF A DEPUTY SHERIFF

(a) A North Carolina law enforcement officer is eligible to transfer their certification from one law enforcement agency to another law enforcement agency and be certified as a deputy sheriff if the officer:

- (1) has completed basic law enforcement training and holds general or probationary certification from the Commission or the Criminal Justice Education and Training Standards Commission; and
- (2) has not had more than a 12-month consecutive break in service immediately preceding the current application.

(b) Prior to certification being transferred per this rule, the sheriff's office considering the applicant for employment as a deputy sheriff shall complete the following tasks and submit a Lateral Report of Appointment, Form F-4A, to the Division reporting that the employing agency has completed these tasks and provided the requested documents:

- (1) obtained and forwarded the applicant's fingerprints to the North Carolina State Bureau of Investigation, in compliance with the requirements set forth in Rule .0303 of this Subchapter, reviewed the results of the criminal history record check provided as a result, and provided a copy of the results to the Division;
- (2) completed the AOC-CR-280 Law Enforcement Application for Verification of Expunction form and provided the results to the Division;
- (3) submitted to the Division a certified copy of the applicant's oath of office;
- (4) obtained a signed and notarized Authorization for Release of Information from the applicant, pursuant to Rule .0305 of this Subchapter, forwarded the Authorization for Release of Information to the Division, and reviewed the following documents of the applicant maintained by or on behalf of any North Carolina law enforcement agency where the applicant was employed for any part of the five year period preceding the current application:
 - (A) the personnel file including confidential information as defined by G.S. 153A-98, G.S. 160A-168, and G.S. 126-24;
 - (B) Report of Separation, Form F-5, if the applicant has separated;
 - (C) Background Investigation, Form F-8; and
 - (D) any internal investigations.
- (5) verified that the applicant:
 - (A) has not had more than a 12-month consecutive break in service immediately preceding the current application;
 - (B) has completed all mandatory in-service training for the preceding calendar year;

- (C) has not been charged with or been convicted of criminal offenses that would prohibit certification pursuant to the Rule of this Subchapter;
- (D) has not been the subject of any internal investigation within the last 18 months that contains allegations of a potential violation of the Rules of this Subchapter; and
- (E) has qualified with the assigned duty weapon which has been recorded on the Firearm Qualification Record, Form F-9A, and satisfactorily completed the sheriff's office's in-service firearms training program, as prescribed in Rules .2103 and .2104 of this Subchapter. The Firearm Qualification Record shall be submitted to the Division with the Lateral Report of Appointment.

(c) Form F-4A, Lateral Report of Appointment, is completed by the employing agency in which the agency verifies that is has completed the items required in Paragraph (b) of this rule.

*History Note: Authority G.S. 17E-4; 17E-7
Eff. July 1, 2025.*

12 NCAC 10B .0505 EVALUATION FOR TRAINING WAIVER

This Rule shall be used by Division staff in evaluating an applicant's training and experience to determine eligibility for a waiver of training as set forth in Rule .0504(a) of this Section.

- (1) Persons who separated from a sworn law enforcement position during their probationary period after having completed a Commission-accredited Basic Law Enforcement Training Course as set forth in 12 NCAC 09B .0205 and who have been separated from a sworn law enforcement position for one year or less shall serve the remainder of the initial certification probationary period in accordance with G.S. 17E-7(b), but shall not be required to complete an additional training program.
- (2) Persons who separated from a sworn law enforcement position during their probationary period without having completed Basic Law Enforcement Training, or whose certification was suspended pursuant to Rule .0204(b)(1) of this Subchapter, and who have remained separated or suspended for over one year shall:
 - (a) complete a Commission-accredited Basic Law Enforcement Training Course as set forth in 12 NCAC 09B .0205 in its entirety;
 - (b) pass the state comprehensive examination as set forth in 12 NCAC 09B .0406; and
 - (c) complete a 12 month certification probationary period which begins on

the date he or she takes the Oath of Office.

- (3) Unless a waiver has been granted pursuant to Rule .1901 of this Subchapter, persons who have any training and experience as a military law enforcement officer and are appointed as a deputy sheriff in North Carolina shall, within one year of the date of his or her Oath of Office complete:
 - (a) a Commission-accredited Basic Law Enforcement Training Course as set forth in 12 NCAC 09B .0205 in its entirety regardless of previous military training and experience; and
 - (b) pass the state comprehensive examination as set forth in 12 NCAC 09B .0406.
- (4) Applicants who previously held certification with the Commission or the North Carolina Criminal Justice Education and Training Standards Commission out-of-state transferees; and federal transferees who meet the requirements set forth in Items (5),(6), and (7) of this Rule shall be allowed to select one of the following two options for gaining North Carolina certification as a deputy sheriff:
 - (a) Complete the Basic Law Enforcement Training Course as set forth in 12 NCAC 09B .0205 in its entirety during a one year certification probationary period and pass the state comprehensive examination as set forth in 12 NCAC 09B .0406; or
 - (b) Complete the following entry criteria:
 - (i) Pass the Basic Law Enforcement Training state comprehensive examination as set forth in 12 NCAC 09B .0406 delivered at the end of an ongoing Basic Law Enforcement Training Course. If the applicant fails to pass the examination, he or she may attempt to pass the examination one additional time. If the applicant fails to pass the examination on the second attempt, the applicant shall be required to complete the Basic Law Enforcement Training Course as set forth in 12 NCAC 09B .0205 in its entirety and pass the state comprehensive examination as set forth in 12 NCAC 09B .0406 during their one year certification probationary period;

- (ii) Each applicant who is authorized by the employing sheriff to carry a firearm shall prior to appointment complete with passing scores the Commission's In-service Firearms Training and Qualification Program as prescribed in Rule .2104 of this Subchapter.
 - (iii) Each applicant shall demonstrate proficiency in the following skills related activities : First Responder; Law Enforcement Driver Training; Officer Health and Wellness; and Compliance and Control Tactics. . Successful completion of the skills related activities as set out in this Rule shall be documented by the certified instructor and submitted to the Division.
 - (iv) All criteria referenced in this Rule shall be successfully completed within the one-year certification probationary period as set forth in Rule .0504 of this Section.
- (5) North Carolina applicants referenced in Item (4) of this Rule shall:
 - (a) have a minimum of two years full-time sworn law enforcement experience that occurred prior to their application;
 - (b) have had a break in service exceeding one year;
 - (c) have previously received general or grandfather, in accordance with G.S. 17C-10(a) or G.S. 17E-7(a), certification as a sworn law enforcement officer by either the Commission or the North Carolina Criminal Justice Education and Training Standards Commission, and such certification has not been denied, revoked, or suspended by either Commission; and
 - (d) have held general powers of arrest.
- (6) Out-of-state transferees referenced in Item (4) of this Rule shall:
 - (a) have a minimum of two years full-time sworn law enforcement experience that occurred prior to their application. An applicant's attendance at his or her basic law enforcement training course shall not count towards the two years full-time sworn law enforcement experience;
 - (b) have held certification as a sworn law enforcement officer from the appropriate peace officer's standards and training entity in the transferee's respective state and such certification has not been denied, revoked, or suspended;
 - (c) have had general powers of arrest; and
 - (d) submit documentation verifying their qualified status.
- (7) Federal Transferees referenced in Item (4) of this Rule shall:
 - (a) have a minimum of two years full-time sworn law enforcement experience;
 - (b) have held certification or commissioning as a sworn law enforcement officer from the appropriate federal entity authorized to issue such sworn law enforcement officers certification or commission, and such certification or commission has not been denied, revoked, or suspended.
 - (c) have held general powers of arrest; and
 - (d) submit documentation verifying their qualified status.

History Note: Authority G.S. 17E-4; 17E-7; Eff. January 1, 1989; Amended Eff. January 1, 2005; August 1, 2002; August 1, 2000; August 1, 1998; February 1, 1998; January 1, 1996; January 1, 1994; 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. July 1, 2025; January 1, 2019.

TITLE 15A - DEPARTMENT OF ENVIRONMENTAL QUALITY

15A NCAC 01X .0101 PURPOSE

The purpose of these Rules is to set forth the processes and procedures for implementation of the Department's express review program to provide expedited permit and certification reviews for certain new or modified permits, plans, or certifications.

History Note: Authority S.L. 2023-134, s. 12.13.(b); G.S. 143B-279.13; Eff. July 1, 2025.

15A NCAC 01X .0102 DEFINITIONS

For purposes of this Subchapter,

- (1) "Acceptance Date" means the assigned date upon which the Department will begin the

formal review of an Application after granting a Request for Express Review;

- (2) "AccessDEQ" means the Department's online portal for electronic permit applications, which can be found at <https://portal.deq.nc.gov>. In the event AccessDEQ is unavailable for a specific type of Application, alternative submissions may be made to the regional office with jurisdiction over the project location by submitting one electronic copy or two paper copies of the Application;
- (3) "Application" means the materials to be reviewed by the applicable program once a Request for Express Review has been granted;
- (4) "Department" means the North Carolina Department of Environmental Quality;
- (5) "ESC Plan" means an Erosion and Sedimentation Control Plan submitted pursuant to G.S. 113A, Article 4.
- (6) "Experienced Consultant" means an individual that has received from the Department 25 ESC Plan approvals or 5 issued PCSW Permits, specific to the type of Application for which a Request for Express Review is being made;
- (7) "PCSW Permit" means Coastal Post-Construction Stormwater Permits submitted pursuant to G.S. 143, Article 21, Part 1;
- (8) "Pre-Application Review Meeting" means the initial meeting between the Applicant or the Experienced Consultant and the Department to perform a preliminary review of all materials submitted as part of the Request for Express Review and Application to make a determination regarding whether the Request for Express Review should be granted or denied, as well as provide initial feedback of the Application Materials. The Department is under no obligation to perform any form of technical review of the materials submitted prior to the meeting; and
- (9) "Request for Express Review" means the initial submission requesting consideration for express review, including all applicability, eligibility, and availability reviews.

History Note: Authority S.L. 2023-134, s. 12.13.(b); G.S. 143B-279.13; Eff. July 1, 2025.

15A NCAC 01X .0103 APPLICABILITY

The rules in this Subchapter apply to the submission and review of Requests for Express Review of Applications for the following permits, plans, or certifications:

- (1) Coastal Post-Construction Stormwater Permits pursuant to G.S. 143, Article 21, Part 1; and
- (2) Erosion and Sedimentation Control Plans pursuant to G.S. 113A, Article 4.

History Note: Authority S.L. 2023-134, s. 12.13.(b); G.S. 143B-279.13; Eff. July 1, 2025.

15A NCAC 01X .0104 REQUESTS FOR EXPRESS REVIEW

In addition to the information required in Rules .0202 and .0302 of this Subchapter, a Request for Express Review shall be submitted on a form including:

- (1) Applicant name and contact information;
- (2) Experienced Consultant name and contact information;
- (3) Project name, location, and receiving waters;
- (4) Narrative description of the project, including its various features, impacts, and proximity to surface waters identified in Item (5) of this Rule;
- (5) Vicinity map identifying the project area, GPS coordinates, and any nearby surface waters. Nearby surface waters shall include Class SA waters as identified in 15A NCAC 02B .0221, Outstanding Resource Waters as identified in 15A NCAC 02B .0225, High Quality Waters, as identified in 15A NCAC 02B .0224, or Trout Waters, as defined in 15A NCAC 02B .0202(58); 15A NCAC 02B .0221, 15A NCAC 02B .0225, 15A NCAC 02B .0224 and 15A NCAC 02B .0202 are incorporated by reference, including subsequent amendments, and may be accessed at <http://reports.oah.state.nc.us/ncac.asp> at no charge;
- (6) Site plan identifying the boundaries of all surface waters, wetlands, regulatory flood zones, protected vegetated setbacks, and protected riparian buffers;
- (7) A list of all existing State or Federal permits, plans, certifications, or approvals related to the project; and
- (8) A list of all other State or Federal permits, plans, certifications, or approvals necessary to conduct the project and their current status.

History Note: Authority S.L. 2023-134, s. 12.13.(b); G.S. 143B-279.13; G.S. 143-214.7; G.S. 113A-54.1; G.S. 113A-57; Eff. July 1, 2025.

15A NCAC 01X .0105 GRANTING REQUESTS FOR EXPRESS REVIEW

The Department shall grant Requests for Express Review that are determined to be complete and eligible, in accordance with Rules .0104, .0201, .0202, .0301 and .0302 of this Subchapter. The Department shall not grant a Request for Express Review if it is incomplete or if the review of the Application cannot be completed within the deadlines established in Rules .0203 and .0303 of this Subchapter due to:

- (1) staffing vacancies or absences at the Department;
- (2) existing workloads at the Department;

- (3) emergencies; or
- (4) other factors that would conflict with the purposes or requirements of G.S. 143B-279.13 or would prevent an Application from being reviewed prior to the deadlines established in Rules .0203 and .0303 of this Subchapter.

History Note: Authority S.L. 2023-134, s. 12.13.(b); G.S. 143B-279.13; Eff. July 1, 2025.

15A NCAC 01X .0106 PROCESSING OF REQUESTS FOR EXPRESS REVIEW

The processing of Requests for Express Review shall be performed as follows:

- (1) To be considered for express review under these Rules, an applicant shall submit a Request for Express Review and intake fee via AccessDEQ, including the information required pursuant to Rules .0104, .0202, and .0302 of this Subchapter. Current fees may be found at <https://www.deq.nc.gov/accessdeq/express-permitting> or in AccessDEQ. The Department shall provide the applicant with notice once the necessary fees have been received. Fees are nonrefundable.
- (2) Upon receipt of a Request for Express Review and intake fee, the Department shall perform an administrative review to make an initial determination of applicability pursuant to Rule .0103 of this Section, eligibility pursuant to Rules .0201 and .0301 of this Subchapter, and availability pursuant to Rule .0105 of this Section. The Department is under no obligation to perform any form of technical review of the materials submitted prior to the Pre-Application Review Meeting.
- (3) Once an initial determination of applicability, eligibility, and availability is made by the Department, notice shall be provided to the applicant and a Pre-Application Review Meeting shall be scheduled with the applicant and their Experienced Consultant.
- (4) During the Pre-Application Review Meeting, the Department, applicant, or applicant's Experienced Consultant shall discuss the project, jointly review the submitted application materials, and advise regarding any initially identified deficiency issues. If the Request for Express Review involves a PCSW Permit, both the applicant and applicant's Experienced Consultant shall be required to attend the Pre-Application Review Meeting. If, during the Pre-Application Review Meeting, it is determined that the project is ineligible for express review or the Application is incomplete, the Request for Express Review may be denied. If required information is

identified as missing during the Pre-Application Review Meeting, an extension may be granted for up to three business days to submit the required information, after which time a determination regarding the Request for Express Review shall be made. If these identified items are not submitted by the extension deadline, the Request for Express Review shall be considered incomplete and shall be denied.

- (5) If the Request for Express Review is granted, the next available Acceptance Date shall be assigned to the Application and the application review shall proceed in accordance with Rule .0203 or .0303 of this Subchapter.
- (6) Once an Acceptance Date is assigned to the Application, the applicant shall submit the necessary fees via AccessDEQ or by check submitted to the regional office with jurisdiction over the project location. Current fees may be found at <https://www.deq.nc.gov/accessdeq/express-permitting> or in AccessDEQ. The Department shall provide the applicant with notice once the necessary fees have been received. Fees are nonrefundable.
- (7) If the necessary fees have not been received by the Department via AccessDEQ or by check submitted to the regional office with jurisdiction over the project location one business day prior to the Acceptance Date, the Acceptance Date shall be cancelled.
- (8) If the Department determines, after granting the Request for Express Review, that the project is ineligible for express review, the Department shall conclude the Express Review in accordance with Rules .0203(4) or .0303(4) of this Subchapter.
- (9) Receipt of an Application as part of a Request for Express Review shall not constitute receipt or submission of an application for purposes of the timeframes set forth in G.S. 143-214.7(b6) or in G.S. 113A-54.1(a).

History Note: Authority S.L. 2023-134, s. 12.13.(b); G.S. 143B-279.13; Eff. July 1, 2025.

15A NCAC 01X .0201 PROJECT ELIGIBILITY

The following PCSW Permit Applications shall be ineligible for express review:

- (1) PCSW Permit Applications submitted by an individual who does not meet the requirements of being an Experienced Consultant, as defined in 15A NCAC 01X .0102(6), familiar with coastal soil performance and stormwater control design standards and specifications in North Carolina.
- (2) Transfers.

- (3) Renewals.
 - (4) Applications for high density projects that propose or modify four or more primary stormwater control measures, as defined in 15A NCAC 02H .1002(37); 15A NCAC 02H .1002 is incorporated by reference, including subsequent amendments, and may be accessed at <http://reports.oah.state.nc.us/ncac.asp> at no charge.
 - (5) Applications for projects that will impact another PCSW Permit, unless Applications for both projects are submitted jointly.
 - (6) Applications for projects that will overlap with another PCSW Permit, unless Applications for both projects are submitted jointly.
 - (7) Applications for projects whose construction or permitting would cause another PCSW Permit to become out of compliance, unless Applications for both projects are submitted jointly.
 - (8) Applications for projects that would require a variation pursuant to 15A NCAC 02H .1003(6) or would modify a project subject to a variation previously granted; 15A NCAC 02H .1003 is incorporated by reference, including subsequent amendments, and may be accessed at <http://reports.oah.state.nc.us/ncac.asp> at no charge.
 - (9) Applications for projects that would require a Director's Certification pursuant to 15A NCAC 02H .1040(7) or would modify a project subject to a Director's Certification previously granted; 15A NCAC 02H .1040 is incorporated by reference, including subsequent amendments, and may be accessed at <http://reports.oah.state.nc.us/ncac.asp> at no charge.
 - (10) Applications for projects that are out of compliance at the time of submission or review, unless approval of the Application would bring the project into compliance. This provision does not allow applicants to apply for renewal of expired PCSW Permits as part of a Request for Express Review.
 - (11) Applications that have been previously returned pursuant to Rule .0203(4) of this Section or 15A NCAC 02H .1042(3)(a)(ii), or denied pursuant to 15A NCAC 02H .0140(5); 15A NCAC 02H .1042 is incorporated by reference, including subsequent amendments, and may be accessed at <http://reports.oah.state.nc.us/ncac.asp> at no charge.
 - (12) Applications for projects that the Department determines to be too complex, unconventional, irregular, or that utilize New Stormwater Technologies approved pursuant to 15A NCAC 02H .1050(15) that have been approved by the Department for less than five years; 15A NCAC 02H .1050 is incorporated by reference, including subsequent amendments, and may be accessed at <http://reports.oah.state.nc.us/ncac.asp> at no charge.
 - (13) Applications for projects that do not provide all submission requirements from Rule .0202 of this Section.
- History Note: Authority S.L. 2023-134, s. 12.13.(b); G.S. 143B-279.13; Eff. July 1, 2025.*
- 15A NCAC 01X .0202 APPLICATION SUBMISSION REQUIREMENTS**
Applications shall include:
- (1) The type of permitting action and the type of PCSW Permit or approval being requested;
 - (2) A list of the number and type of stormwater control measures intended to be utilized in the project;
 - (3) A drainage area map depicting the location of all stormwater control measures within the project;
 - (4) The Supplement form found at <https://www.deq.nc.gov/about/divisions/energy-mineral-and-land-resources/stormwater/stormwater-program/stormwater-design-manual> summarizing compliance with 15A NCAC 02H .1000 requirements; 15A NCAC 02H .1000 is incorporated by reference, including subsequent amendments, and may be accessed at <http://reports.oah.state.nc.us/ncac.asp> at no charge; and
 - (5) State stormwater management permit application materials listed in 15A NCAC 02H .1042(2)(a) through (m).
- History Note: Authority S.L. 2023-134, s. 12.13.(b); G.S. 143B-279.13; G.S. 143-214.7; Eff. July 1, 2025.*
- 15A NCAC 01X .0203 REVIEW OF APPLICATIONS**
The review of a PCSW Permit Application shall proceed as follows:
- (1) Upon granting a Request for Express Review pursuant to Rule .0106(5) of this Subchapter, the Department shall review the Application within ten business days of the Acceptance Date and shall make a determination to:
 - (A) Issue or deny the PCSW Permit pursuant to 15A NCAC 02H .1040;
 - (B) Request additional information pursuant to 15A NCAC 02H .1042(3)(a)(i); or
 - (C) Extend the review deadline upon agreement by both the Department and the applicant.

- (2) When a request for additional information is made by the Department, the applicant shall respond with the requested information within five business days from receipt of the request, beginning the first business day after the request is received. A single, five business day extension may be granted by the Department upon receipt of a justification for the request for extension prior to the expiration of the initial five business day response period.
- (3) Upon receipt of the information in Item (2) of this Rule, the Department shall review the Application and additional information within five business days, starting with the first business day after receipt and shall make a determination in accordance with Item (1) of this Rule.
- (4) No more than two requests for additional information shall be made under this Rule. If additional information, clarification, or revision is required after two requests, or if the Department determines, after granting the Request for Express Review, that the project is ineligible for express review, the Application shall be returned in accordance with the procedures set forth in 15A NCAC 02H .1042(3)(a)(ii) and the applicant shall be required to resubmit the Application to the standard permit review process with a new application fee.

History Note: Authority S.L. 2023-134, s. 12.13.(b); G.S. 143B-279.13; G.S. 143-214.7; Eff. July 1, 2025.

15A NCAC 01X .0301 PROJECT ELIGIBILITY

The following Erosion and Sedimentation Control Plan Applications shall be ineligible for express review:

- (1) ESC Plans submitted by an individual who does not meet the requirements of being an Experienced Consultant, as defined in 15A NCAC 01X .0102(6), who is familiar with soil performance and erosion control design standards and specifications in North Carolina.
- (2) ESC Plans submitted where the financially responsible party, pursuant to 15A NCAC 04B .0118(c), is currently subject to a Notice of Violation issued pursuant to the authority of G.S. 113A, Article 4; 15A NCAC 04B .0118 is incorporated by reference, including subsequent amendments, and may be accessed at <http://reports.oah.state.nc.us/ncac.asp> at no charge.
- (3) ESC Plans submitted for a site that is currently subject to a Notice of Violation issued pursuant to the authority of G.S. 113A, Article 4.
- (4) ESC Plans impacting buffer zones adjacent to Trout Waters, as defined in 15A NCAC 02B .0202(58), unless a Trout Buffer Waiver has

been obtained in advance in accordance with 15A NCAC 04B .0125(c) and G.S. 113A-57(1); 15A NCAC 04B .0125 is incorporated by reference, including subsequent amendments, and may be accessed at <http://reports.oah.state.nc.us/ncac.asp> at no charge;

- (5) ESC Plans with a limit of disturbance greater than 20 acres, except where the Department provides prior approval.
- (6) ESC Plans that propose a site or grading plan that does not comply with G.S. 143-214.7, the rules of Section .1000 of Subchapter 02H, G.S. 113A, Article 7, Part 4, the rules of title 15A of Chapter 07, or G.S. 74-49(7)(f).
- (7) ESC Plans that do not include all submission requirements from Rule .0302 of this Section.

History Note: Authority S.L. 2023-134, s. 12.13.(b); G.S. 143B-279.13; Eff. July 1, 2025.

15A NCAC 01X .0302 APPLICATION SUBMISSION REQUIREMENTS

Applications for ESC Plan reviews shall include:

- (1) All items listed in the Erosion and Sedimentation Control Plan Preliminary Review Checklist found at <https://www.deq.nc.gov/ESCforms> summarizing compliance with G.S. 113A, Article 4 and 15A NCAC 04; 15A NCAC 04 is incorporated by reference, including subsequent amendments, and may be accessed at <http://reports.oah.state.nc.us/ncac.asp> at no charge;
- (2) The authorized statement of financial responsibility and documentation of property ownership, pursuant to 15A NCAC 04B .0118(c);
- (3) A detailed construction sequence for all erosion and sedimentation controls on all permits, plans or certifications necessary for the project;
- (4) Applicable landowner-builder agreements as described in 15A NCAC 04B .0118 and G.S. 113A-54.1(a); and
- (5) If the project is for a single-source borrow pit, all items necessary to meet the requirements of G.S. 74-49(7)(f).

History Note: Authority S.L. 2023-134, s. 12.13.(b); G.S. 143B-279.13; G.S. 113A-54.1; G.S. 113A-57; Eff. July 1, 2025.

15A NCAC 01X .0303 REVIEW OF APPLICATIONS

The review of an ESC Plan Application shall proceed as follows:

- (1) Upon granting a Request for Express Review pursuant to Rule .0106(5) of this Subchapter, the Department shall review the ESC Plan

within five business days of the Acceptance Date and shall make a determination to:

- (A) Request additional information, clarification or revision;
 - (B) Approve the ESC Plan;
 - (C) Approve the ESC Plan with modification;
 - (D) Disapprove the ESC Plan; or
 - (E) Transfer the ESC Plan to the standard ESC Plan review process;
- (2) When a request for additional information, clarification, or revision is made by the Department, the applicant shall respond with the requested information, clarifications, or revisions within five business days from receipt of the request, beginning the first business day after the request is received.
- (3) Upon receipt of the information in Item (2) of this Rule, the Department shall review the ESC Plan and additional information within five business days, starting with the first business day after receipt and shall make a determination in accordance with Item (1) of this Rule.
- (4) No more than one request for additional information, clarification, or revision shall be made under Sub-Item (1)(A) of this Rule. If additional information, clarification, or revision is required after one request, or if the Department determines, after granting the Request for Express Review, that the project is ineligible for express review, the ESC Plan shall either be disapproved or transferred to the standard ESC Plan review process. If transferred, the date of receipt of the Application for purposes of G.S. 113A-54.1 or G.S. 113A-57 shall be the date upon which the transfer occurs.

History Note: Authority S.L. 2023-134, s. 12.13.(b); G.S. 143B-279.13; G.S. 113A-54.1; G.S. 113A-57; Eff. July 1, 2025.

15A NCAC 05C .0101 DEFINITIONS

- (a) "Department" means the North Carolina Department of Environmental Quality in Raleigh, North Carolina.
- (b) "Explorations" means geological, geophysical, and other surveys and investigations, including seismic methods for the discovery and location of oil, gas, or other mineral prospects.
- (c) "Party chief" means the leader of the on-site crew conducting the exploration work for a company that is permitted to conduct such work under this Subchapter.
- (d) "Secretary" means Secretary of the Department of Environmental Quality.
- (e) "Seismic agent" means a North Carolina Department of Environmental Quality representative who shall be responsible for observing and monitoring compliance with the rules and

regulations of the Department and the issued permit for geophysical operations.

- (f) "Seismic explorations" means any geophysical exploration method involving the use of explosives and shall include the seismic vibrator method.
- (g) "Seismic vibrator method" means a vibrator device used as an energy source to generate a controlled acoustic wave train.
- (h) "Shooting component" means one explosive charge.
- (i) "Shot" means the use and detonation of Trinitrotoluene (TNT), powder, dynamite, nitroglycerin, each use of the seismic vibrator method, or other explosives.

History Note: Authority G.S. 113-391; Eff. February 1, 1976; Amended Eff. January 31, 1979; Readopted Eff. August 1, 1982; Amended Eff. April 1, 1990; Readopted Eff. July 1, 2025.

15A NCAC 05C .0103 CORRESPONDENCE

Reports and correspondence by all parties in connection with this Subchapter shall be addressed to "North Carolina Department of Environmental Quality, 1612 Mail Service Center, Raleigh, N.C. 27699-1612" unless parties subject to this Subchapter shall be notified in writing by the Department to direct communications to a specified division or a specified representative of the Department.

History Note: Authority G.S. 113-391; Eff. February 1, 1976; Amended Eff. January 31, 1979; Readopted Eff. August 1, 1982; Amended Eff. April 1, 1990; Readopted Eff. July 1, 2025.

15A NCAC 05C .0104 SITE REGULATION

The Secretary of the Department of Environmental Quality with the advice of the Director of the N.C. Wildlife Resources Commission and representatives of the U.S. Fish and Wildlife Service, shall designate the extent of how much exploration work may be conducted under this Subchapter.

History Note: Authority G.S. 113-391; Eff. February 1, 1976; Amended Eff. January 31, 1979; Readopted Eff. August 1, 1982; Amended Eff. April 1, 1990; Readopted Eff. July 1, 2025.

15A NCAC 05C .0105 PERMIT REQUIRED

A permit from the Department is required for all seismic exploration work in the area to which this Subchapter is applicable. No such seismic work shall be started without a permit and all such work shall be carried out in compliance with all applicable laws, rules, and regulations.

History Note: Authority G.S. 113-391; Eff. February 1, 1976; Readopted Eff. August 1, 1982;

Readopted Eff. July 1, 2025.

15A NCAC 05C .0106 PERMIT APPLICATION

Application for permits for geophysical exploration work shall be filed electronically or in paper form with the Department at least 30 business days before issuance of permits and shall be accompanied by a detailed map showing the exact area in which the geophysical operations are to be conducted, such area to be shown, where possible, by reference to established objects or permanent landmarks. If the applicant is not the owner of the land and owner of the mineral rights to be explored, the applicant shall include the owner's written consent for the applicant to submit an exploration application to conduct exploration activities.

*History Note: Authority G.S. 113-391;
Eff. February 1, 1976;
Readopted Eff. August 1, 1982;
Readopted Eff. July 1, 2025.*

15A NCAC 05C .0107 PERMIT DURATION

Permits are limited to a period of six months from the date of issuance, but may be renewed for not more than two additional 90-day periods at the discretion of the Department. The Department will consider factors including compliance with the original permit; updated environmental impact information, new impacts to public safety and infrastructure, changes to local or regional land use, and renewed bonding and financial assurances. Applications for each renewal shall be submitted electronically or in paper form. Applications can be found on the Department's website at: <https://www.deq.nc.gov/energy-climate/oil-and-gas-program/oil-and-gas-program-forms>. After the expiration of a permit and any renewals thereof, work may continue or be resumed under any new permit issued or application made as provided in Rule .0106 of this Section.

*History Note: Authority G.S. 113-391;
Eff. February 1, 1976;
Readopted Eff. August 1, 1982;
Readopted Eff. July 1, 2025.*

15A NCAC 05C .0108 GEOGRAPHIC LIMITS ON WORK

A seismic exploration shall not be conducted outside of the permitted area.

*History Note: Authority G.S. 113-391;
Eff. February 1, 1976;
Readopted Eff. August 1, 1982;
Readopted Eff. July 1, 2025.*

15A NCAC 05C .0109 SEISMIC AGENTS

Each seismic exploration crew working under a permit issued pursuant to this Subchapter shall always be accompanied by a seismic agent, unless a written exception has been granted by the Department. If a geophysical company employs more than one shooting component or more than one seismic vibration crew, and the operations are at such a distance apart that it is impossible for the seismic agent to travel from one to the other in time to observe the shots of each crew, a seismic agent shall be assigned to each

geophysical crew. The seismic agent shall be physically present for each shot and each use of the seismic vibrator method.

*History Note: Authority G.S. 113-391;
Eff. February 1, 1976;
Readopted Eff. August 1, 1982;
Readopted Eff. July 1, 2025.*

15A NCAC 05C .0110 DAILY REPORT REQUIRED

The permittee shall file a daily report on exploration work with the Department at the end of each working day. A separate report shall be made and filed with the Department for each working day whether or not data acquisition is in progress. The Department may request additional information.

*History Note: Authority G.S. 113-391;
Eff. February 1, 1976;
Readopted Eff. August 1, 1982;
Readopted Eff. July 1, 2025.*

15A NCAC 05C .0111 NOTIFICATION

Permittees shall notify the Department electronically with verifying receipt at least two weeks in advance of the beginning of work, and shall give notice of interruption, and of cessation of work in any area.

*History Note: Authority G.S. 113-391;
Eff. February 1, 1976;
Readopted Eff. August 1, 1982;
Readopted Eff. July 1, 2025.*

15A NCAC 05C .0112 SIZE OF EXPLOSIVE CHARGES

Explosive charges in excess of 50 pounds of Trinitrotoluene (TNT) or its equivalent shall not be used except pursuant to written authorization from the Department. Requests shall be submitted with the permit application to the Department. Requests to use such charges shall be made in writing, giving the reasons why such charges are needed, the size of the charges to be used, and the depth at which they are to be suspended or buried. Should multiple charges be used, the total amount of explosives should not exceed 50 pounds of TNT or its equivalent without permission from the Department.

*History Note: Authority G.S. 113-391;
Eff. February 1, 1976;
Readopted Eff. August 1, 1982;
Readopted Eff. July 1, 2025.*

15A NCAC 05C .0113 PLACING OF CHARGES

The placing of explosive charges on the bottoms of the water at any area covered by a permit issued pursuant to this Subchapter is prohibited. No such charges should be detonated that are less than five feet to the bottom. No undetonated charges shall be left following the work day.

*History Note: Authority G.S. 113-391;
Eff. February 1, 1976;
Readopted Eff. August 1, 1982;
Readopted Eff. July 1, 2025.*

15A NCAC 05C .0115 REMOVAL

All pipe used in geophysical operations shall be removed by the permittee using such pipe to at least six feet below the bottom of the water body and in charted navigable channels, eight feet below charted dredge depth before leaving the location where the pipe is placed.

*History Note: Authority G.S. 113-391;
Eff. February 1, 1976;
Readopted Eff. August 1, 1982;
Readopted Eff. July 1, 2025.*

15A NCAC 05C .0116 IDENTIFICATION

All permittees using pipe shall have stamped at each end of each joint the name or abbreviation of the name of the permittee.

*History Note: Authority G.S. 113-391;
Eff. February 1, 1976;
Readopted Eff. August 1, 1982;
Readopted Eff. July 1, 2025.*

15A NCAC 05C .0117 PIPES AND BUOYS

All pipes, buoys, and other markers used in connection with seismic work shall be flagged in the daytime and lighted at night according to the navigation rules of the U.S. Army Corps of Engineers and the U.S. Coast Guard.

*History Note: Authority G.S. 113-391;
Eff. February 1, 1976;
Readopted Eff. August 1, 1982;
Readopted Eff. July 1, 2025.*

15A NCAC 05C .0118 EXPLOSIVES

No explosives shall be discharged within 1,000 feet of a boat operating in the water without notice being given to such boat so that it may move from the area.

*History Note: Authority G.S. 113-391;
Eff. February 1, 1976;
Readopted Eff. August 1, 1982;
Readopted Eff. July 1, 2025.*

15A NCAC 05C .0119 SHOOTING

- (a) No shot shall be allowed except in daylight hours. Shot is defined in 15A NCAC 05C .0101(i).
- (b) No shot shall be allowed in heavy fog.
- (c) The permittee shall stop gas and water spouts caused by drilling or shooting operations of seismic crews as soon as possible, but no later than 24 hours after the spout is first noticed.

*History Note: Authority G.S. 113-391;
Eff. February 1, 1976;
Readopted Eff. August 1, 1982;
Readopted Eff. July 1, 2025.*

15A NCAC 05C .0120 MINIMUM DEPTHS

- (a) Minimum required depths of explosive charges detonated in holes below the bottom water within the jurisdiction of this State shall be as follows:

- (1) five pounds or less of trinitrotoluene (TNT) or its equivalent; 20 feet below the bottom,
- (2) up to 20 pounds of TNT or its equivalent; 40 feet below the bottom,
- (3) up to 30 pounds of TNT or its equivalent; 50 feet below the bottom,
- (4) up to 40 pounds of TNT or its equivalent; 60 feet below the bottom,
- (5) up to 50 pounds of TNT or its equivalent; 70 feet below the bottom.

(b) Irrespective of the minimum depths specified in Paragraph (a) of this Rule, all operators shall use responsible precautions per 15A NCAC 05C .0126 to ensure charges have been detonated at sufficient depths to prevent the creation of craters.

(c) These minimum required depths shall not apply to trial charges and charges for determining condition of the weathering layer; provided that such charges are not over five pounds and not fired without permission of the seismic agent.

*History Note: Authority G.S. 113-391;
Eff. February 1, 1976;
Readopted Eff. August 1, 1982;
Readopted Eff. July 1, 2025.*

15A NCAC 05C .0121 DETAILED PROVISIONS

- (a) When more than one shot is fired in the same hole, the permittee shall measure the minimum required depths of the hole, as defined in 15A NCAC 05C .0120(a), after every shot is fired.
- (b) All surveying hub stakes used for survey lines shall be stamped with the name of the permittee using the stakes at three-foot intervals.
- (c) All holes drilled in geophysical operations in land areas shall be filled by the permittee before leaving the location.
- (d) No explosives shall be discharged within 300 feet of any oyster reef or bed, including any state-owned natural reefs, or within 300 feet of any dock, pier, causeway, or other structure anchored to the seabed without written permission signed by the owner and lessee of the reef or bed, and approved by the Department.
- (e) Boats, marsh buggies, or other types of marsh vehicles shall be used to cause minimum disturbance to lands, waterbottoms, wildlife, and fisheries thereon.

*History Note: Authority G.S. 113-391;
Eff. February 1, 1976;
Readopted Eff. August 1, 1982;
Readopted Eff. July 1, 2025.*

15A NCAC 05C .0123 POWERS OF SEISMIC AGENTS

The seismic agent has the authority to stop any particular shooting if it will violate the rules in this Subchapter, but does not have the authority to shut down the entire exploration work allowed by the associated permit. If the rules in this Subchapter continue to be violated, the seismic agent shall contact the Department within 24 hours.

*History Note: Authority G.S. 113-391;
Eff. February 1, 1976;
Readopted Eff. August 1, 1982;*

Readopted Eff. July 1, 2025.

15A NCAC 05C .0124 DUTIES OF PARTY CHIEF

- (a) The party chief shall provide the Department's representative or his or her agent with transportation facilities for inspection of the working area, if required.
- (b) The party chief is required to notify the Department if the seismic agent is not on the working area. The Department shall arrange relief for the seismic agent, if necessary.

*History Note: Authority G.S. 113-391;
Eff. February 1, 1976;
Readopted Eff. August 1, 1982;
Readopted Eff. July 1, 2025.*

15A NCAC 05C .0125 RELEASE FROM THESE REGULATIONS

No seismic agent shall have the authority to release any operator from the obligations imposed by this Subchapter. Permittees may request an exception to these Rules in writing by setting forth reasons for the request. Exceptions may be granted by the Department and shall designate the particular area and rule affected and the procedure to be followed in lieu of the established rule. Exceptions may be granted based on the circumstances provided by the Permittee for the requested change, the significance of the rule to the given project, and the availability and viability of an alternative procedure presented by the Permittee in lieu of the established rule.

*History Note: Authority G.S. 113-391;
Eff. February 1, 1976;
Readopted Eff. August 1, 1982;
Readopted Eff. July 1, 2025.*

15A NCAC 05C .0126 DUTIES OF OPERATORS

All permittees conducting seismic operations shall use precaution in accordance with approved and accepted methods to prevent destruction of, or injury to, fish, oysters, shrimp, and other aquatic life, wildlife, or other natural resources.

*History Note: Authority G.S. 113-391;
Eff. February 1, 1976;
Readopted Eff. August 1, 1982;
Readopted Eff. July 1, 2025.*

15A NCAC 07H .0314 INSTALLATION AND MAINTENANCE OF WHEAT STRAW BALES FOR SAND FENCING IN OCEAN HAZARD AREAS

- (a) Wheat straw bales, for the purposes of building and protecting dunes by trapping windblown sand, shall only be installed by a local, state, or federal government or a local homeowners association, as defined in G.S. 47F-1-103(3) that has the authority to approve the locations of structures on lots within the territorial jurisdiction of the association and has jurisdiction over at least one mile of ocean shoreline.
- (b) Wheat straw bales shall not impede existing public access to the beach, recreational use of the beach, or

emergency vehicle access. Wheat straw bales shall not be installed in a manner that impedes or restricts established common law and statutory rights of public access and use of public trust lands and waters.

(c) Wheat straw bales shall not be installed in a manner that impedes, traps, or otherwise endangers sea turtles, sea turtle nests, or sea turtle hatchlings. CAMA permit applications for wheat straw bales shall be subject to review by the Wildlife Resources Commission and the U.S. Fish and Wildlife Service in order to determine whether the proposed design or installation will have an adverse impact on sea turtles or other threatened or endangered species.

(d) The permittee shall remove any ties or binding from wheat straw bales during installation.

(e) Wheat straw bales shall be placed as far landward as possible to avoid interference with sea turtle nesting, public access, recreational use of the beach, and emergency vehicle access. Additionally:

- (1) Wheat straw bales shall not be placed on the wet sand beach;
- (2) Wheat straw bale sections shall not exceed 2 feet in width, 3 feet in height as measured from the bottom bale, and 10 feet in length;
- (3) Wheat straw bales installed on or waterward of the crest of the frontal or primary dune shall be installed at an angle no less than 45 degrees to the shoreline. No portion of a wheat straw bale section shall extend more than 10 feet waterward of the following locations as defined in 15A NCAC 07H .0305: the first line of stable and natural vegetation, the toe of the frontal or primary dune, or the erosion escarpment of the frontal or primary dune;
- (4) Wheat straw bales along public accessways may span the length of the structural accessway and shall be aligned no less than 45 degrees to the shoreline on the waterward end. The waterward location of the sections shall not exceed 10 feet waterward of the locations identified in Subparagraph (3) of this Paragraph; and
- (5) A minimum of seven feet of spacing shall be maintained between any part of the installed wheat straw bales or other dune building materials such as wooden sand fencing.

(f) Any non-functioning, damaged, or displaced wheat straw bales or stakes used to anchor the bales shall be repaired or removed by the permittee.

*History Note: Authority G.S. 113A-107; 113A-113(b)(6); 113A-126;
Eff. Pending Legislative Review.*

TITLE 17 - DEPARTMENT OF REVENUE

17 NCAC 04B .0603 INDEPENDENT BOOKKEEPING
17 NCAC 04B .0604 CPA'S: NOT A REGULATORY
LICENSE
17 NCAC 04B .0605 DRAFTSMAN
17 NCAC 04B .0606 GRAVE PLOTS

History Note: Authority G.S. 105-41; 105-262; S.L. 2023-134 s. 42.7(a);
Eff. February 1, 1976;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 22, 2018;
Repealed Eff. July 1, 2025.

17 NCAC 04B .0609 OPTICIAN
17 NCAC 04B .0610 PHYSICAL THERAPIST
17 NCAC 04B .0611 PRACTICING PHYSICIANS
17 NCAC 04B .0612 GOVERNMENT ATTORNEYS-AT-LAW AND OTHER PROFESSIONALS EXEMPT FROM PRIVILEGE LICENSE TAX

History Note: Authority G.S. 105-41; 105-262; S.L. 2023-134 s. 42.7(a);
Eff. February 1, 1976;
Amended Eff. March 14, 1980; June 11, 1977;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 22, 2018;
Readopted Eff. January 1, 2021;
Repealed Eff. July 1, 2025.

17 NCAC 04B .0614 PSYCHOLOGIST

History Note: Authority G.S. 105-41; 105-262; S.L. 2023-134 s. 42.7(a);
Eff. February 1, 1976;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 22, 2018;
Repealed Eff. July 1, 2025.

TITLE 21 - OCCUPATIONAL LICENSING BOARDS AND COMMISSIONS

CHAPTER 10 - CHIROPRACTIC EXAMINERS

21 NCAC 10 .0204 LICENSURE; RENEWAL OF LICENSE

- (a) Initial Licensure. The initial license awarded to an applicant who passed the examination shall be mailed to the address appearing on the application form.
- (b) Change of Contact Information. The licentiate shall inform the Board of any change in his or her contact information. Updated contact information shall be forwarded to the Board office email at ncboce@ncchiroboard.com within 30 days after any such change.
- (c) General. The renewal, inactivation, and restoration of a license are governed by G.S. 90-155 and this Rule. A current license that is not renewed shall be placed on inactive status on January 30th of the following year. A licentiate desiring license renewal shall submit to the Board, on or before the date of

inactivation, a completed license renewal form accompanied by the renewal fee as provided in Paragraph (i) of this Rule. The renewal fee shall only be paid through the Board's website, www.ncchiroboard.com.

(d) License Renewal Notification and Form. On or before December 1 of each year, the Board shall email to each licentiate, at the licentiate's current email address on file with the Board, license renewal instructions. The license renewal form with instructions shall also be available at the Board's website, www.ncchiroboard.com, or upon request at the Board's office. A licentiate desiring license renewal shall note on the form changes in name, address, specialty, employment circumstances, and criminal convictions since the last renewal form was submitted to the Board. The licentiate shall also note on the form any professional development continuing education for which the licentiate seeks credit pursuant to Rule .0210(d) of this Chapter.

(e) Continuing Education. As used in G.S. 90-155, one "day" of continuing education shall mean nine hours. Except as provided in Paragraphs (f), (g) and (h) of this Rule, a licentiate seeking license renewal shall obtain 18 hours (2 days) of Board-approved continuing education each calendar year. At least 10 hours shall be obtained by attending in-person or live on-line educational sessions. Live online hours include the opportunity to interact with the instructor in real-time. As many as eight hours may be obtained in the manner set forth in Rule .0210 of this Section. The Board shall not award credit for any continuing education hours until the sponsor or licentiate submits to the Board the sponsor's certificate of attendance or course completion.

(f) First-Year Continuing Education Exemptions. A licentiate who was enrolled in chiropractic college at any time during the year of initial licensure or a licentiate initially licensed after September 1st of the current year shall be permitted to renew his or her license for the ensuing year without obtaining continuing education but shall be required to submit a license renewal form and pay the renewal fee. In subsequent years, a licentiate shall not be permitted to renew his or her license until the continuing education requirements set forth in Paragraph (e) of this Rule are satisfied.

(g) Hardship Waivers. A licentiate seeking a hardship waiver of the continuing education requirement shall make written application to the Board no later than December 15th of the current year explaining the nature and circumstances of the hardship. Upon the applicant's showing that compliance with the continuing education requirement poses an undue hardship, the Board shall waive the requirement in whole or part or grant an extension of time within which to comply. "Undue hardship" shall include protracted medical illness, natural disaster, or extended absence from the United States.

(h) Military Hardship. A licentiate who is serving in the Armed Forces of the United States and to whom G.S. 93B-15(a) grants an extension of time to pay a renewal fee shall also be granted an identical extension of time to complete the continuing education required for license renewal.

(i) Renewal Fee. A renewal fee in the maximum amount allowed by G.S. 90-155 shall be paid by each licentiate applying for renewal.

(j) Restoration of Inactive License. Evidence of Proficiency. In order to provide evidence of proficiency, a former licentiate whose license has been inactive for 180 or fewer days due to non-

compliance with G.S. 90-155 shall be re-examined and shall pay the non-refundable application fee prescribed in Rule .0202(d) of this Section and shall demonstrate compliance with continuing education requirements. A former licentiate whose license has been inactive for more than 180 days shall comply with Rule .0203(f) of this Section in addition to this Paragraph. Payment of the application fee shall not constitute payment of the reinstatement fee of twenty-five dollars (\$25.00) mandated by G.S. 90-155.

History Note: Authority G.S. 90-142; 90-145; 90-155; 90-148; 93B-15;
Eff. February 1, 1976;
Readopted Eff. January 27, 1978;
Amended Eff. January 1, 1983;
Legislative Objection Lodged Eff. January 31, 1983;
Curative Amended Eff. February 28, 1983;
Amended Eff. July 1, 2014; December 1, 1988;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 27, 2019;
Amended Eff. July 1, 2025; January 1, 2024; January 1, 2022;
January 1, 2020.

CHAPTER 29 - LOCKSMITH LICENSING BOARD

21 NCAC 29 .0404 FEES

The license issuance fee shall be three hundred dollars (\$300.00). The license issuance fee shall accompany the application for licensure. Replacement licenses shall be available upon written request and the fee for issuance of a replacement license shall be ten dollars (\$10.00).

History Note: Authority G.S. 74F-6; 74F-7; 74F-9; 74F-10;
Temporary Adoption Eff. October 17, 2002;
Eff. August 1, 2004;
Readopted Eff. June 1, 2017;
Amended Eff. July 1, 2025; January 1, 2019.

21 NCAC 29 .0702 DUE DATE

- (a) Applications for license renewal shall be submitted prior to the date of license expiration.
- (b) Licensees who submit their applications for renewal after the date on which the license expires, but within twelve months, thereafter shall pay a late fee of three hundred dollars (\$300.00), in addition to the license renewal fee of three hundred dollars (\$300.00). Licensees who apply to reinstate their license more than twelve months after the date on which the license expires shall pay a reinstatement fee of two hundred fifty dollars (\$250.00), in addition to the late fee of three hundred dollars (\$300.00) and the license renewal fee of three hundred dollars (\$300.00).
- (c) The Board shall deem applications submitted on the date of their postmark or upon receipt by staff at the Board's offices, whichever is earlier.

History Note: Authority G.S. 74F-6; 74F-9; 74F-10;
Eff. July 1, 2005;

Amended Eff. January 1, 2013;
Readopted Eff. July 1, 2025; June 1, 2017.

21 NCAC 29 .0703 REINSTATEMENT OF EXPIRED LICENSE

Licenses that have been expired for more than one year are eligible for reinstatement pursuant to Rule .0701 of this Section. A licensee with an expired license may apply for reinstatement only if he or she has completed at least eight contact hours of continuing education within one year preceding the application.

History Note: Authority G.S. 74F-6; 74F-9; 74F-10;
Eff. July 1, 2005;
Readopted Eff. June 1, 2017;
Amended Eff. July 1, 2025.

TITLE 24 - INDEPENDENT AGENCIES

24 NCAC 02D .0101 PURPOSE

This Chapter describes the operating procedures for the Large Animal Healthcare Enhancement Advisory Committee and the North Carolina Agricultural Finance Authority implementing the Large Animal Healthcare Enhancement Fund for the enhancement of large animal veterinary services in North Carolina. Procedures and requirements for participating applicants are also established. The purpose of the program is to provide grants to encourage veterinary practitioners to sustainably serve as large or mixed animal veterinarians in underserved areas in the state of North Carolina, and to provide additional resources for large or mixed animal veterinary practices that operate in underserved areas to help them to better serve their communities.

History Note: Authority G.S. 106-1074; S.L. 2023-134, s. 10.1(c);
Eff. July 1, 2025.

24 NCAC 02D .0102 DEFINITIONS

In addition to the terms defined in Article 88 of Chapter 106 of the North Carolina General Statutes, the following terms used in this Chapter have the following meanings:

- (1) "Applicant" means a large animal veterinarian as defined in Article 88 of Chapter 106 of the North Carolina General Statutes who applies for funds from the Large Animal Healthcare Enhancement Fund.
- (2) "Application" means the "Large Animal Healthcare Enhancement Fund Application Form" detailed in Rule .0103(c) of this Section, developed and made available by the Large Animal Healthcare Enhancement Advisory Committee, including, but not limited to, any attachments and other information or documentation required by the form, for an applicant to complete and submit to the advisory committee to request a grant from the fund.

- (3) "Chair" or "Commissioner" means the chair of the advisory committee who is also the Commissioner of Agriculture.
- (4) "Grant" means an amount of money designated by the advisory committee to be given to a qualified applicant who has been chosen by the advisory committee.
- (5) "Financial records" means documentation that provides evidence or a summary of business transactions, which may include invoices, receipts, and general monetary ledgers.
- (6) "Grant recipient" means a qualified applicant who has received a grant.
- (7) "Large animal" means any of the animals referenced in Article 88 of Chapter 106 of the North Carolina General Statutes.
- (8) "Qualified applicant" means a large animal veterinarian who meets the criteria described in this Rule and in Article 88 of Chapter 106 of the North Carolina General Statutes.

History Note: Authority G.S. 106-1074; S.L. 2023-134, s. 10.1(c);
Eff. July 1, 2025.

24 NCAC 02D .0103 EVALUATION OF APPLICATIONS

(a) Applicants for funding from the fund shall submit a completed application within 60 days from the date of the public announcement of requests for proposals (the "application deadline").

(b) Applications and instructions shall be available online at www.ncagr.gov.

(c) To be eligible for consideration for funding, applicants shall complete the application, which shall be titled the "Large Animal Healthcare Enhancement Fund Application Form," and which shall contain the following information:

- (1) identifying information such as location, business name, and contact information;
- (2) statement from the applicant that acknowledges and agrees that in the event that the applicant's veterinary license expires, is revoked, or is suspended during the fiscal year in which the grant is awarded, or if the applicant fails to practice at least 30% large animal veterinary medicine in the designated counties named in the applicant's application, the applicant shall repay the entire amount received from the fund;
- (3) statement from the applicant that the applicant shall have no conflicting service obligation that would prevent the State from benefitting from the applicant's services, with the exception of service in the National Guard or military reserve;
- (4) an essay which describes the applicant's professional ambition and how those professional goals fit with the intent of the fund, which shall be submitted in a format using an eight hundred word maximum, typed in 12-

point Times New Roman font, and double spaced;

(5) three personal or professional references listing the individual's name, telephone number, and email address; and

(6) certification that the applicant currently practices a minimum of 30% large animal veterinary medicine in at least one designated county.

(d) Each completed application shall be evaluated by the advisory committee staff based on the information provided in the application and in accordance with the fund criteria described in this rule and in Article 88 of Chapter 106 of the North Carolina General Statutes.

(e) The staff shall review all applications for completeness. If staff deems an application incomplete in that it does not contain information required by statute or these rules, the applicant shall be asked by the authority staff to complete the application within seven days if the application deadline has expired.

(f) After the staff has reviewed each application for completeness, the advisory committee shall then review the applications prepared by each applicant.

(g) All applicants shall meet the following criteria for grant eligibility:

- (1) the applicant must practice veterinary medicine in at least one of the approved counties pursuant to G.S. 106-1077;
- (2) the applicant must be a currently licensed veterinarian in the state of North Carolina; and
- (3) the applicant shall be practicing at least thirty percent cumulatively of their veterinary operation within the field of large animal care.

(h) Grants shall be awarded contingent on the availability of sufficient funds to do so. Grants shall be conveyed to grant recipient(s) through contracts with the North Carolina Agricultural Finance Authority. If the advisory committee determines that grants are not being used for the purpose for which they were awarded, the fund shall immediately cease making payments under the grant schedule and shall demand return of all amounts from the grant pursuant to G.S. 106-1079. Grant recipient(s) must reimburse the fund all funds that the advisory committee determines to have been spent in violation of G.S. 106-1079(e).

History Note: Authority G.S. 106-1074; S.L. 2023-134, s. 10.1(c);
Eff. July 1, 2025.

24 NCAC 02D .0104 GRANT AGREEMENT

(a) The advisory committee shall approve applications based on the criteria set forth by Article 88 of Chapter 106 of the North Carolina General Statutes. Once approved by the committee, a written agreement shall be executed between the grant recipient(s) and the North Carolina Agricultural Finance Authority.

(b) The agreement shall define the North Carolina Agricultural Finance Authority's and grant recipient's responsibilities and obligations, the project period, project scope, and the amount of grant assistance.

(c) The approved application and any support documentation submitted by the applicant shall become a part of the grant agreement.

(d) The grant agreement may be amended upon mutual consent and approval by the North Carolina Agricultural Finance Authority and the grant recipient(s). The grant recipient(s) shall submit a written request for amendment to the North Carolina Agricultural Finance Authority. Any amendment for consideration must adhere to the eligibility requirements set forth by Article 88 of Chapter 106 of the North Carolina General Statutes.

(e) Grant payments shall be made only for activities within the grant contract period and projects may not begin until the North Carolina Agricultural Finance Authority and grant recipient(s) sign the agreement.

(f) The grant agreement shall include a requirement that the grant recipient(s) understands, acknowledges, and agrees that in the event that the grant recipient(s)' veterinary license expires, is revoked, or is suspended during the fiscal year in which the grant is awarded, or the grant recipient(s) fails to practice a minimum of 30% large animal veterinary medicine in at least one designated county named in the grant recipient(s)' application, the grant recipient(s) shall repay the entire amount received from the Fund.

History Note: Authority G.S. 106-1074; S.L. 2023-134, s. 10.1(c); Eff. July 1, 2025.

24 NCAC 02D .0105 REPORTING

(a) Grant recipients shall submit to the North Carolina Agricultural Finance Authority a written progress report within 180 days of receipt of the grant.

(b) Written reports shall describe the status of the project, progress toward achieving program objectives, notable occurrences, any problems encountered, and steps taken to overcome the problems, and a statement of affirmation that supports the following:

- (1) the grant recipient's veterinary license has not expired, been revoked, or been suspended, and
- (2) the grant recipient(s) is currently practicing a minimum of 30% large animal veterinary medicine across their cumulative practice in at least one designated county named in the grant recipient(s)' application.

(c) Upon completion of the project, the grant recipient shall make a final written report to the North Carolina Agricultural Finance Authority that shall include project accomplishments and benefits, all expenditures by line item as established in the application, and a statement of affirmation that supports the following:

- (1) the grant recipient's veterinary license has not expired, been revoked, or been suspended, and

- (2) the grant recipient(s) practiced a minimum of 30% large animal veterinary medicine across their cumulative practice in at least one designated county named in the grant recipient(s)' application.

(d) The North Carolina Agricultural Finance Authority shall review the progress reports for completeness, which shall include a showing of how the project is meeting its stated goals and performance standards. If the North Carolina Agricultural Finance Authority finds that the report is deficient in showing how the project is meeting its stated goals and performance standards, the grant recipient(s) shall be notified of the deficiency and shall provide a changed and corrected report within 30 business days. A corrected or changed report shall be submitted to the North Carolina Agricultural Finance Authority within 30 business days.

(e) All grant funds shall be spent within 180 days of receipt by the grant recipient. If grant funds are not spent by the grant recipient by the end of this 180-day period, the grant funds shall be returned to the North Carolina Agricultural Finance Authority.

(f) Grant recipient(s) shall submit monitoring reports annually to the North Carolina Agricultural Finance Authority by email at largeanimalvetgrants@ncagr.gov, as well as mailed to or hand delivered to 1101 Spring Forest Road, Suite 150, Raleigh, North Carolina 27615. The monitoring reports shall include all the reporting requirements set forth in Paragraph (b) of this Rule.

History Note: Authority G.S. 106-1074; S.L. 2023-134, s. 10.1(c); Eff. July 1, 2025.

24 NCAC 02D .0106 RECORDS

Grant recipients shall keep financial records, as defined in Rule .0102 of this Section, of the project for a period of five years, following completion of the project, or until audited. The records shall be made available to the Commissioner and the North Carolina Agricultural Finance Authority upon request. The North Carolina Agricultural Finance Authority shall maintain and dispose of paper and electronic records in accordance with the approved Functional Schedule for North Carolina State Agencies, Program Record Retention and Disposition Schedule and Electronic Records and Imaging Policy, incorporated by reference with subsequent editions and amendments. The policy can be accessed free of charge at <https://archives.ncdcr.gov/documents/functional-schedule-state-agencies>.

History Note: Authority G.S. 106-1074; S.L. 2023-134, s. 10.1(c); Eff. July 1, 2025.

This Section contains information for the meeting of the Rules Review Commission June 26, 2025, 2025 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)
John Hahn
Jeff Hyde
Brandon Leebrick
Bill Nelson

Appointed by House

Jake Parker (1st Vice-Chair)
Paul Powell (2nd Vice-Chair)
Wayne R. Boyles, III
Christopher Loutit
Randy Overton

COMMISSION COUNSEL

William W. Peaslee	984-236-1939
Seth M. Ascher	984-236-1934
Travis Wiggs	984-236-1929

RULES REVIEW COMMISSION MEETING DATES

August 28, 2025	October 30, 2025
September 25, 2025	November 20, 2025

RULES REVIEW COMMISSION MEETING**MINUTES****June 26, 2025**

The Rules Review Commission met on Thursday, June 26, 2025, in the Commission Room at 1711 New Hope Church Road, Raleigh, North Carolina, and the meeting was streamed for the public via Webex.

Commissioners Wayne R. Boyles III, Jeanette Doran, John S. Hahn, Jeff Hyde, Chris Loutit, Randy Overton, Bill Nelson, Jake Parker, and Paul Powell were present in the Commission Room.

Staff member Alexander Burgos, Commission Counsel Seth Ascher, Bill Peaslee, and Travis Wiggs were present in the room.

The meeting was called to order at 10:06 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 Chairman notified the Commissioners that the following item on the agenda would be taken up out of order at the end of the agenda: Permanent Rules from the Department of Labor, Private Protective Services Board, Environmental Management Commission, and the Commission for Public Health.

APPROVAL OF MINUTES

The Chair asked for any discussion, comments, or corrections concerning the minutes from the May 29, 2025 meeting. There were none, and the minutes were unanimously approved as distributed.

FOLLOW-UP MATTERS**Gasoline and Oil Inspection Board**

The Commission unanimously voted to further extend the period of review for 02 NCAC 42 .0201 until the July 30, 2025 meeting. No action was required by the Commission.

LOG OF FILINGS (PERMANENT RULES)**Child Care Commission**

10A NCAC 09 .0102, .2902, .2905, .3002, .3009, .3010, .3201, .3202, .3203, .3204, .3205, .3206, .3207, .3208, .3209, .3210, .3211, .3212, .3213, .3214, .3215, .3216, .3217, .3218, .3219, .3220, .3221, .3222, .3223, .3224, .3225, and 3226 were unanimously approved.

Sheriffs' Education and Training Standards Commission

12 NCAC 10B .0406, .0411, and .0505 were unanimously approved.

Department of Labor

The Commission unanimously voted to extend the period of review for 13 NCAC 07F .0201 until July 30, 2025, meeting. Barbara Jackson, the interim rulemaking coordinator with the agency, addressed the Commission.

Private Protective Services Board

The Commission unanimously voted to extend the period of review for 14B NCAC 16 .0701, .0707, .0801, .1203, .1301, .1307, .1401, .1501, and .1502 until the July 30, 2025 meeting.

The Commission voted to waive the deadline for Rule 26 NCAC 05 .0105 to allow the agency the opportunity to address the RRC on the permanent rules before the Commission.

Jeff Gray, the rulemaking coordinator and general counsel for the agency, addressed the Commission.

Department of Environmental Quality

15A NCAC 01X .0101, .0102, .0103, .0104, .0105, .0106, .0201, .0202, .0203, .0301, .0302, and .0303 were unanimously approved.

The Chair called the meeting into a brief recess at 10:54 a.m. The meeting came out of recess at 11:01 a.m.

Environmental Management Commission

The Commission unanimously voted to object to 15A NCAC 02B .0733 for failing to meet the standards in G.S. 150B-21.9(a)(1), (3), and (4) by adopting the staff opinion dated June 20, 2025.

Elly Young, with the Department of Justice and representing the agency, addressed the Commission.

Oil and Gas Commission

15A NCAC 05C .0101, .0103, .0104, .0105, .0106, .0107, .0108, .0109, .0110, .0111, .0112, .0113, .0115, .0116, .0117, .0118, .0119, .0120, .0121, .0123, .0124, .0125, and .0126 were unanimously approved.

Coastal Resources Commission

15A NCAC 07H .0314 was unanimously approved.

In accordance with G.S. 150B-21.3(b2), the Commission received over ten letters of objection requesting legislative review and a delayed effective date for 15A NCAC 07H .0314.

Commission for Public Health

The Commission voted to object to 15A NCAC 18C .1540, finding that the rule did not satisfy G.S. 150B-21.9(a). Specifically, the Commission adopted the opinion of staff dated June 19, 2025. Commissioner Powell voted against.

Bethany Burgon, with the Department of Justice and representing the agency, addressed the Commission.

Department of Revenue

17 NCAC 04B .0603, .0604, .0605, .0606, .0609, .0610, .0611, .0612, and .0614 were unanimously approved.

Board of Chiropractic Examiners

21 NCAC 10 .0204 was unanimously approved.

Locksmith Licensing Board

21 NCAC 29 .0404, .0702, and .0703 were unanimously approved.

Agricultural Finance Authority

Prior to the review of the rules from the Agricultural Finance Authority, Commissioner Parker recused himself and did not participate in any discussion or vote concerning the rules because of a potential conflict of interest.

24 NCAC 02D .0101, .0102, .0103, .0104, .0105, and .0106 were approved.

LOG OF FILINGS (TEMPORARY RULES)**Wildlife Resources Commission**

15A NCAC 10C .0325 and 10D .0260 were unanimously approved.

EXISTING RULES REVIEW**Department of Commerce**

04 NCAC 19L – The Commission unanimously approved the report as submitted by the agency.

HHS - Division of Health Benefits

10A NCAC 21, 22 – The Commission unanimously approved the report as submitted by the agency.

Sheriffs' Education and Training Standards Commission

12 NCAC 10 – The Commission unanimously approved the report as submitted by the agency.

Alcoholic Beverage Control Commission

14B NCAC 15A – The Commission unanimously approved the report as submitted by the agency.

Coastal Resources Commission

15A NCAC 07B - The Commission unanimously approved the report as submitted by the agency.

Cemetery Commission

21 NCAC 07 - The Commission unanimously approved the report as submitted by the agency.

Board of Examiners of Plumbing, Heating and Fire Sprinkler Contractors

21 NCAC 50 - The Commission unanimously approved the report as submitted by the agency.

Respiratory Care Board

21 NCAC 61 - The Commission unanimously approved the report as submitted by the agency.

Board of Agriculture

02 NCAC 09,38,43,51,52 - As reflected in the attached letter, the Commission voted to schedule the readoption of these Rules no later than March 1, 2028 pursuant to G.S. 150B-21.3A(d)(2).

Commissioner of Agriculture and Consumer Services

02 NCAC 52K - As reflected in the attached letter, the Commission voted to schedule the readoption of these Rules no later than September 1, 2027 pursuant to G.S. 150B-21.3A(d)(2).

Department of Insurance

11 NCAC 18, 20, 21 – As reflected in the attached letter, the Commission voted to schedule the readoption of these Rules no later than June 1, 2027 pursuant to G.S. 150B-21.3A(d)(2).

Environmental Management Commission

15A NCAC 02S - As reflected in the attached letter, the Commission voted to schedule the readoption of these Rules no later than August 1, 2027 pursuant to G.S. 150B-21.3A(d)(2).

Board of Chiropractic Examiners

21 NCAC 10 – As reflected in the attached letter, the Commission voted to schedule the readoption of these Rules no later than June 1, 2027 pursuant to G.S. 150B-21.3A(d)(2).

Board of Barber and Electrolysis Examiners

21 NCAC 06 – As reflected in the attached letter, the Commission voted to schedule the readoption of these Rules no later than February 1, 2028 pursuant to G.S. 150B-21.3A(d)(2).

Board of Cosmetic Art Examiners

21 NCAC 14 – As reflected in the attached letter, the Commission voted to schedule the readoption of these Rules no later than August 1, 2027 pursuant to G.S. 150B-21.3A(d)(2).

Board of Environmental Health Specialist Examiners

21 NCAC 62 – As reflected in the attached letter, the Commission voted to schedule the readoption of these Rules no later than June 1, 2027 pursuant to G.S. 150B-21.3A(d)(2).

COMMISSION BUSINESS**Request to modify 2024-2027 Existing Rules Review Schedule: Secretary of State**

18 NCAC 01, 04, 13 – The agency requested early review of these reports, and that they be reviewed immediately. The Commission adopted the staff opinion dated June 24, 2025. Specifically, the Commission waived the timing requirements of 26 NCAC 05 .0205, granted the request for early review, reviewed the reports, and approved the reports as submitted by the agency.

The meeting adjourned at 11:45 a.m.

The next regularly scheduled meeting of the Commission is Wednesday, July 30, 2025, at 10:00 a.m.

Alexander Burgos, Paralegal

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

June 26, 2025

Rules Review Commission
Meeting
Please **Print** Legibly

Name	Agency
Kimberly Mallady	NC DLDEF
Elly Young	NC DOJ
Julie Peck	NC DCDEF
Cheryl Jamson	NC PCDEF
Sarah Tallett	NC DOJ
Emily Wiley	NC DOT
Douglas Ansel	NC DEQ
Martin Tipton	NC DOJ
Jonathan Pinyan	NC DOT
Sarah Zambon	NC DOJ
Jennifer Everett	DEQ
Judy M. M. M.	PPSIS; DPS
Heather S. P.	NC DOJ
Alison Keisler	NC DCDEF
ANN ELMORE	SOS
Rebecca Sadosky	
Alyssa Wright	NC DEQ
Helen Landi	DTT/HMB
Glenn Fane	NC DOJ
Joy Strickland	NC DOJ
Ann Hayworth	NC DA
Alisha Benjamin	NC DOT

RULES REVIEW COMMISSION

June 26, 2025

Rules Review Commission
Meeting
Please Print Legibly

[illegible]

Rules Review Commission Meeting June 26, 2025

Via WebEx

Name	Agency
Jennifer Fickler	DEQ
Tamika Jenkins	DHHS
Will Casola	WRC
William Casola	WRC
McGhee, Dana	IC
Brian Liebman	OAH
Funderburk, Amy	DOI
Christenbury, Mike	DEQ
Sophie Plott	Labor
Wall, Ann B	SOSNC
James Chapman	DEQ
Jessica Montie	DEQ
Christopher Ventaloro	DEQ
Huisman, John	DEQ
John Huisman	DEQ
Julie Ventaloro	OSBM
Willis, Angela	DEQ
Rachel Love-Adrick	DEQ
Todd, Mackenzie L	DEQ
Jonathan Howell	DEQ
Valerie Fegans	Commerce
Toni Moore	Commerce
Harper Buskirk	Commerce
Dennis Seavers	Barber Board
Catherine Blum	DEQ
Julie Youngman	SELC
Liz Rasheed	SELC
Alexandra Bott	
Julian Steinmeyer	DOJ
Stephanie Schweickert	ncconservationnetwork.org
Renee Metz	ABC
Donna Coffey	DHHS
Hope Ascher	
Bill Croft	NCRCB
Jaden Henderson	DOJ
Shazia Keller	DHHS
Rhonda Rivers	leafspringcharlotte.com
R Pendergraft	DPJ
Wilson Mize	DHHS
Jack Kelly	DEQ
Grant Simpkins	hedrickgardner.com

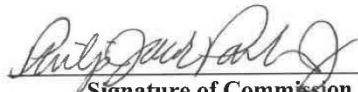
MEMORANDUM OF ABSTENTION FROM
PARTICIPATION IN OFFICIAL ACTION
RULES REVIEW COMMISSION

In accordance with N.C. General Statute G.S. 138A-15(e), I have abstained from taking any verbal or written action, including voting, on the agenda item regarding

Agricultural Finance Authority (Item 13)

I have abstained because of a potential conflict of interest

This the 26th day of June, 2022.



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.



**STATE OF NORTH CAROLINA
OFFICE OF ADMINISTRATIVE HEARINGS**

June 26, 2025

Anna Hayworth

Sent via email to: Anna.Hayworth@ncagr.gov

Re: Readoption deadline for 02 NCAC 09, 38, 43, 51, 52

Dear Ms. Hayworth:

Attached to this letter is a list of rules subject to readoption pursuant to the periodic review and expiration of existing rules as set forth in G.S. 150B-21.3A. After consultation with your agency, the Rules Review Commission established a readoption date for these rules at the Rules Review Commission meeting on June 26, 2025.

Pursuant to G.S. 150B-21.3A(d)(2), the rules listed in the attachment shall be readopted by the agency no later than **March 1, 2028**.

If you have any questions regarding the Commission's actions, please let me know.

Sincerely,

/s/ Travis Wiggs
Travis Wiggs
Commission Counsel

Donald Robert van der Vaart, Director
Chief Administrative Law Judge

John C. Evans
Senior Administrative Law Judge

An Equal Employment Opportunity Employer
1711 New Hope Church Road, Raleigh, NC 27609
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www.oah.nc.gov

RRC DETERMINATION
PERIODIC RULE REVIEW
January 30, 2025
APO Review: April 02, 2025
Agriculture, Board of
Total: 149

RRC Determination: Necessary

02 NCAC 09B .0116	02 NCAC 09E .0109	02 NCAC 09K .0112	02 NCAC 38 .0502
02 NCAC 09B .0133	02 NCAC 09E .0110	02 NCAC 09K .0113	02 NCAC 38 .0504
02 NCAC 09B .0134	02 NCAC 09E .0111	02 NCAC 09K .0114	02 NCAC 38 .0505
02 NCAC 09B .0135	02 NCAC 09E .0113	02 NCAC 09K .0201	02 NCAC 38 .0507
02 NCAC 09C .0301	02 NCAC 09E .0115	02 NCAC 09K .0202	02 NCAC 38 .0508
02 NCAC 09C .0302	02 NCAC 09E .0116	02 NCAC 09K .0203	02 NCAC 38 .0601
02 NCAC 09C .0303	02 NCAC 09F .0101	02 NCAC 09K .0204	02 NCAC 38 .0603
02 NCAC 09C .0304	02 NCAC 09F .0102	02 NCAC 09K .0205	02 NCAC 38 .0604
02 NCAC 09C .0305	02 NCAC 09F .0103	02 NCAC 09K .0206	02 NCAC 38 .0701
02 NCAC 09C .0306	02 NCAC 09F .0204	02 NCAC 09K .0207	02 NCAC 38 .0702
02 NCAC 09C .0308	02 NCAC 09F .0301	02 NCAC 09K .0208	02 NCAC 38 .0703
02 NCAC 09C .0501	02 NCAC 09F .0302	02 NCAC 09K .0209	02 NCAC 38 .0704
02 NCAC 09C .0502	02 NCAC 09F .0303	02 NCAC 09K .0210	02 NCAC 38 .0705
02 NCAC 09C .0503	02 NCAC 09F .0304	02 NCAC 09K .0211	02 NCAC 38 .0801
02 NCAC 09C .0504	02 NCAC 09F .0305	02 NCAC 09K .0212	02 NCAC 38 .0802
02 NCAC 09C .0505	02 NCAC 09F .0306	02 NCAC 09K .0213	02 NCAC 38 .0803
02 NCAC 09C .0506	02 NCAC 09G .0101	02 NCAC 09K .0214	02 NCAC 38 .0804
02 NCAC 09C .0507	02 NCAC 09G .0103	02 NCAC 09M .0101	02 NCAC 43F .0101
02 NCAC 09C .0601	02 NCAC 09G .2001	02 NCAC 09M .0103	02 NCAC 43F .0102
02 NCAC 09C .0701	02 NCAC 09G .2003	02 NCAC 09N .0101	02 NCAC 43F .0103
02 NCAC 09C .0702	02 NCAC 09G .2004	02 NCAC 09O .0101	02 NCAC 43F .0104
02 NCAC 09C .0703	02 NCAC 09G .2005	02 NCAC 09O .0102	02 NCAC 43F .0105
02 NCAC 09D .0101	02 NCAC 09G .2008	02 NCAC 09O .0103	02 NCAC 43F .0106
02 NCAC 09D .0102	02 NCAC 09G .2009	02 NCAC 09O .0104	02 NCAC 43F .0107
02 NCAC 09D .0103	02 NCAC 09G .2010	02 NCAC 09O .0105	02 NCAC 43F .0108
02 NCAC 09D .0104	02 NCAC 09H .0109	02 NCAC 09O .0106	02 NCAC 43F .0109
02 NCAC 09D .0105	02 NCAC 09J .0101	02 NCAC 09O .0107	02 NCAC 43F .0110
02 NCAC 09D .0106	02 NCAC 09J .0102	02 NCAC 38 .0101	02 NCAC 43F .0111
02 NCAC 09D .0107	02 NCAC 09K .0101	02 NCAC 38 .0102	02 NCAC 51 .0201
02 NCAC 09E .0101	02 NCAC 09K .0102	02 NCAC 38 .0201	02 NCAC 51 .0203
02 NCAC 09E .0102	02 NCAC 09K .0103	02 NCAC 38 .0202	02 NCAC 52A .0101
02 NCAC 09E .0103	02 NCAC 09K .0104	02 NCAC 38 .0203	02 NCAC 52A .0102
02 NCAC 09E .0104	02 NCAC 09K .0105	02 NCAC 38 .0204	02 NCAC 52A .0103
02 NCAC 09E .0105	02 NCAC 09K .0106	02 NCAC 38 .0205	02 NCAC 52A .0107
02 NCAC 09E .0106	02 NCAC 09K .0107	02 NCAC 38 .0301	02 NCAC 52A .0110
02 NCAC 09E .0107	02 NCAC 09K .0108	02 NCAC 38 .0401	02 NCAC 52A .0111
02 NCAC 09E .0108	02 NCAC 09K .0109	02 NCAC 38 .0501	02 NCAC 52A .0112



**STATE OF NORTH CAROLINA
OFFICE OF ADMINISTRATIVE HEARINGS**

June 26, 2025

Alisha Benjamin, Department of Insurance
Sent via email only to: alisha.benjamin@ncdoi.gov

Re: Readoption deadline for 11 NCAC 18, 20, and 21

Dear Ms. Benjamin

Attached to this letter is a list of rules subject to readoption pursuant to the periodic review and expiration of existing rules as set forth in G.S. 150B-21.3A. After consultation with your agency, the Rules Review Commission established a readoption date for these rules at the June 26, 2025, Rules Review Commission meeting.

Pursuant to G.S. 150B-21.3A(d)(2), the rules listed in the attachment shall be readopted by the agency no later than **June 1, 2027**.

If you have any questions regarding the Commission's actions, please let me know.

Sincerely,

/s/ Seth Ascher
Seth Ascher
Commission Counsel

Donald Robert van der Vaart, Director
Chief Administrative Law Judge

John C. Evans
Senior Administrative Law Judge

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**RRC DETERMINATION
PERIODIC RULE REVIEW
January 30, 2025
APO Review: April 02, 2025
Agriculture, Commissioner of
Total: 20**

RRC Determination: Necessary with substantive public interest

Rule	Determination
<u>02 NCAC 52K .0101</u>	Necessary with substantive public interest
<u>02 NCAC 52K .0102</u>	Necessary with substantive public interest
<u>02 NCAC 52K .0201</u>	Necessary with substantive public interest
<u>02 NCAC 52K .0301</u>	Necessary with substantive public interest
<u>02 NCAC 52K .0302</u>	Necessary with substantive public interest
<u>02 NCAC 52K .0401</u>	Necessary with substantive public interest
<u>02 NCAC 52K .0402</u>	Necessary with substantive public interest
<u>02 NCAC 52K .0403</u>	Necessary with substantive public interest
<u>02 NCAC 52K .0404</u>	Necessary with substantive public interest
<u>02 NCAC 52K .0405</u>	Necessary with substantive public interest
<u>02 NCAC 52K .0406</u>	Necessary with substantive public interest
<u>02 NCAC 52K .0407</u>	Necessary with substantive public interest
<u>02 NCAC 52K .0501</u>	Necessary with substantive public interest
<u>02 NCAC 52K .0502</u>	Necessary with substantive public interest
<u>02 NCAC 52K .0601</u>	Necessary with substantive public interest
<u>02 NCAC 52K .0602</u>	Necessary with substantive public interest
<u>02 NCAC 52K .0603</u>	Necessary with substantive public interest
<u>02 NCAC 52K .0604</u>	Necessary with substantive public interest
<u>02 NCAC 52K .0701</u>	Necessary with substantive public interest
<u>02 NCAC 52K .0702</u>	Necessary with substantive public interest



**STATE OF NORTH CAROLINA
OFFICE OF ADMINISTRATIVE HEARINGS**

June 26, 2025

Anna Hayworth

Sent via email to: Anna.Hayworth@ncagr.gov

Re: Readoption deadline for 02 NCAC 52K

Dear Ms. Hayworth:

Attached to this letter is a list of rules subject to readoption pursuant to the periodic review and expiration of existing rules as set forth in G.S. 150B-21.3A. After consultation with your agency, the Rules Review Commission established a readoption date for these rules at the Rules Review Commission meeting on June 26, 2025.

Pursuant to G.S. 150B-21.3A(d)(2), the rules listed in the attachment shall be readopted by the agency no later than **September 1, 2027**.

If you have any questions regarding the Commission's actions, please let me know.

Sincerely,

/s/ Travis Wiggs
Travis Wiggs
Commission Counsel

Donald Robert van der Vaart, Director
Chief Administrative Law Judge

John C. Evans
Senior Administrative Law Judge

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www.oah.nc.gov

RRC DETERMINATION: Necessary
PERIODIC RULE REVIEW
November 26, 2024
APO Review: January 26, 2025
Insurance, Department of
Total: 62

11 NCAC 18 .0101	11 NCAC 20 .0402
11 NCAC 18 .0102	11 NCAC 20 .0403
11 NCAC 18 .0103	11 NCAC 20 .0404
11 NCAC 18 .0104	11 NCAC 20 .0405
11 NCAC 18 .0105	11 NCAC 20 .0406
11 NCAC 18 .0106	11 NCAC 20 .0407
11 NCAC 18 .0107	11 NCAC 20 .0408
11 NCAC 18 .0108	11 NCAC 20 .0410
11 NCAC 18 .0109	11 NCAC 20 .0411
11 NCAC 18 .0110	11 NCAC 20 .0501
11 NCAC 18 .0111	11 NCAC 20 .0502
11 NCAC 18 .0112	11 NCAC 20 .0503
11 NCAC 18 .0113	11 NCAC 20 .0504
11 NCAC 18 .0114	11 NCAC 20 .0505
11 NCAC 18 .0115	11 NCAC 20 .0506
11 NCAC 18 .0116	11 NCAC 20 .0507
11 NCAC 18 .0117	11 NCAC 20 .0508
11 NCAC 18 .0118	11 NCAC 20 .0509
11 NCAC 18 .0119	11 NCAC 20 .0511
11 NCAC 18 .0120	11 NCAC 20 .0601
11 NCAC 18 .0121	11 NCAC 20 .0602
11 NCAC 20 .0101	11 NCAC 21 .0101
11 NCAC 20 .0201	11 NCAC 21 .0102
11 NCAC 20 .0202	11 NCAC 21 .0103
11 NCAC 20 .0203	11 NCAC 21 .0104
11 NCAC 20 .0204	11 NCAC 21 .0105
11 NCAC 20 .0205	11 NCAC 21 .0106
11 NCAC 20 .0301	11 NCAC 21 .0107
11 NCAC 20 .0302	11 NCAC 21 .0108
11 NCAC 20 .0304	11 NCAC 21 .0109
11 NCAC 20 .0401	11 NCAC 21 .0110



**STATE OF NORTH CAROLINA
OFFICE OF ADMINISTRATIVE HEARINGS**

June 26, 2025

Jennifer Everett, Environmental Management Commission
Sent via email only to: Jennifer.everett@deq.nc.gov

Re: Readoption deadline for 15A NCAC 02S

Dear Ms. Everett,

Attached to this letter is a list of rules subject to readoption pursuant to the periodic review and expiration of existing rules as set forth in G.S. 150B-21.3A. After consultation with your agency, the Rules Review Commission established a readoption date for these rules at the June 26, 2025, Rules Review Commission meeting.

Pursuant to G.S. 150B-21.3A(d)(2), the rules listed in the attachment shall be readopted by the agency no later than **August 1, 2027**.

If you have any questions regarding the Commission's actions, please let me know.

Sincerely,

/s/ Seth Ascher
Seth Ascher
Commission Counsel

Donald Robert van der Vaart, Director
Chief Administrative Law Judge

John C. Evans
Senior Administrative Law Judge

An Equal Employment Opportunity Employer

1711 New Hope Church Road, Raleigh, NC 27609
Telephone: (984) 236-1850 | Facsimile: (984) 236-1871
www.oah.nc.gov

RRC DETERMINATION
PERIODIC RULE REVIEW
February 27, 2025
APO Review: April 30, 2025
Environmental Management Commission
Total: 16

RRC Determination: Necessary

15A NCAC 02S .0101
15A NCAC 02S .0102
15A NCAC 02S .0103
15A NCAC 02S .0201
15A NCAC 02S .0202
15A NCAC 02S .0301
15A NCAC 02S .0302
15A NCAC 02S .0501
15A NCAC 02S .0502
15A NCAC 02S .0503
15A NCAC 02S .0504
15A NCAC 02S .0505
15A NCAC 02S .0506
15A NCAC 02S .0507
15A NCAC 02S .0508
15A NCAC 02S .0509



**STATE OF NORTH CAROLINA
OFFICE OF ADMINISTRATIVE HEARINGS**

June 26, 2025

Dennis Seavers

Sent via email to: Dennis.Seavers@nc.gov

Re: Readoption deadline for 21 NCAC 06

Dear Mr. Seavers:

Attached to this letter is a list of rules subject to readoption pursuant to the periodic review and expiration of existing rules as set forth in G.S. 150B-21.3A. After consultation with your agency, the Rules Review Commission established a readoption date for these rules at the Rules Review Commission meeting on June 26, 2025.

Pursuant to G.S. 150B-21.3A(d)(2), the rules listed in the attachment shall be readopted by the agency no later than **February 1, 2028**.

If you have any questions regarding the Commission's actions, please let me know.

Sincerely,

/s/ Travis Wiggs
Travis Wiggs
Commission Counsel

Donald Robert van der Vaart, Director
Chief Administrative Law Judge

John C. Evans
Senior Administrative Law Judge

An Equal Employment Opportunity Employer
1711 New Hope Church Road, Raleigh, NC 27609
Telephone: (984) 236-1850 | Facsimile: (984) 236-1871
www.oah.nc.gov

RRC DETERMINATION
PERIODIC RULE REVIEW
February 27, 2025
APO Review: April 30, 2025
Barber and Electrolysis Examiners, Board of
Total: 140

RRC Determination: Necessary

21 NCAC 06A .0102	21 NCAC 06H .0101	21 NCAC 06N .0107	21 NCAC 06U .0102
21 NCAC 06B .0101	21 NCAC 06I .0101	21 NCAC 06N .0109	21 NCAC 06U .0103
21 NCAC 06B .0105	21 NCAC 06I .0105	21 NCAC 06N .0110	21 NCAC 06U .0104
21 NCAC 06B .0202	21 NCAC 06J .0101	21 NCAC 06N .0111	21 NCAC 06U .0105
21 NCAC 06B .0307	21 NCAC 06J .0108	21 NCAC 06N .0112	21 NCAC 06V .0101
21 NCAC 06B .0501	21 NCAC 06J .0109	21 NCAC 06N .0113	21 NCAC 06V .0102
21 NCAC 06B .0502	21 NCAC 06J .0110	21 NCAC 06N .0114	21 NCAC 06V .0103
21 NCAC 06B .0503	21 NCAC 06K .0101	21 NCAC 06N .0117	21 NCAC 06V .0104
21 NCAC 06C .0204	21 NCAC 06K .0104	21 NCAC 06O .0101	21 NCAC 06V .0105
21 NCAC 06C .0903	21 NCAC 06K .0110	21 NCAC 06O .0102	21 NCAC 06V .0106
21 NCAC 06C .0905	21 NCAC 06K .0111	21 NCAC 06O .0103	21 NCAC 06V .0107
21 NCAC 06C .0906	21 NCAC 06K .0112	21 NCAC 06O .0104	21 NCAC 06V .0108
21 NCAC 06C .0907	21 NCAC 06K .0113	21 NCAC 06O .0105	21 NCAC 06V .0109
21 NCAC 06C .0912	21 NCAC 06L .0102	21 NCAC 06O .0106	21 NCAC 06V .0110
21 NCAC 06C .0913	21 NCAC 06L .0103	21 NCAC 06O .0107	21 NCAC 06W .0101
21 NCAC 06F .0101	21 NCAC 06L .0104	21 NCAC 06O .0108	21 NCAC 06X .0101
21 NCAC 06F .0102	21 NCAC 06L .0105	21 NCAC 06O .0109	21 NCAC 06X .0102
21 NCAC 06F .0103	21 NCAC 06L .0106	21 NCAC 06O .0110	21 NCAC 06X .0103
21 NCAC 06F .0104	21 NCAC 06L .0107	21 NCAC 06O .0111	21 NCAC 06X .0104
21 NCAC 06F .0109	21 NCAC 06L .0109	21 NCAC 06O .0112	21 NCAC 06X .0105
21 NCAC 06F .0110	21 NCAC 06L .0111	21 NCAC 06O .0113	21 NCAC 06X .0106
21 NCAC 06F .0111	21 NCAC 06L .0112	21 NCAC 06O .0114	21 NCAC 06X .0107
21 NCAC 06F .0113	21 NCAC 06L .0113	21 NCAC 06O .0115	21 NCAC 06X .0108
21 NCAC 06F .0116	21 NCAC 06L .0114	21 NCAC 06O .0116	21 NCAC 06X .0109
21 NCAC 06F .0119	21 NCAC 06L .0115	21 NCAC 06O .0117	21 NCAC 06X .0110
21 NCAC 06F .0120	21 NCAC 06L .0116	21 NCAC 06O .0118	21 NCAC 06X .0112
21 NCAC 06F .0121	21 NCAC 06L .0117	21 NCAC 06O .0119	21 NCAC 06Y .0101
21 NCAC 06F .0122	21 NCAC 06L .0118	21 NCAC 06O .0121	21 NCAC 06Y .0102
21 NCAC 06F .0123	21 NCAC 06L .0119	21 NCAC 06O .0122	21 NCAC 06Y .0103
21 NCAC 06F .0124	21 NCAC 06L .0120	21 NCAC 06P .0101	21 NCAC 06Y .0104
21 NCAC 06F .0125	21 NCAC 06N .0101	21 NCAC 06P .0103	21 NCAC 06Y .0105
21 NCAC 06F .0126	21 NCAC 06N .0102	21 NCAC 06Q .0101	21 NCAC 06Y .0106
21 NCAC 06F .0127	21 NCAC 06N .0103	21 NCAC 06R .0101	
21 NCAC 06F .0128	21 NCAC 06N .0104	21 NCAC 06S .0101	
21 NCAC 06G .0103	21 NCAC 06N .0105	21 NCAC 06T .0103	
21 NCAC 06G .0106	21 NCAC 06N .0106	21 NCAC 06U .0101	



**STATE OF NORTH CAROLINA
OFFICE OF ADMINISTRATIVE HEARINGS**

June 26, 2025

Dr. Joe Siragusa, Board of Chiropractic Examiners
Sent via email only to: dr.joe@ncchiroboard.com

Re: Readoption deadline for 21 NCAC 10

Dear Dr. Siragusa,

Attached to this letter is a list of rules subject to readoption pursuant to the periodic review and expiration of existing rules as set forth in G.S. 150B-21.3A. After consultation with your agency, the Rules Review Commission established a readoption date for these rules at the June 26, 2025, Rules Review Commission meeting.

Pursuant to G.S. 150B-21.3A(d)(2), the rules listed in the attachment shall be readopted by the agency no later than **June 1, 2027**.

If you have any questions regarding the Commission's actions, please let me know.

Sincerely,

/s/ Seth Ascher
Seth Ascher
Commission Counsel

Donald Robert van der Vaart, Director
Chief Administrative Law Judge

John C. Evans
Senior Administrative Law Judge

An Equal Employment Opportunity Employer
1711 New Hope Church Road, Raleigh, NC 27609
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www.oah.nc.gov

RRC DETERMINATION
PERIODIC RULE REVIEW
December 19, 2024
APO Review: February 19, 2025
Chiropractic Examiners, Board of
Total: 30

RRC Determination: Necessary

21 NCAC 10 .0103
21 NCAC 10 .0104
21 NCAC 10 .0202
21 NCAC 10 .0203
21 NCAC 10 .0204
21 NCAC 10 .0207
21 NCAC 10 .0208
21 NCAC 10 .0209
21 NCAC 10 .0210
21 NCAC 10 .0211
21 NCAC 10 .0212
21 NCAC 10 .0213
21 NCAC 10 .0215
21 NCAC 10 .0216
21 NCAC 10 .0217
21 NCAC 10 .0302
21 NCAC 10 .0303
21 NCAC 10 .0304
21 NCAC 10 .0305
21 NCAC 10 .0306
21 NCAC 10 .0401
21 NCAC 10 .0403
21 NCAC 10 .0406
21 NCAC 10 .0501
21 NCAC 10 .0503
21 NCAC 10 .0504
21 NCAC 10 .0706
21 NCAC 10 .0708
21 NCAC 10 .0709
21 NCAC 10 .0803



**STATE OF NORTH CAROLINA
OFFICE OF ADMINISTRATIVE HEARINGS**

June 26, 2025

Stefanie Kuzdrall, Board of Cosmetic Art Examiners
Sent via email only to: skuzdrall@nccosmeticarts.com

Re: Readoption deadline for 21 NCAC 14

Dear Ms. Kuzdrall,

Attached to this letter is a list of rules subject to readoption pursuant to the periodic review and expiration of existing rules as set forth in G.S. 150B-21.3A. After consultation with your agency, the Rules Review Commission established a readoption date for these rules at the June 26, 2025, Rules Review Commission meeting.

Pursuant to G.S. 150B-21.3A(d)(2), the rules listed in the attachment shall be readopted by the agency no later than **August 1, 2027**.

If you have any questions regarding the Commission's actions, please let me know.

Sincerely,

/s/ Seth Ascher
Seth Ascher
Commission Counsel

Donald Robert van der Vaart, Director
Chief Administrative Law Judge

John C. Evans
Senior Administrative Law Judge

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RRC DETERMINATION
 PERIODIC RULE REVIEW
 December 19, 2024
 APO Review: February 19, 2025
 Cosmetic Art Examiners, Board of
 Total: 136

RRC Determination: Necessary

21 NCAC 14A .0101	21 NCAC 14C .0503	21 NCAC 14H .0401	21 NCAC 14T .0303
21 NCAC 14A .0104	21 NCAC 14C .0601	21 NCAC 14H .0402	21 NCAC 14T .0304
21 NCAC 14A .0401	21 NCAC 14C .0801	21 NCAC 14H .0403	21 NCAC 14T .0305
21 NCAC 14A .0402	21 NCAC 14C .0802	21 NCAC 14H .0404	21 NCAC 14T .0401
21 NCAC 14A .0403	21 NCAC 14C .0803	21 NCAC 14H .0501	21 NCAC 14T .0402
21 NCAC 14A .0404	21 NCAC 14C .0804	21 NCAC 14H .0502	21 NCAC 14T .0403
21 NCAC 14B .0101	21 NCAC 14C .0805	21 NCAC 14H .0503	21 NCAC 14T .0404
21 NCAC 14B .0102	21 NCAC 14C .0807	21 NCAC 14H .0504	21 NCAC 14T .0501
21 NCAC 14B .0105	21 NCAC 14C .0808	21 NCAC 14I .0401	21 NCAC 14T .0502
21 NCAC 14B .0107	21 NCAC 14C .0903	21 NCAC 14N .0102	21 NCAC 14T .0601
21 NCAC 14B .0201	21 NCAC 14C .0904	21 NCAC 14N .0103	21 NCAC 14T .0602
21 NCAC 14B .0302	21 NCAC 14C .0906	21 NCAC 14N .0107	21 NCAC 14T .0603
21 NCAC 14B .0304	21 NCAC 14C .0907	21 NCAC 14N .0110	21 NCAC 14T .0604
21 NCAC 14B .0305	21 NCAC 14C .0908	21 NCAC 14N .0111	21 NCAC 14T .0605
21 NCAC 14B .0306	21 NCAC 14D .0101	21 NCAC 14P .0101	21 NCAC 14T .0606
21 NCAC 14B .0307	21 NCAC 14D .0103	21 NCAC 14P .0102	21 NCAC 14T .0607
21 NCAC 14B .0308	21 NCAC 14D .0104	21 NCAC 14P .0104	21 NCAC 14T .0608
21 NCAC 14B .0309	21 NCAC 14D .0105	21 NCAC 14P .0105	21 NCAC 14T .0609
21 NCAC 14B .0501	21 NCAC 14D .0302	21 NCAC 14P .0106	21 NCAC 14T .0610
21 NCAC 14B .0502	21 NCAC 14D .0303	21 NCAC 14P .0107	21 NCAC 14T .0611
21 NCAC 14B .0503	21 NCAC 14D .0305	21 NCAC 14P .0108	21 NCAC 14T .0612
21 NCAC 14B .0505	21 NCAC 14D .0306	21 NCAC 14P .0109	21 NCAC 14T .0613
21 NCAC 14B .0506	21 NCAC 14D .0307	21 NCAC 14P .0110	21 NCAC 14T .0614
21 NCAC 14B .0601	21 NCAC 14D .0308	21 NCAC 14P .0111	21 NCAC 14T .0615
21 NCAC 14B .0603	21 NCAC 14D .0309	21 NCAC 14P .0113	21 NCAC 14T .0616
21 NCAC 14B .0605	21 NCAC 14D .0310	21 NCAC 14P .0115	21 NCAC 14T .0617
21 NCAC 14B .0607	21 NCAC 14G .0116	21 NCAC 14P .0116	21 NCAC 14T .0701
21 NCAC 14B .0608	21 NCAC 14H .0201	21 NCAC 14P .0117	21 NCAC 14T .0702
21 NCAC 14C .0101	21 NCAC 14H .0203	21 NCAC 14R .0105	21 NCAC 14T .0703
21 NCAC 14C .0103	21 NCAC 14H .0204	21 NCAC 14T .0101	21 NCAC 14T .0705
21 NCAC 14C .0201	21 NCAC 14H .0301	21 NCAC 14T .0102	21 NCAC 14T .0706
21 NCAC 14C .0203	21 NCAC 14H .0302	21 NCAC 14T .0201	21 NCAC 14T .0802
21 NCAC 14C .0204	21 NCAC 14H .0303	21 NCAC 14T .0301	21 NCAC 14T .0803
21 NCAC 14C .0205	21 NCAC 14H .0304	21 NCAC 14T .0302	21 NCAC 14T .0901



**STATE OF NORTH CAROLINA
OFFICE OF ADMINISTRATIVE HEARINGS**

June 26, 2025

Wilson Mize, Board of Environmental Health Specialist Examiners

Sent via email only to: Wilson.mize@dhhs.nc.gov

Re: Readoption deadline for 21 NCAC 62

Dear Mr. Mize,

Attached to this letter is a list of rules subject to readoption pursuant to the periodic review and expiration of existing rules as set forth in G.S. 150B-21.3A. After consultation with your agency, the Rules Review Commission established a readoption date for these rules at the June 26, 2025, Rules Review Commission meeting.

Pursuant to G.S. 150B-21.3A(d)(2), the rules listed in the attachment shall be readopted by the agency no later than **June 1, 2027**.

If you have any questions regarding the Commission's actions, please let me know.

Sincerely,

/s/ Seth Ascher

Seth Ascher

Commission Counsel

Donald Robert van der Vaart, Director
Chief Administrative Law Judge

John C. Evans
Senior Administrative Law Judge

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www.oah.nc.gov

RRC DETERMINATION
PERIODIC RULE REVIEW
December 19, 2024
APO Review: February 19, 2025
Environmental Health Specialist Examiners, Board of
Total: 13

RRC Determination: Necessary

21 NCAC 62 .0102
21 NCAC 62 .0103
21 NCAC 62 .0201
21 NCAC 62 .0401
21 NCAC 62 .0402
21 NCAC 62 .0403
21 NCAC 62 .0404
21 NCAC 62 .0405
21 NCAC 62 .0406
21 NCAC 62 .0407
21 NCAC 62 .0411
21 NCAC 62 .0414
21 NCAC 62 .0415

LIST OF APPROVED PERMANENT RULES
June 26, 2025 Meeting

CHILD CARE COMMISSION

<u>Definitions</u>	10A NCAC	09	.0102
<u>License</u>	10A NCAC	09	.2902
<u>Family Services</u>	10A NCAC	09	.2905
<u>Facility Requirements</u>	10A NCAC	09	.3002
<u>Staff-to-Child Ratio and Class Size</u>	10A NCAC	09	.3009
<u>Family Engagement</u>	10A NCAC	09	.3010
<u>Scope</u>	10A NCAC	09	.3201
<u>Application for a Two Through Five Start Rated License</u>	10A NCAC	09	.3202
<u>Program Assessment Pathway for Child Care Centers</u>	10A NCAC	09	.3203
<u>Program Assessment Pathway for Family Child Care Homes</u>	10A NCAC	09	.3204
<u>Classroom and Instructional Quality Pathway for Child Car...</u>	10A NCAC	09	.3205
<u>Classroom and Instructional Quality Pathway for Family Ch...</u>	10A NCAC	09	.3206
<u>Accreditation and Head Start Pathway for Child Care Facil...</u>	10A NCAC	09	.3207
<u>Enhanced Staff/Child Ratios for a Rated License for Child...</u>	10A NCAC	09	.3208
<u>Reduced, Enhanced Staff/Child Care Rations for a Rated...</u>	10A NCAC	09	.3209
<u>Enhanced Space Requirements for Child Care Centers</u>	10A NCAC	09	.3210
<u>Enhanced Education Standards for Child Care Center On-Sit...</u>	10A NCAC	09	.3211
<u>Enhanced Education Standards for Child Care Center Lead...</u>	10A NCAC	09	.3212
<u>Enhanced Education Standards for Child Care Center Teachers</u>	10A NCAC	09	.3213
<u>Enhanced Education Standards for Program Coordinators in ...</u>	10A NCAC	09	.3214
<u>Enhanced Education Standards for Group Leaders in Child...</u>	10A NCAC	09	.3215
<u>Enhanced Education Standards for Administrators of Child ...</u>	10A NCAC	09	.3216
<u>Enhanced Education Standards for Family Child Care Home...</u>	10A NCAC	09	.3217
<u>Competency Evaluations</u>	10A NCAC	09	.3218
<u>Family and Community Engagement Standards for Child Care ...</u>	10A NCAC	09	.3219
<u>Family and Community Engagement Standards for Family Chil...</u>	10A NCAC	09	.3220
<u>Continuous Quality Improvement (CQI) Standards</u>	10A NCAC	09	.3221
<u>Maintaining the Star Rating</u>	10A NCAC	09	.3222
<u>How an Operator May Request or Appeal a Change in Rating</u>	10A NCAC	09	.3223
<u>Recognition of Quality Initiatives</u>	10A NCAC	09	.3224
<u>Accrediting Organizations and Star Rating Equivalency</u>	10A NCAC	09	.3225
<u>Approval of Formative Assessments</u>	10A NCAC	09	.3226

SHERIFFS' EDUCATION AND TRAINING STANDARDS COMMISSION

<u>Lateral Transfer/Reinstatements</u>	12 NCAC	10B	.0406
<u>In-State Lateral Transfer of a Deputy Sheriff</u>	12 NCAC	10B	.0411
<u>Evaluation for Training Waiver</u>	12 NCAC	10B	.0505

ENVIRONMENTAL QUALITY, DEPARTMENT OF

<u>Purpose</u>	15A NCAC	01X	.0101
<u>Definitions</u>	15A NCAC	01X	.0102
<u>Applicability</u>	15A NCAC	01X	.0103
<u>Requests for Express Review</u>	15A NCAC	01X	.0104

<u>Granting Requests for Express Review</u>	15A NCAC	01X .0105
<u>Processing of Requests for Express Review</u>	15A NCAC	01X .0106
<u>Project Eligibility</u>	15A NCAC	01X .0201
<u>Application Submission Requirements</u>	15A NCAC	01X .0202
<u>Review of Applications</u>	15A NCAC	01X .0203
<u>Project Eligibility</u>	15A NCAC	01X .0301
<u>Application Submission Requirements</u>	15A NCAC	01X .0302
<u>Review of Applications</u>	15A NCAC	01X .0303

OIL AND GAS COMMISSION

<u>Definitions</u>	15A NCAC	05C .0101
<u>Correspondence</u>	15A NCAC	05C .0103
<u>Site Regulation</u>	15A NCAC	05C .0104
<u>Permit Required</u>	15A NCAC	05C .0105
<u>Permit Application</u>	15A NCAC	05C .0106
<u>Permit Duration</u>	15A NCAC	05C .0107
<u>Geographic Limits on Work</u>	15A NCAC	05C .0108
<u>Seismic Agents</u>	15A NCAC	05C .0109
<u>Daily Report Required</u>	15A NCAC	05C .0110
<u>Notification</u>	15A NCAC	05C .0111
<u>Size of Explosive Charges</u>	15A NCAC	05C .0112
<u>Placing of Charges</u>	15A NCAC	05C .0113
<u>Removal</u>	15A NCAC	05C .0115
<u>Identification</u>	15A NCAC	05C .0116
<u>Pipes and Bouys</u>	15A NCAC	05C .0117
<u>Explosives</u>	15A NCAC	05C .0118
<u>Shooting</u>	15A NCAC	05C .0119
<u>Minimum Depths</u>	15A NCAC	05C .0120
<u>Detailed Provisions</u>	15A NCAC	05C .0121
<u>Powers of Seismic Agents</u>	15A NCAC	05C .0123
<u>Duties of Party Chief</u>	15A NCAC	05C .0124
<u>Release From These Regulations</u>	15A NCAC	05C .0125
<u>Duties of Operators</u>	15A NCAC	05C .0126

COASTAL RESOURCES COMMISSION

<u>Installation and Maintenance of Wheat Straw Bales for San...</u>	15A NCAC	07H .0314
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REVENUE, DEPARTMENT OF

<u>Independent Bookingkeeping</u>	17 NCAC	04B .0603
<u>CPA's: Not a Regulatory License</u>	17 NCAC	04B .0604
<u>Draftsman</u>	17 NCAC	04B .0605
<u>Grave Plots</u>	17 NCAC	04B .0606
<u>Optician</u>	17 NCAC	04B .0609
<u>Physical Therapist</u>	17 NCAC	04B .0610
<u>Practicing Physicians</u>	17 NCAC	04B .0611
<u>Government Attorneys-at-Law and Other Professionals Exemp...</u>	17 NCAC	04B .0612
<u>Psychologist</u>	17 NCAC	04B .0614

CHIROPRACTIC EXAMINERS, BOARD OF

<u>Licensure; Renewal of License</u>	21 NCAC	10	.0204
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LOCKSMITH LICENSING BOARD

<u>Fees</u>	21 NCAC	29	.0404
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<u>Due Date</u>	21 NCAC	29	.0702
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<u>Reinstatement of Expired License</u>	21 NCAC	29	.0703
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AGRICULTURAL FINANCE AUTHORITY

<u>Purpose</u>	24 NCAC	02D	.0101
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<u>Definitions</u>	24 NCAC	02D	.0102
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<u>Evaluation of Applications</u>	24 NCAC	02D	.0103
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<u>Grant Agreement</u>	24 NCAC	02D	.0104
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<u>Reporting</u>	24 NCAC	02D	.0105
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<u>Records</u>	24 NCAC	02D	.0106
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