

NORTH CAROLINA REGISTER

VOLUME 40 • ISSUE 12 • Pages 973 – 1044

December 15, 2025

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PUBLISHED BY
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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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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
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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
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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
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40:15	02/02/26	01/09/26	02/17/26	04/06/26	04/20/26	05/28/2026	06/01/26	10/30/26
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41:10	11/16/26	10/23/26	12/01/26	01/15/27	01/20/27	02/25/2027	03/01/27	08/13/27
41:11	12/01/26	11/05/26	12/16/26	02/01/27	02/20/27	03/25/2027	04/01/27	08/28/27
41:12	12/15/26	11/20/26	12/30/26	02/15/27	02/20/27	03/25/2027	04/01/27	09/11/27

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

November 7, 2025

EXECUTIVE ORDER NO. 29

ALBEMARLE-PAMLICO NATIONAL ESTUARY PARTNERSHIP

WHEREAS, the Albemarle-Pamlico Estuary comprises one of the nation's largest estuarine systems and is distinguished by remarkable biodiversity, natural resources, and a rich history, and provides extensive economic benefits to North Carolina; and

WHEREAS, the United States Congress designated the Albemarle-Pamlico Sounds as an "estuary of national significance" in 1987; and

WHEREAS, greater understanding, protection, and restoration of the Albemarle-Pamlico estuarine system supports its ecological integrity, the regional economy, and local communities, and plays an important role in the resilience of coastal communities; and

WHEREAS, the Albemarle-Pamlico National Estuary Partnership ("APNEP") excels as a science-based cooperative among the State of North Carolina, the Commonwealth of Virginia, the United States Environmental Protection Agency ("EPA"), and many other federal, state, and local agencies and organizations, and tribal communities; and

WHEREAS, APNEP has a thirty-eight-year legacy of supporting and synthesizing scientific research and monitoring, and continues to provide extensive information that addresses natural resource and environmental issues; and

WHEREAS, the mission of APNEP is to understand, protect, and restore the significant resources of the Albemarle-Pamlico estuarine system; and

WHEREAS, scientific information from the Albemarle-Pamlico Estuarine Study (1987-1994) was combined with extraordinary citizen involvement to develop a Comprehensive Conservation and Management Plan ("CCMP") that was first adopted in 1994 and revised in 2025; and

WHEREAS, APNEP solicits and fosters meaningful community involvement to implement the CCMP, which guides efforts to understand, protect, and restore the region's significant resources; and

WHEREAS, the State of North Carolina is committed to protecting and restoring its natural resources and supports APNEP's mission by encouraging and supporting cooperation and collaborative partnerships among diverse stakeholders; and

WHEREAS, APNEP requires a legal framework specifying its governance structure and organizational processes; and

WHEREAS, an APNEP Office ("Office") is necessary to coordinate and facilitate CCMP implementation and support APNEP's mission; and

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

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

NOW, THEREFORE, 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. Introduction.

This Executive Order amends and restates Executive Order No. 250, issued on February 18, 2022, and establishes the Office and the APNEP Management Conference. Specifically, this Executive Order outlines the structure of the Management Conference to streamline efforts to fulfill APNEP's mission and collaborate with natural resource and environmental policymakers in the APNEP region.

Section 2. Office and Host.

The Office shall be hosted by the North Carolina Department of Environmental Quality ("Department") to coordinate and facilitate CCMP implementation and support APNEP's mission. The Office shall serve as a conduit for information, collaboration, and coordination among the state and federal agencies, local governments, tribes, academia, and the public.

The Office shall consist of the Director of the Office ("Director") along with the requisite staff necessary to meet the needs identified by the Management Conference, which is described in Section 3 of this Executive Order.

The Department shall serve as the host for the Office, and the Office will be housed within the Department's Office of the Secretary. The Department shall efficiently assist in the operation and support of the Management Conference. The Department shall only be responsible for assisting with administrative and fiscal management of the APNEP-EPA cooperative agreement, which provides federal funds for APNEP, and for assisting with the management of other funding sources.

Section 3. Management Conference.

a. Purpose

1. A Management Conference consistent with Section 320 of the Federal Water Pollution Control Act, 33 U.S.C. §§ 1251-1376, shall be established to advise, support, and guide CCMP implementation, and to assist the Office in fulfilling its mission.
2. The Management Conference shall advise APNEP on APNEP's overall policy, budget, and community engagement direction.
3. The Management Conference shall review and revise the CCMP as necessary in response to changes in the environment or resource management actions.

b. Membership

1. The Management Conference shall consist of diverse stakeholders with interests in the Albemarle-Pamlico watershed and shall utilize a collaborative, consensus-building approach to implement the CCMP.
2. The Management Conference shall consist of three standing committees: a Leadership Council, a Citizen Advisory Committee, and a Science and Technical Advisory Committee.
3. The Director shall appoint the initial membership of the Leadership Council and two standing committees, as described further in subsections c, d, and e below. To the greatest extent possible, the Director shall ensure geographic and demographic diversity within the membership, as well as its members' willingness to serve.
4. The Leadership Council and each standing committee shall establish bylaws, operating procedures, and leadership. The bylaws shall address the circumstances under which its membership may be expanded, and how vacating members are replaced.

c. Leadership Council

1. Purpose

- i. The Leadership Council shall work with the Office, advisory committees, and other groups to advise, support, evaluate, update, advocate for, and guide CCMP implementation. The Leadership Council is the primary guidance body for the Office.

2. Membership

- i. The Leadership Council shall include the following voting members:
 - 1. The Secretary of the Department, or the Secretary's designee;
 - 2. The Secretary of the North Carolina Department of Natural and Cultural Resources, or the Secretary's designee;
 - 3. The Director of North Carolina Sea Grant, or the Director's designee;
 - 4. Two members of the Citizen Advisory Committee (Section 3.d);
 - 5. Two members of the Science and Technical Advisory Committee (Section 3.e);
 - 6. A representative of a local government or regional Council of Governments;
 - 7. An at-large member with vested interests in the region; and
 - 8. A representative of a local, state, or national conservation organization.
- ii. The Secretary of Natural Resources of the Commonwealth of Virginia, or the Secretary's designee, shall be invited to participate as a voting member.
- iii. A representative of the EPA's National Estuary Program shall be invited to participate as a non-voting, ex-officio member.
- iv. The Leadership Council may expand its membership, as it deems necessary, upon a two-thirds affirmative vote.

d. Citizen Advisory Committee

1. Purpose

- i. The Citizen Advisory Committee shall work with the Leadership Council on CCMP implementation and meaningful community engagement activities. Committee members shall serve as liaisons to citizens, agencies, tribes, and relevant parties regarding environmental and natural resource management relevant to CCMP implementation. The Committee shall work to engage diverse communities and populations in its decisions and represent diverse perspectives within the Management Conference.

2. Membership

- i. The membership of the Citizen Advisory Committee shall be broad-based and may include the following natural resource management interests within the Albemarle-Pamlico estuarine system: local governments; local or regional planning; environmental equity; commerce and industry; education; recreation; tourism; fishing or seafood industry; agriculture; forestry; military; tribal organizations; local, state, or national conservation organizations; soil and water conservation districts; finance; communications and media; local and state agencies; and federal agencies.

e. Science and Technical Advisory Committee

1. Purpose

- i. The Science and Technical Advisory Committee shall provide independent advice to the Leadership Council and the Citizen Advisory Committee on scientific and technical issues, including ecosystem assessment and monitoring in support of CCMP implementation.

2. Membership

- i. The membership of the Science and Technical Advisory Committee shall be broad-based and may include scientists and technologists from local colleges, universities,

and research institutes as well as technical staff from federal and local agencies, industry, and environmental organizations, with expertise in science and technology relevant to environment and natural resource management in the Albemarle-Pamlico estuarine system.

- ii. Each member shall have substantive expertise in one or more scientific and technical fields germane to APNEP's mission and relevant to environmental and natural resource management, including, but not limited to, landscape ecology, terrestrial ecology, wetlands ecology, submerged aquatic ecology, marine biology, fisheries and wildlife science, hydrology, remote sensing, ecological assessment, engineering, agricultural technologies, forest technologies, soil conservation, water quality modeling, environmental policy, economics, public policy, planning, spatial statistics, education, and law.

f. Administration and Expenses

- 1. Each standing body within the Management Conference shall be responsible for determining its own meeting schedules, rules of order, terms of service, bylaws, chairmanship, attendance requirements, ad hoc committees, and other matters of protocol.
- 2. Members shall serve voluntarily and without compensation or per diems. Extraordinary expenses may be reimbursed subject to approval by the Director and in accordance with EPA cooperative agreement requirements, the Department's travel policies, state law, and the policies and regulations of the Office of State Budget and Management.


Section 4. State Programmatic Support.

- a. Executive Branch agencies of the State of North Carolina shall coordinate and collaborate with the Management Conference and the Office on actions to implement the CCMP.
- b. Council of State agencies of the State of North Carolina and the North Carolina Wildlife Resources Commission are encouraged to coordinate and collaborate with the Management Conference and the Office on CCMP implementation.
- c. Campuses and institutes of the University of North Carolina system are invited to collaborate with the Management Conference and the Office on CCMP implementation.

Section 5. Effect and Duration.

This Executive Order amends and restates Executive Order No. 250, issued on February 18, 2022, and supersedes and rescinds any other previous executive orders to the extent that they conflict with this Executive Order. This Executive Order is effective immediately and shall remain in effect until November 7, 2027, unless earlier rescinded or replaced.

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 7th day of November in the year of our Lord two thousand and twenty-five.



Josh Stein
Governor

ATTEST:



Elaine F. Marshall
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: 70 East Custom Carts LLC

Applicant's Address: 4614 US Hwy 70 East

Application Date: November 4th, 2025

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

Regina Szommer Garris, Owner

Robert Jeffery Garris, Jr, Owner

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: Alliance Powersports Inc.

Applicant's Address: 7660 Dean Martin Dr. #204 Las Vegas NV 89139

Application Date: 11/18/2025

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

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: Cavco Manufacturing LLC

Applicant's Address: 740 State Street Rocky Mount, VA 24151

Application Date: 10/30/2025

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

Brian Cira- President

Seth Schuknecht- Executive Vice President

James P. Glew- Vice President & Secretary

Trent Hall- Treasurer

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: MALLEY INDUSTRIES, INC

Applicant's Address: 1100 AVIATION AVENUE, DEIPPE-CANADA, NB E1A9A3

Application Date: 09-29-2025

Names and titles of any individual listed on the application as an owner, partner, member or officer of the applicant: TERRY J MALLEY 156 ALEXANDER AVE, MONCTON CANADA, NB E1E4N5

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: Scootstar Inc

Applicant's Address: 7660 Dean Martin Dr. #204 Las Vegas, NV 89139

Application Date: 11/18/2025

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

Note from the Codifier: The notices published in this Section of the NC Register include the text of proposed rules. The agency must accept written comments on any proposed rules for at least 60 days from the publication date, or until the date of any public hearing, whichever is longer. 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 Commissioner of Agriculture and Consumer Services intends to adopt the rule cited as 02 NCAC 60B .2001.

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: April 1, 2026

Instructions on How to Demand a Public Hearing: (must be requested in writing within 15 days of the publication of this notice of text): Any person may request a public hearing on the proposed rules by submitting a request in writing no later than December 30th, 2025 to Anna Hayworth, mailing address 1002 Mail Service Center, Raleigh, NC 27699.

Reason for Proposed Action: The proposed rules language by the NC Forest Service complement the already existing G.S. 106-997 (below) and clarify Prescribed Burning Cost Share Program details such as eligibility; application process; required documentation; allowable practices; cost share funding and payments; and allowable administrative costs.

*Article 80A. –
(Effective July 1, 2025) Prescribed Burning Cost Share Program.
§ 106-977. (Effective July 1, 2025) Prescribed Burning Cost Share Program.*

(a) *Program Established. – There is established the Prescribed Burning Cost Share Program. The Program shall be implemented and supervised by the North Carolina Forest Service of the Department of Agriculture and Consumer Services.*

(b) *Purposes. – The purpose of the Program shall be to support prescribed burns on privately owned forestlands that will maximize the benefits set forth in Article 80 of this Chapter. The program shall be subject to the following requirements and limitations:*

(1) *The prescribed burning project shall comply with the requirements of Article 80 of this Chapter, as determined by the Forest Service.*

(2) *The Forest Service shall establish and administer prescribed burning practices and prevailing rates per acre utilized by the Program. Reimbursement rates shall be set by the Board of Agriculture by rule, in consultation with the Forest Service, but the maximum allowable cost share reimbursement to participating landowners is seventy-five percent (75%) based on program rate per acre caps.*

(c) *Availability of Funds. – State funds for the Program shall remain available until expended.*

(d) *Administrative Costs. – In any State fiscal year, the Forest Service may use up to five percent (5%) of program appropriations for program administration and support. Program appropriations may also be utilized for position and operating expenses associated with one Forest Service Prescribed Burning Coordinator full-time employee position. The duties of this position shall include Prescribed Burning Program outreach, quality control assistance, and coordination of burning partners statewide.*

(e) *Report. – The Department of Agriculture and Consumer Services shall report on its implementation of this section no later than January 15 of each even-numbered year to the chairs of the Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources and the Fiscal Research Division. (2024-32, s. 8(b).)*

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

Comment period ends: February 13, 2026

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 60 - DIVISION OF FOREST RESOURCES

SUBCHAPTER 60B - DIVISION PROGRAMS

SECTION .2001 – PRESCRIBED BURNING COST SHARE PROGRAM

02 NCAC 60B .2001 ADMINISTRATION OF PROGRAM

(a) The purpose of the Program shall be to support prescribed burns on privately owned forestlands that will maximize the benefits set forth in Article 80 of this Chapter.

(b) The manner and requirements of making application for cost-sharing funds according to Article 80A § 106-977. Prescribed Burning Cost Share Program are as follows:

- (1) Any eligible privately owned forestlands may apply for program cost-sharing funds. Privately owned forestlands include a private individual, group, association or corporation owning land suitable for forestry purposes, and where forestland is owned jointly by tenants in common or other type of joint ownership, the joint owners shall be considered as one eligible landowner.
- (2) Application may be made by completing the required program application forms. Applications shall include identifying information from the landowner and/or consultant, a description of the practices needed, acres needed, practice rate, and applicant signature.
- (3) A written burn plan relating to the application shall be submitted as part of the application packet. The written burn plan must comply with the requirements of Chapter 106, Article 80 of the General Statutes.
- (4) The program cost share allocation methodology will be determined by the North Carolina Forest Service ("NCFS") and made available to landowners and stakeholders via the NCFS's website in advance of program application sign-ups.
- (5) As part of the prescribed burn project, approved practices may include, but are not limited to:
 - (A) Silvicultural Burning – The use of prescribed fire to prepare areas for natural pine or oak regeneration, pre-commercial thinning to reduce competing tree density of undesirable species and the use of prescribed fire to manage for insects or disease concerns to promote forest health.
 - (B) Hazard Reduction Burning – The use of prescribed fire for the purpose of mitigating forest fuels to reduce the forestland risk from potential damage from wildfires.
 - (C) Wildlife Habitat Burning – The use of prescribed fire for the purpose of maintaining or creating improved forest, or open

field conditions for desired plants, species and habitat.

(D) Installation of Firelines - installation of firelines must be accompanied by a completed prescribed burn on the associated acres in order for cost-share reimbursement pay-out to the landowner.

(E) Other Practices - The Commissioner of Agriculture and Consumer Services ("Commissioner") may authorize the program offering additional practices associated with encouraging prescribed burning accomplishments.

(6) The Commissioner or his or her designee shall review submitted applications requesting program funding. Applicants who start or complete their project without prior NCFS approval shall not be eligible to receive funding. Landowners may not receive state cost-share funding on the same project acres where federal cost-share funds apply, or where burning is a federal program requirement for maintenance.

(c) Cost-sharing payments may be made upon certification by the NCFS following completion of the practice(s) as prescribed in the written burn plan. Certification of completion shall include an assessment of installed and completed practices in relation to the requirements outlined in the burn plan, installation of appropriate best management practices to ensure soil protection and water quality, and assurance that the installed practice(s) are meeting all applicable environmental regulations found in Article 4, G.S. 113A. The maximum allowable cost share reimbursement to participating landowners is seventy-five percent based on program rate per acre caps.

(d) Allocated funding for approved applications may be withdrawn as follows:

- (1) Funds may be withdrawn at the end of the second state fiscal year in which the funds were allocated if the practices have not been completed.
- (2) A 12-month extension may be granted by the NCFS when a project cannot be completed due to circumstances beyond the control of the landowner, including adverse weather conditions or unavailability of contractors. The landowner shall provide documentation to the NCFS requesting funds availability to continue into a third state fiscal year. Such extensions should be the exception and not the norm.
- (3) Recapture – landowner will repay all or part of the cost share funds paid to them if there is a:
 - (A) Failure to maintain the cost-shared acreage as forestland for three years following project completion (project completion coincides with the cost-

- (B) shared acreage being prescribed burned) and/or;
Change of ownership of the cost-shared acreage prior to the end of the three-year maintenance period following project completion where the new landowner does not agree in writing to maintain the cost-shared acreage as forestland for the remainder of the original three-year maintenance period.

(e) In any State fiscal year, the NCFS may use up to five percent of program appropriations for program administration and support. Program appropriations may also be utilized for position and operating expenses associated with one NCFS Prescribed Burning Coordinator full-time employee position. The duties of this position shall include Prescribed Burning Program outreach, quality control assistance, and coordination of burning partners statewide.

(f) Program applicants/participants may appeal disagreements, disapproval of applications, or decisions on unsatisfactory completion of practices to the NCFS. Final decisions on cost share reimbursement will be made by NCFS management.

Authority G.S. 106-965; 106-997.

TITLE 10A – DEPARTMENT OF HEALTH AND HUMAN SERVICES

Notice is hereby given in accordance with G.S. 150B-21.3A(c)(2)g. that the Medical Care Commission intends to readopt with substantive changes the rules cited as 10A NCAC 13A .0202, and .0203, and readopt without substantive changes the rules cited as 10A NCAC 13A .0101 and .0201.

Pursuant to G.S. 150B-21.2(c)(1), the text of the rule(s) proposed for readoption without substantive changes are not required to be published. The text of the rules are available on the OAH website: <http://reports.oah.state.nc.us/ncac.asp>.

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

Proposed Effective Date: *August 1, 2026*

Public Hearing:

Date: *January 7, 2026*

Time: *10:00 am*

Location: *DHHS Building, Conference Room 2210, 1915 Health Services Way, Raleigh, North Carolina 27607*

Reason for Proposed Action: *The rulemaking procedures in Subchapter 10A NCAC 13A apply to the rulemaking authority of the North Carolina Medical Care Commission (MCC) granted by G.S. 143B-165. Rules are required in the N.C. Administrative Code pursuant to G.S. 150B-20 for the procedure for submitting a rule petition to an Agency and the procedure an Agency follows in considering a rulemaking petition. The proposed changes in*

.0202 and .0203 updates the address of the new DHHS building, updates the website to access these rules online, and states digital copies of declaratory rulings will be housed at the DHHS office.

G.S. 150B-21.3A(d)(2) states that if a rule is readopted without substantive change or if amended to impose a less stringent burden on regulated persons, the agency is not required to prepare a fiscal note. The first 2 rules of this package are readoptions without substantive changes. Rules .0202 and .0203 are imposing a less stringent burden on North Carolinians, therefore, no fiscal note is required.

Comments may be submitted to: *Shanah Black, 1915 Health Services Way; 2701 Mail Service Center, Raleigh, NC 27607; phone (919) 855-3481; email DHSR.RulesCoordinator@dhhs.nc.gov*

Comment period ends: *February 13, 2026*

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 13 – NC MEDICAL CARE COMMISSION

SUBCHAPTER 13A – EXECUTIVE COMMITTEE

SECTION .0100 – EXECUTIVE COMMITTEE

10A NCAC 13A .0101 EXECUTIVE COMMITTEE (READOPTION WITHOUT SUBSTANTIVE CHANGES)

SECTION .0200 - RULEMAKING

10A NCAC 13A .0201 PETITIONS (READOPTION WITHOUT SUBSTANTIVE CHANGES)

10A NCAC 13A .0202 RULEMAKING PROCEDURES

(a) The rulemaking procedures for the Secretary of the Department of Health and Human Services codified in 10A NCAC 01 are hereby adopted by reference pursuant to G.S. 150B-14(c) to apply to the actions of the Commission, with the following modifications:

- (1) Correspondence related to the Commission's rulemaking actions shall be submitted to:

APA/Rule-making Coordinator
Office of the Director
Division of Health Service Regulation
2701 Mail Service Center
Raleigh, North Carolina 27699-2701

- (2) The Secretary's designee shall mean the Director of the Division of Health Service Regulation (hereinafter referred to as the Division).
- (3) The "Division" shall be substituted for the "Office of General Counsel" in 10A NCAC 01.
- (4) "Hearing officer" shall mean the Chairman of the Medical Care Commission or his designee.

(b) ~~Copies of 10A NCAC 01 may be inspected in the Division at the address shown in (a)(1) of this Rule. Copies may be obtained from the Office of Administrative Hearings, 424 North Blount Street, Raleigh, North Carolina, 27601. Rules codified in 10A NCAC 01 can be accessed free of charge at <http://reports.oah.state.nc.us>.~~

Authority G.S. 143B-165; 150B-11; 150B-14.

10A NCAC 13A .0203 DECLARATORY RULINGS

(a) The Commission shall have the power to make declaratory rulings. All requests for declaratory rulings shall be written and submitted to: Chairman, Medical Care Commission, 2701 Mail Service Center, Raleigh, North Carolina, 27699-2701.

(b) All requests for a declaratory ruling must include the following information:

- (1) name and address of the petitioner;
- (2) statute or rule to which petition relates;
- (3) concise statement of the manner in which petitioner is aggrieved by the rule or statute or its potential application to him;
- (4) the consequence of a failure to issue a declaratory ruling.

(c) Whenever the Commission believes for good cause that the issuance of a declaratory ruling will not serve the public interest, it may refuse to issue one. When good cause is deemed to exist, the Commission will notify the petitioner of the decision in writing stating reasons for the denial of a declaratory ruling.

(d) The Commission may refuse to consider the validity of a rule and therefore refuse to issue a declaratory ruling:

- (1) unless the petitioner shows that the circumstances are so changed since adoption of the rule that such a ruling would be warranted;

- (2) unless the rulemaking record evidences a failure by the agency to consider specified relevant factors;
- (3) if there has been similar controlling factual determination in a contested case, or if the factual context being raised for a declaratory ruling was specifically considered upon adoption of the rule being questioned as evidence by the rulemaking record;
- (4) if circumstances stated in the request or otherwise known to the agency show that a contested case hearing would presently be appropriate.

(e) Where a declaratory ruling is deemed to be in the public interest, the Commission will issue the ruling within 60 days of receipt of the petition.

(f) A declaratory ruling procedure may consist of written submissions, oral hearings, or such other procedure as may be appropriate in a particular case.

(g) The Commission may issue notice to persons who might be affected by the ruling that written comments may be submitted or oral presentations received at a scheduled hearing.

(h) A digital record of all declaratory ruling procedures will be maintained for as long as the ruling has validity. This record will contain:

- (1) the original request,
- (2) reasons for refusing to issue a ruling,
- (3) all written memoranda and information submitted,
- (4) any written minutes or audio tape or other record of the oral hearing, and
- (5) a statement of the ruling.

This record will be maintained in a digital file at the Director's office at Division of Health Service Regulation, ~~2701 Mail Service Center, Raleigh, North Carolina, 27699-2701~~ and will be available for public inspection during regular office hours. 1915 Health Services Way, Raleigh, North Carolina, 27607, and will be available for public inspection during regular office hours.

Authority G.S. 143B-165; 150B-4.

Notice is hereby given in accordance with G.S. 150B-21.2 and G.S. 150B-21.3A(c)(2)g. that the Medical Care Commission intends to amend the rules cited as 10A NCAC 13D .2001, .2101, .2104, .2105, .2109, .2209, .2210, .2701, .2801, .3003, repeal the rules cited as 10A NCAC 13D .2505, .3004, .3005, .3031, readopt with substantive changes the rules cited as 10A NCAC 13D .3101, .3401, .3402, .3404, and readopt without substantive changes the rules cited as 10A NCAC 13D .2102, .2103, .2106-.2108, .2201-.2208, .2211, .2212, .2301-.2309, .2401, .2402, .2501-.2504, .2601-.2607, .2802, .2901, .2902, .3102-.3104, .3201, .3202, and .3403.

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>.

Pursuant to G.S. 150B-21.2(c)(1), the text of the rule(s) proposed for readoption without substantive changes are not required to be published. The text of the rules are available on the OAH website: <http://reports.oah.state.nc.us/ncac.asp>.

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

Proposed Effective Date: August 1, 2026

Public Hearing:

Date: January 14, 2026

Time: 10:00 am

Location: DHHS Building, Conference Room 2210, 1915 Health Services Way, Raleigh, North Carolina 27607

Reason for Proposed Action: Pursuant to GS 150B-21.3A, Periodic Review and Expiration of Existing Rules, all rules are reviewed at least every 10 years, or they shall expire. As a result of the periodic review of Subchapters 10A NCAC 13D, Rules for the Licensing of Nursing Homes, these proposed readoption rules were part of the 64 total rules determined as "Necessary," requiring readoption.

The Nursing Home Licensure and Certification Section seeks to align state licensure rules with federal long-term care requirements to ensure consistency across all facilities. North Carolina currently has 422 facilities operating with a nursing home license. Thirteen of these licensed facilities do not participate in Medicare or Medicaid and are therefore not federally certified. The proposed amendments and repeals reflect a comprehensive effort to modernize North Carolina's nursing home regulations, align them with federal standards, and ultimately improve the quality of care for residents. The changes are designed to make the rules clear, meaningful, and easy to interpret for all stakeholders involved in the long-term care sector.

Comments may be submitted to: Shanah Black, 1915 Health Services Way; 2701 Mail Service Center, Raleigh, NC 27607; phone (919) 855-3481; email DHRS.RulesCoordinator@dhhs.nc.gov

Comment period ends: February 13, 2026

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 13 - NC MEDICAL CARE COMMISSION

SUBCHAPTER 13D – RULES FOR THE LICENSING OF NURSING HOMES

SECTION .2000 – GENERAL INFORMATION

10A NCAC 13D .2001 DEFINITIONS

In addition to the definitions set forth in G.S. 131E-101, the following definitions shall apply throughout this Subchapter:

- (1) "Abuse" means the willful infliction of injury, unreasonable confinement, intimidation or punishment with resulting physical harm, pain, or mental anguish. Abuse also includes the willful deprivation by an individual, including a caretaker, of goods or services that are necessary to attain or maintain physical, mental, and psychosocial well-being. Instances of abuse of all residents, irrespective of any mental or physical condition, cause physical harm, pain or mental anguish. It includes verbal abuse, sexual abuse, physical abuse, and mental abuse including abuse facilitated or enabled through the use of technology. Willful, as used in this definition of abuse, means the individual must have acted deliberately, not that the individual must have intended to inflict injury or harm. This definition is as defined in 42 CFR § 483.5, which is incorporated by reference, including subsequent amendments. The Code of Federal Regulations may be accessed at <https://www.ecfr.gov>.
- (2) "Accident" means an unplanned event resulting in the injury or wounding of a patient or other individual.
- (3) "Addition" means an extension or increase in floor area or height of a building.
- (4) "Administrator" as defined in G.S. 90-276(4).
- (5) "Alteration" means any construction or renovation to an existing structure other than repair, maintenance, or addition.
- (6) ~~"Brain injury long term care" means an interdisciplinary, intensive maintenance program for patients who have incurred brain damage caused by external physical trauma and who have completed a primary course of rehabilitative treatment and have reached a~~

- ~~point of no gain or progress for more than three consecutive months. Brain injury long term care is provided through a medically supervised interdisciplinary process and is directed toward maintaining the individual at the optimal level of physical, cognitive, and behavioral functions.~~
- (7)(6) "Capacity" means the maximum number of patient or resident beds for which the facility is licensed to maintain at any given time.
- (8)(7) "Combination facility" means a combination home as defined in G.S. 131E-101.
- (9)(8) "Comprehensive, inpatient rehabilitation program" means a program for the treatment of persons with functional limitations or chronic disabling conditions who have the potential to achieve a significant improvement in activities of daily living, including bathing, dressing, grooming, transferring, eating, and using speech, language, or other communication systems. A comprehensive, inpatient rehabilitation program utilizes a coordinated and integrated, interdisciplinary approach, directed by a physician, to assess patient needs and to provide treatment and evaluation of physical, psychosocial, and cognitive deficits.
- (10)(9) "Department" means the North Carolina Department of Health and Human Services.
- (11)(10) "Director of nursing" means a registered nurse who has authority and responsibility for all nursing services and nursing care.
- (12)(11) "Discharge" means a physical relocation of a patient to another health care setting; the discharge of a patient to his or her home; or the relocation of a patient from a nursing bed to an adult care home bed, or from an adult care home bed to a nursing bed.
- (13)(12) "Existing facility" means a facility currently licensed and built prior to the effective date of this Rule.
- (14)(13) "Facility" means a nursing facility or combination facility as defined in this Rule.
- (15)(14) "Incident" means any accident, event, or occurrence that is unplanned, or unusual, and has caused harm to a patient, or has the potential for harm.
- (16) ~~"Inpatient rehabilitation facility or unit" means a free-standing facility or a unit (unit pertains to contiguous dedicated beds and spaces) within an existing licensed health service facility approved in accordance with G.S. 131E, Article 9 to establish inpatient, rehabilitation beds and to provide a comprehensive, inpatient rehabilitation program.~~
- (17)(15) "Interdisciplinary" means an integrated process involving representatives from disciplines of the health care team.
- (18)(16) "Licensee" means the person, firm, partnership, association, corporation, or organization to whom a license to operate the facility has been issued. The licensee is the legal entity that is responsible for the operation of the business.
- (19)(17) "Medication error rate" means the measure of discrepancies between medication that was ordered for a patient by the health care provider and medication that is administered to the patient. The medication error rate is calculated by dividing the number of errors observed by the surveyor by the opportunities for error, multiplied times 100.
- (20)(18) "Misappropriation of property" means the deliberate misplacement, exploitation, or wrongful, temporary or permanent use of a patient's belongings or money without the patient's consent.
- (21)(19) "Neglect" means a failure to provide goods and services necessary to avoid physical harm, mental anguish, or mental illness.
- (22)(20) "New facility" means a facility for which an initial license is sought, a proposed addition to an existing facility, or a proposed remodeled portion of an existing facility that will be built according to construction documents and specifications approved by the Department for compliance with the standards established in Sections .3100, .3200, and .3400 of this Subchapter.
- (23)(21) "Nurse Aide" means a person who is listed on the N.C. Nurse Aide Registry and provides nursing or nursing-related services to patients in a nursing home. A nurse aide is not a licensed health professional. Nursing homes that participate in Medicare or Medicaid shall comply with 42 CFR 483.35, which is incorporated by reference, including subsequent amendments. The Code of Federal Regulations may be accessed at <https://www.ecfr.gov>.
- (24)(22) "Nursing facility" means a nursing home as defined in G.S. 131E-101.
- (25)(23) "Patient" means any person admitted for nursing care.
- (26)(24) "Remodeling" means alterations, renovations, rehabilitation work, repairs to structural systems, and replacement of building systems at a nursing or combination facility.
- (27)(25) "Repair" means reconstruction or renewal of any part of an existing building for the purpose of its maintenance.
- (28)(26) "Resident" means any person admitted for care to an adult care home part of a combination facility.
- (29)(27) "Respite care" means services provided for a patient on a temporary basis, not to exceed 30 days.
- (30)(28) "Surveyor" means a representative of the Department who inspects nursing facilities and combination facilities to determine compliance

with rules, laws, and regulations as set forth in G.S. 131E-117; Subchapters 13D and 13F of this Chapter; and 42 CFR Part 483, Requirements for States and Long Term Care Facilities.

- (31)(29) "Violation" means a failure to comply with rules, laws, and regulations as set forth in G.S. 131E-117 and 131D-21; Subchapters 13D and 13F of this Chapter; or 42 CFR Part 483, Requirements for States and Long Term Care Facilities, that relates to a patient's or resident's health, safety, or welfare, or that creates a risk that death, or physical harm may occur.

Authority G.S. 131E-104.

SECTION .2100 - LICENSURE

10A NCAC 13D .2101 APPLICATION REQUIREMENTS

(a) A legal entity shall submit an application for licensure for a new facility to the Nursing Home Licensure and Certification Section of the Division of Health Service Regulation at least 30 days prior to a license being issued or patients admitted.

(b) The application shall contain the following:

- (1) legal identity of applicant (~~licensee~~) and mailing address; and mailing address. This is the full legal name of the corporation as on file with the NC Secretary of State, partnership, individual or other legal entity owning the nursing home. The license will be issued to the entity and it will become the licensee;
- (2) name or names under which the facility is presented to the public;
- (3) ~~location~~ site and mailing address of facility;
- (4) ~~ownership disclosure;~~ disclosure including names and contact information of owners, principals, affiliates, shareholder and members. "Owner" means any person who has or had legal or equitable title to or a majority interest in a nursing home. "Principal" means any person who is or was the owner or operator of a nursing home, an executive officer of a corporation that does or did own or operate a nursing home, a general partner of a partnership that does or did own or operate a nursing home, or a sole proprietorship that does or did own or operate a nursing home. "Affiliate" means any person that directly or indirectly controls or did control a nursing home or any person who is controlled by a person who controls or did control a nursing home.
- (5) building owner including names and contact information;
- (6) management disclosure including names and contact information;
- (7) multiple facility system disclosure within North Carolina including names and contact information of parent company and senior

officer. A multiple facility system is defined as two or more nursing homes or health care facilities under the same ownership.

- (8) operation disclosure including names and contact information for the administrator, director of nursing, activity director, social services director, medical director, emergency on-call dental provider, therapy providers, medical records professional, pharmacy consultant and dietary consultant. Pharmacy location disclosure including name and contact information of the pharmacist manager;
- (9) name and current license number of the administrator, director of nursing and the medical director;
- (10) continuing care retirement community disclosure;
- (11) combination facility disclosure including which rules the facility intends to apply for the operation of the adult care home beds;
- (5)(12) bed complement the total licensed bed capacity including nursing facility general beds, nursing facility special care unit dementia beds, nursing facility ventilator beds, adult care home general beds and adult care home special care unit dementia beds;
- (6) magnitude and scope of services offered;
- (7) name and current license number of the administrator;
- (8) name and current license number of the director of nursing; and
- (9) name and current license number of the medical director.

Authority G.S. 131E-104; 131E-102.

10A NCAC 13D .2102 ISSUANCE OF LICENSE (READOPTIOIN WITHOUT SUBSTANTIVE CHANGES)

10A NCAC 13D .2103 LENGTH OF LICENSURE (READOPTIOIN WITHOUT SUBSTANTIVE CHANGES)

10A NCAC 13D .2104 REQUIREMENTS FOR LICENSURE RENEWAL OR CHANGES

(a) The Department shall renew the facility's license at the end of each calendar year, if the following occur:

- (1) the licensee utilizes the online licensure website, <https://dhsrenterprise.nc.gov/#/>, to complete the license renewal required fields and utilization data. The licensee maintains and submits to the Department, at least 30 days prior to the licensure expiration date, statistical data for the State's medical facilities plan and review for certificate of need determination. The Department shall provide forms annually to the facility for this purpose.
- (2) The the facility is in conformance with G.S. 131E-102(c).

- (3) ~~The the combination facility shall specify on the annual license renewal application with specifics in its license renewal~~ which rules for the adult care home beds it plans to comply for the upcoming calendar year. The rule selection shall be effective for the duration of the renewed licensed year. The facility may choose one of the following:

- (A) nursing home licensure rules under this Subchapter;
- (B) adult care home licensure rules under 10A NCAC 13F; or
- (C) a combination of nursing home and adult care home licensure rules. The facility shall identify in writing the specific rule governing compliance with the adult care home rules and shall identify in writing the specific requirements governing compliance with the nursing home rules.

- (4) a special care unit disclosure for residents with Alzheimer's disease or other dementias is submitted, when applicable; and

- (5) an online licensure fee is paid.

(b) The facility shall notify the Nursing Home Licensure and Certification Section of the Division of Health Service Regulation in writing and make changes in the licensure application at least 30 days prior to the occurrence of the following:

- (1) a change in the name or names under which the facility is presented to the public;
- (2) a change in the legal identity (licensee) which has ownership responsibility and liability (such information shall be submitted by the proposed new owner);
- (3) a change in the licensed bed capacity; or
- (4) a change in the location of the facility.

The Department shall issue a new license following notification and verification of data submitted.

(c) The facility shall notify the Nursing Home Licensure and Certification Section of the Division of Health Service Regulation within one working day following the occurrence of:

- (1) change in administration;
- (2) change in the director of nursing;
- (3) change in facility mailing address or telephone number;
- (4) ~~changes in magnitude or scope of services; or~~
- (5) ~~emergencies or situations requiring relocation of patients to a temporary location away from the facility.~~

(d) The facility shall notify the Nursing Home Licensure and Certification Section of the Division of Health Service Regulation of emergencies or situations requiring relocation of patients to a temporary location away from the facility before patients are moved, unless doing so is not reasonably possible. If not possible, the facility shall notify the Section as soon as possible under the circumstances.

Authority G.S. 131E-104; 131E-102; 131E-114.

10A NCAC 13D .2105 TEMPORARY CHANGE IN BED CAPACITY

~~(b)~~(a) In an emergency situation, such as a natural disaster, a facility may exceed its licensed capacity as determined by its disaster plan and as authorized by the Division of Health Service Regulation. Emergency authorizations shall not exceed 60 days.

~~(a)~~(b) A continuing care retirement community, having an agreement to care for all residents regardless of level of care needs, may temporarily increase bed capacity by 10 percent or 10 beds, whichever is less, over the licensed bed capacity for a period up to 60 days following notification to and approval by the Division of Health Service Regulation and the period may be extended by an additional 60 days.

(c) The Division shall authorize, in writing, a temporary increase in licensed beds in accordance with Paragraphs (a) and (b) of this Rule, if it is determined that:

- (1) the increase is not associated with a capital expenditure; and
- (2) the increase would not jeopardize the health, safety and welfare of the patients.

Authority G.S. 131E-104; 131E-112.

10A NCAC 13D .2106 DENIAL, AMENDMENT, OR REVOCATION OF LICENSE (READOPTIO WITHOUT SUBSTANTIVE CHANGES)

10A NCAC 13D .2107 SUSPENSION OF ADMISSIONS (READOPTIO WITHOUT SUBSTANTIVE CHANGES)

10A NCAC 13D .2108 PROCEDURE FOR APPEAL (READOPTIO WITHOUT SUBSTANTIVE CHANGES)

10A NCAC 13D .2109 INSPECTIONS

(a) The facility shall allow inspection by an authorized representative of the Department at any time.

(b) At the time of inspection, any authorized representative of the Department shall make his or her presence known to the administrator or other person in charge who shall cooperate with the representative and facilitate the inspection.

(c) Inspections of medical records will be carried out in accordance with G.S. 131E-105. Patients shall have the right to object in writing to the release of information or review of records.

(d) The administrator shall provide and make available to representatives of the Department financial and statistical records required to verify compliance with all rules contained in this Subchapter.

(e) The Department shall ~~mail~~ send a written report to the facility within 10 working days from the date of the licensure survey or complaint investigation exit conference. The report shall include statements of any deficiencies or violations cited during the survey or investigation.

(f) The administrator shall prepare a written plan of correction and ~~mail~~ send it to the Department within 10 working days following receipt of any statement of deficiencies or violations. The Department shall review and ~~accept or reject~~ make an approval decision for the plan of correction, with written notice given to the administrator within 10 working days following receipt of the plan. correction.

Authority G.S. 131E-104.

**SECTION .2200 - GENERAL STANDARDS OF
ADMINISTRATION**

**10A NCAC 13D .2201 ADMINISTRATOR
(READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**10A NCAC 13D .2202 ADMISSIONS (READOPTION
WITHOUT SUBSTANTIVE CHANGES)**

**10A NCAC 13D .2203 PATIENTS NOT TO BE
ADMITTED (READOPTION WITHOUT SUBSTANTIVE
CHANGES)**

**10A NCAC 13D .2204 RESPITE CARE (READOPTION
WITHOUT SUBSTANTIVE CHANGES)**

**10A NCAC 13D .2205 DISCHARGE OF PATIENTS
(READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**10A NCAC 13D .2206 MEDICAL DIRECTOR
(READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**10A NCAC 13D .2207 PATIENT RIGHTS
(READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**10A NCAC 13D .2208 SAFETY (READOPTION
WITHOUT SUBSTANTIVE CHANGES)**

10A NCAC 13D .2209 INFECTION CONTROL

(a) A facility shall establish and maintain an infection prevention and control program for the purpose of providing a safe, clean and comfortable environment and preventing the transmission of communicable diseases and infection-infectious agents.

(b) Under the infection prevention and control program, the facility shall decide what procedures, such as isolation techniques, are needed for individual patients, investigate episodes of infection and attempt to control and prevent infections while conducting surveillance for and evaluating infections, including healthcare associated infections (HAIs) and implementing control measures to decrease the risk of HAIs in the facility.

(c) The facility shall maintain records of infections, and of the corrective actions taken.

(d) The facility shall ensure communicable disease testing as required by 10A NCAC 41A, compliance with 10A NCAC 41A "Communicable Disease Control" which is incorporated by reference, including subsequent amendments. Copies of these Rules may be obtained at no charge by contacting the Communicable Disease Branch, Epidemiology Section, Division of Public Health, N.C. Department of Health and Human Services, Division of Public Health, Tuberculosis Control Branch, 1902 Mail Service Center, Raleigh, North Carolina 27699-1902. These rules can be accessed at <http://reports.oah.state.nc.us/ncac.asp?folderName=%5CTitle%2010A%20-%20Health%20and%20Human%20Services%5CChapter%2041%20-%20Epidemiology%20Health>.

~~Screening shall be done upon admission of all patients being admitted from settings other than hospitals, nursing facilities or combination facilities. Staff shall be screened within seven days of the hire date. The facility shall ensure tuberculosis screening annually thereafter for patients and staff.~~

(c) All cases of reportable disease as defined by 10A NCAC 41A .0101 "Communicable Disease Control" "Reportable Diseases and Conditions" and outbreaks consisting of two or more linked cases of disease transmission shall be reported to the local health department. An outbreak of a communicable disease consisting of two or more linked cases of disease transmission shall also be reported to the local health department.

(f) Persons with a documented prior positive two-step skin test (TST) or a single interferon gamma release assay (IGRA) do not require additional testing, but evaluation may still be required. The following persons shall be tested for Mycobacterium tuberculosis using a two-step skin test or a single interferon Gamma Release Assay administered in accordance with recommendations and guidelines published by the Centers for Disease Control and Prevention:

(1) Patients upon admission to a licensed nursing home. If the patient is being admitted directly from a hospital, licensed nursing home or adult care home in North Carolina and there is documentation of a two-step skin TST or a single IGRA test, then the patient does not need to be retested.

(2) Staff of licensed nursing home upon employment.

(3) Except as provided in the last sentence of Subparagraph (f)(1) of this Rule, persons listed in Paragraph (f) of this Rule shall be required only to have a single TST or IGRA in the following situations:

(A) If the person has ever had a two-step skin test; or

(B) If the person has had a single skin test within the last twelve months.

(4) The facility shall ensure tuberculosis screening annually thereafter for patients and staff. The screening can be accomplished by verbal elicitation of symptoms and potential exposures to tuberculosis. TST or IGRA testing at annual screening is only required for individuals who either report one or more symptom of tuberculosis disease or report a new potential exposure to infectious tuberculosis.

~~(f)(g)~~ The facility shall use isolation precautions for any patient deemed appropriate by its infection prevention and control program and as recommended by the following Centers for Disease Control and Prevention guidelines, Management of Multidrug Resistant Organisms In Healthcare Settings, 2006, <http://www.cdc.gov/ncidod/dhqp/pdf/ar/MDROGuideline2006.pdf>; Multidrug-resistant Organisms (MDRO) Management Guidelines, <https://www.cdc.gov/infection-control/hcp/mdro-management/index.html>.

and 2007 Guideline for Isolation Precautions: Preventing Transmission of Infectious Agents in Healthcare Settings, <http://www.cdc.gov/hicpac/2007ip/2007isolationprecautions.htm>

l. <http://www.cdc.gov/hicpac/2007ip/2007isolationprecautions.html>, which is incorporated by reference, including subsequent amendments.

~~(g)(h)~~ The facility shall prohibit any employee with a communicable disease or ~~infected skin lesion from direct contact with patients or their food, if direct contact is the mode of transmission of the disease.~~ exudative lesions and or weeping dermatitis from handling patient care equipment and devices used in performing invasive procedures and from all direct patient care that involves the potential for contact of the patient, equipment, or devices with the lesion or dermatitis until the condition resolves.

~~(h)(i)~~ The facility shall require all staff to use hand ~~washing technique~~ hygiene techniques as ~~indicated~~ recommended in the Centers for Disease Control and Prevention, "Guideline for Hand Hygiene in Health-Care Settings, Recommendations of the Healthcare Infection Control Practices Advisory Committee and the HICPAC/SHEA/APIC/IDSA Hand Hygiene Task Force". This information can be accessed at <http://www.cdc.gov/mmwr/preview/mmwrhtml/rr5116a1.htm> <https://www.cdc.gov/infection-control/hcp/hand-hygiene/index.html>, which is incorporated by reference, including subsequent amendments.

~~(i)(j)~~ All linen shall be handled, store, processed and transported so as to prevent the spread of infection.

~~(k)~~ Blood glucose meters shall be dedicated for single patient use. The patient's blood glucose meter should be stored in a manner that will protect against inadvertent use of the device for additional patients. The blood glucose meter should be cleaned and disinfected after every use, per the manufacturer's instructions. The blood glucose meter should be protected from cross contamination via contact with other meters or equipment. If the patient no longer needs assisted blood glucose monitoring or is discharged from the facility, a meter designed for professional settings, not an over-the-counter device, will be disinfected according to manufacturer's instructions prior to use on another patient.

Authority G.S. 131E-104; 131E-113.

10A NCAC 13D .2210 REPORTING AND INVESTIGATING ABUSE, NEGLECT OR MISAPPROPRIATION FREEDOM FROM ABUSE, NEGLECT AND EXPLOITATION

(a) Nursing homes shall comply with 42 CFR 483.12, which is incorporated by reference, including subsequent amendments. The Code of Federal Regulations may be accessed at <https://www.ecfr.gov>.

~~(a)~~ A facility shall take measures to prevent patient abuse, patient neglect, or misappropriation of patient property, including orientation and instruction of facility staff on patients' rights and the screening of and requesting of references for all prospective employees.

(b) A facility shall ensure that the administrator of the facility, the Division of Health Service Regulation, Complaint Intake and Health Care Investigation Section, and adult protective services are notified within 24 hours of the facility's becoming aware of any allegation against health care personnel of any act

~~listed in G.S. 131E-256(a)(1), about all alleged violations involving abuse, neglect, exploitation or mistreatment, including injuries of unknown source and misappropriation of patient property within the time periods for notification specified in 42 CFR 483.12.~~

(c) A facility shall ensure that the administrator of the facility and the Division of Health Service Regulation are notified about misappropriation of the property of the facility, diversion of drugs belonging to the facility and fraud against the facility. The facility shall notify within 24 hours of the facility's becoming aware of the allegation.

~~(e)(d)~~ A facility shall investigate allegations of any act listed in G.S. 131E-256(a)(1), Paragraphs (b) and (c), shall document all information pertaining to such investigation, and shall take the necessary steps to prevent further incidents while the investigation is in progress.

~~(d)(c)~~ A facility shall ensure that the report of investigation is printed or typed and sent to the Division of Health Service Regulation within five working days of the allegation. The report shall include:

- (1) the date and time of the alleged incident;
- (2) the patient's full name and room number;
- (3) details of the allegation and any injury;
- (4) names of the accused and any witnesses;
- (5) names of the facility staff who investigated the allegation;
- (6) results of the investigation; and
- (7) any corrective action that was taken by the facility.

(f) A facility shall report any reasonable suspicion of a crime against a patient receiving care in the facility to the Division of Health Service Regulation, Complaint Intake and Health Care Investigations Section and local law enforcement where the facility is located within the time periods for notification specified in 42 CFR 483.12.

Authority G.S. 131E-104; 131E-131; 131E-255; 131E-256; 131E-117.

10A NCAC 13D .2211 PERSONNEL STANDARDS (READOPTION WITHOUT SUBSTANTIVE CHANGES)

10A NCAC 13D .2212 QUALITY ASSURANCE COMMITTEE (READOPTION WITHOUT SUBSTANTIVE CHANGES)

SECTION .2300 - PATIENT AND RESIDENT CARE AND SERVICES

10A NCAC 13D .2301 PATIENT ASSESSMENT AND PLAN OF CARE (READOPTION WITHOUT SUBSTANTIVE CHANGES)

10A NCAC 13D .2302 NURSING SERVICES (READOPTION WITHOUT SUBSTANTIVE CHANGES)

10A NCAC 13D .2303 NURSE STAFFING REQUIREMENTS (READOPTION WITHOUT SUBSTANTIVE CHANGES)

10A NCAC 13D .2304 NURSE AIDES (READOPTION WITHOUT SUBSTANTIVE CHANGES)

10A NCAC 13D .2305 QUALITY OF CARE (READOPTION WITHOUT SUBSTANTIVE CHANGES)

10A NCAC 13D .2306 MEDICATION ADMINISTRATION (READOPTION WITHOUT SUBSTANTIVE CHANGES)

10A NCAC 13D .2307 DENTAL CARE AND SERVICES (READOPTION WITHOUT SUBSTANTIVE CHANGES)

10A NCAC 13D .2308 ADULT CARE HOME PERSONNEL REQUIREMENTS (READOPTION WITHOUT SUBSTANTIVE CHANGES)

10A NCAC 13D .2309 CARDIO-PULMONARY RESUSCITATION (READOPTION WITHOUT SUBSTANTIVE CHANGES)

SECTION .2400 - MEDICAL RECORDS

10A NCAC 13D .2401 MAINTENANCE OF MEDICAL RECORDS (READOPTION WITHOUT SUBSTANTIVE CHANGES)

10A NCAC 13D .2402 PRESERVATION OF MEDICAL RECORDS (READOPTION WITHOUT SUBSTANTIVE CHANGES)

SECTION .2500 - PHYSICIAN'S SERVICES

10A NCAC 13D .2501 AVAILABILITY OF PHYSICIAN'S SERVICES (READOPTION WITHOUT SUBSTANTIVE CHANGES)

10A NCAC 13D .2502 PRIVATE PHYSICIAN (READOPTION WITHOUT SUBSTANTIVE CHANGES)

10A NCAC 13D .2503 USE OF NURSE PRACTITIONERS AND PHYSICIAN ASSISTANTS (READOPTION WITHOUT SUBSTANTIVE CHANGES)

10A NCAC 13D .2504 LABORATORY AND RADIOLOGY SERVICES (READOPTION WITHOUT SUBSTANTIVE CHANGES)

10A NCAC 13D .2505 BRAIN INJURY LONG-TERM CARE PHYSICIAN SERVICES

Authority G.S. 131E-104.

SECTION .2600 - PHARMACEUTICAL SERVICES

10A NCAC 13D .2601 AVAILABILITY OF PHARMACEUTICAL SERVICES (READOPTION WITHOUT SUBSTANTIVE CHANGES)

10A NCAC 13D .2602 PHARMACY PERSONNEL (READOPTION WITHOUT SUBSTANTIVE CHANGES)

10A NCAC 13D .2603 ADMINISTRATIVE RESPONSIBILITIES (READOPTION WITHOUT SUBSTANTIVE CHANGES)

10A NCAC 13D .2604 DRUG PROCUREMENT (READOPTION WITHOUT SUBSTANTIVE CHANGES)

10A NCAC 13D .2605 DRUG STORAGE AND DISPOSITION (READOPTION WITHOUT SUBSTANTIVE CHANGES)

10A NCAC 13D .2606 PHARMACEUTICAL RECORDS (READOPTION WITHOUT SUBSTANTIVE CHANGES)

10A NCAC 13D .2607 EMERGENCY DRUGS (READOPTION WITHOUT SUBSTANTIVE CHANGES)

SECTION .2700 - DIETARY SERVICES

10A NCAC 13D .2701 PROVISION OF NUTRITION AND DIETETIC SERVICES

~~(a) Nursing homes shall comply with 42 CFR 483.25(g) and (h) and 483.60, which are incorporated by reference, including subsequent amendments. The Code of Federal Regulations may be accessed at <https://ecfr.gov>. A facility shall ensure that each patient is provided with a palatable diet that meets his or her daily nutritional and specialized nutritional needs.~~

~~(b) The facility shall designate a person to be known as the director of food service who shall be responsible for the facility's dietetic service and for supervision of dietetic service personnel.~~

~~(c) Based on a resident's assessment, the nursing home facility must ensure that a patient maintains acceptable parameters of nutritional status, such as body weight and protein levels, unless the patient's clinical condition demonstrates that it is not possible.~~

~~(d) There shall be sufficient personnel employed to meet the nutritional needs of all patients in the areas of therapeutic diets, food preparation and service, principles of sanitation, and resident's preferences as related to food services.~~

~~(e) The facility shall ensure that menus are followed which meet the nutritional needs of patients in accordance with the recommended dietary allowances of the Food and Nutrition Board of the National Research Council, National Academy of Sciences which are incorporated by reference, including subsequent amendments. Copies of this publication may be obtained by contacting The National Academy Press, 500 Fifth St. N.W., Washington, D.C. 20001 or accessing it at http://www.nap.edu/catalog.php?record_id=1349. Menus shall:~~

- ~~(1) be planned at least 14 days in advance,~~
- ~~(2) provide for substitutes of similar nutritive value for patients who refuse food that is served, and~~

- (3) ~~be provided to patients orally or written through such methods as posting and daily announcements.~~
- (f) ~~Food must be prepared to conserve its nutritive value, and appearance.~~
- (g) ~~Food shall be served at the preferred temperature as discerned by the resident and customary practice, in a form to meet the patient's individual needs and with assistive devices as dictated by the patient's needs. Hot foods shall leave the kitchen (or steam table) above 135 degrees F; and cold foods below 41 degrees F. The freezer must keep frozen foods frozen solid.~~
- (h) ~~If patients require assistance in eating, food shall be maintained at the appropriate temperature until assistance is provided.~~
- (i) ~~All diets, including enteral and parenteral nutrition therapy, shall be as ordered by the physician or other legally authorized person, and served as ordered.~~
- (j) ~~At least three meals shall be served daily to all patients in accordance with medical orders.~~
- (k) ~~No more than 14 hours shall elapse between an evening meal containing a protein food and a morning meal containing a protein food.~~
- (l) ~~Hour of sleep (hs) nourishment shall be available to patients upon request or in accordance with nutritional plans.~~
- (m) ~~Between meal fluids for hydration shall be available and offered to all patients in accordance with medical orders.~~
- (n) ~~The facility shall have a current online or hard copy nutrition care manual or handbook approved by the dietitian, medical staff and the Administrator which shall be used in the planning of the regular and therapeutic diets and be accessible to all staff.~~
- ~~(o)~~(b) ~~Food services shall comply with Rules Governing the Sanitation of Restaurants and Other Foodhandling Establishments (15A NCAC 18A .1300) as promulgated by the Commission for Public Health which are incorporated by reference, including subsequent amendments, assuring storage, preparation, and serving of food under sanitary conditions. Copies of these Rules can be accessed online at <http://www.deh.enr.state.nc.us/rules.htm>. <https://ehs.dph.ncdhhs.gov/docs/rules/294306-2-1300.pdf>.~~

Authority G.S. 90-368(4); 131E-104.

SECTION .2800 - ACTIVITIES, RECREATION AND SOCIAL SERVICES

10A NCAC 13D .2801 ACTIVITY SERVICES

- (a) ~~The facility shall provide a program of activities that is on-going ongoing and in accordance with the comprehensive assessment, and that promotes the interests, as well as physical, mental and psychosocial well-being, of each patient.~~
- (b) ~~The administrator shall designate an activities director who shall be responsible for activity and recreational services for all patients and who shall have appropriate management authority. The director shall:~~
- (1) ~~be a recreation therapist or be eligible for certification as a therapeutic recreation specialist by a recognized accrediting body; or~~
 - (2) ~~have two years of experience in a social or recreation program within the last five years,~~

- ~~one of which was full time in a patient activities program in a health care setting; or~~
- (3) ~~be an occupational therapist or occupational therapy assistant; or~~
 - (4) ~~be certified by the National Certification Council for Activity Professionals; or~~
 - (5) ~~have completed an activities training course approved by the State.~~
- (b) The activities program must be directed by an activity director who meets the following qualifications:
- (1) The activity director hired after August 1, 2026 shall meet a minimum educational requirement by being a high school graduate or certified under the GED Program.
 - (2) The activity director hired after August 1, 2026 shall complete, within nine months of employment or assignment to this position, the basic activity course for nursing home activity directors offered by community colleges, universities or other nationally recognized online platforms, that include a minimum of 10 hours of documentation in the course. An activity director shall be exempt from the required basic activity course if one or more of the following applies:
 - (A) the individual is a licensed recreational therapist or eligible for certification as a therapeutic recreation specialist as defined by the North Carolina Recreational Therapy Licensure Act in accordance with G.S. 90C;
 - (B) the individual has two years of experience working in programming for an adult recreation or activities program within the last five years, one year of which was full-time in an activities program for patients or residents in a health care or long-term care setting;
 - (C) the individual is a licensed occupational therapist or licensed occupational therapy assistant in accordance with G.S. 90, Article 18D;
 - (D) the individual is certified as an Activity Professional by the National Certification Council for Activity Professionals; or
 - (E) the required basic activity course was completed prior to August 1, 2026.

Authority G.S. 131E-104; 143B-165(10); 42 C.F.R. 483.15(f).

10A NCAC 13D .2802 SOCIAL SERVICES (READoption WITHOUT SUBSTANTIVE CHANGES)

SECTION .2900 - SPECIAL REQUIREMENTS

**10A NCAC 13D .2901 REPORT OF DEATH
(READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**10A NCAC 13D .2902 PETS (READOPTION WITHOUT
SUBSTANTIVE CHANGES)**

SECTION .3000 - SPECIALLY DESIGNATED UNITS

**10A NCAC 13D .3003 ~~VENTILATOR ASSISTED~~
~~RESPIRATORY CARE, QUALIFIED PROFESSIONALS,~~
~~NON-INVASIVE MECHANICAL VENTILATION,~~
~~SPECIAL REQUIREMENTS FOR INVASIVE~~
~~MECHANICAL VENTILATION AND STAFFING~~
~~REQUIREMENTS IN SPECIAL CARE UNIT~~**

(a) For the purpose of this Rule, ventilator assisted individuals, means as defined in the federal State Operations Manual, Appendix PP Guidance to Surveyors for Long Term Care Facilities, herein incorporated by reference including subsequent amendments and editions. Copies of the State Operations Manual may be accessed free of charge online at https://www.cms.gov/Regulations-and-Guidance/Guidance/Manuals/downloads/som107ap_pp_guidelines-1tef.pdf. Nursing homes shall comply with 42 CFR 483.25(i), which is incorporated by reference, including subsequent amendments. The Code of Federal Regulations may be accessed at <https://ecfr.gov>.

(b) Facilities having patients who receive non-invasive or invasive mechanical ventilation shall:

- ~~(1)~~ ~~administer respiratory care in accordance with 42 CFR Part 483.25(i), and the federal State Operations Manual F695;~~
- ~~(2)~~(1) administer respiratory care in accordance with the scope of practice for respiratory therapists defined in G.S. 90-648; and
- ~~(3)~~(2) provide pulmonary services from a physician who has training in pulmonary medicine. The physician shall be responsible for respiratory services and shall:
 - (A) establish with the respiratory therapist and nursing staff, ventilator policies and procedures, including emergency procedures;
 - (B) assess each ventilator assisted patient's status at least monthly with corresponding progress notes;
 - (C) respond to emergency communications 24 hours a day; and
 - (D) participate in individual care planning.

(c) A facility may provide non-invasive mechanical ventilation via a portable respiratory support device designed to assist patients with breathing difficulties according to manufacturer's instructions and with constant monitoring by qualified staff.

(d) A facility must not provide patients with mechanical ventilation via an invasive artificial airway using an endotracheal tube or tracheostomy tube unless:

- (1) the Division of Health Service Regulation Construction Section has approved plans, drawings and life safety code for safe operation of the specialized bed type;

- (2) the Nursing Home Licensure and Certification Section has reviewed signed contracts for professionals providing pulmonary medicine, respiratory therapy and durable medical equipment suppliers;
- (3) the Nursing Home Licensure and Certification Section has reviewed staffing schedules;
- (4) the Nursing Home Licensure and Certification Section has reviewed job specific orientation, unit policies and procedures and emergency preparedness; and
- (5) beds for patients receiving invasive mechanical ventilation are grouped into one specialized care unit and disclosure of the beds is on the nursing home initial, renewal, bed change or change of ownership application.

~~(e)~~(c) Direct care nursing personnel staffing ratios established in Rule .2303 of this Subchapter shall not be applied to nursing services for patients who ~~are ventilator assisted at life support settings~~ reside in a special care unit for residents who receive invasive mechanical ventilation. The minimum direct care nursing staff shall be 5.5 hours per patient day, allocated on a per shift basis as the facility chooses; however, in no event shall the direct care nursing staff fall below a registered nurse and a nurse aide I at any time during a 24-hour period.

Authority G.S. 131E-104.

10A NCAC 13D .3004 BRAIN INJURY LONG-TERM CARE

Authority G.S. 131E-104.

10A NCAC 13D .3005 SPECIAL NURSING REQUIREMENTS FOR BRAIN INJURY LONG-TERM CARE

Authority G.S. 131E-104.

10A NCAC 13D .3031 ADDITIONAL REQUIREMENTS FOR SPINAL CORD INJURY PATIENTS

Authority G.S. 131E-104.

SECTION .3100 – DESIGN AND CONSTRUCTION

10A NCAC 13D .3101 GENERAL RULES

(a) Each facility shall be planned, constructed, equipped, and maintained to provide the services offered in the facility.

(b) A new facility or remodeling of an existing facility shall meet the requirements of the North Carolina State Building Codes which are incorporated by reference, including all subsequent amendments. Copies of these codes may be ~~purchased from the International Code Council online at <http://www.icesafe.org/Stire/Pages/default.aspx> at a cost of five hundred twenty seven dollars(\$527.00) or~~ accessed electronically free of charge at

http://www.ecodes.biz/ecodes_support/Free_Resources/2012NorthCarolina/12NorthCarolina_main.html.

<http://codes.iccsafe.org/codes/north-carolina>. Existing licensed facilities shall meet the requirements of the North Carolina State Building Codes in effect at the time of construction or remodeling.

(c) Any existing building converted from another use to a nursing facility shall meet all requirements of a new facility.

(d) The sanitation, water supply, sewage disposal, and dietary facilities shall comply with the rules of the North Carolina Division of Public Health, Environmental Health Services Section, which are incorporated by reference, including all subsequent amendments. The "Rules Governing the Sanitation of Hospitals, Nursing Homes, Adult Care Homes and Other Institutions", 15A NCAC 18A .1300 ~~are available for inspection at the North Carolina Department of Health and Human Services, Division of Public Health, Environmental Health Services Section 5606 Six Forks Road, Raleigh, North Carolina 27509. Copies may be obtained from the Environmental Health Services section, 1632 Mail Service Center, Raleigh, NC 27699 1632 at no cost, or can be accessed electronically free of charge at [http://reports.oah.state.nc.us/ncac.asp?folderName=Title 15A—Environment and Natural Resources Chapter 18—Environmental Health](http://reports.oah.state.nc.us/ncac.asp?folderName=Title%2015A%20Environment%20and%20Natural%20Resources). <http://www.oah.nc.gov/>.~~

(e) The adult care home portion of a combination facility shall meet the rules for a nursing facility contained in Sections .3100, .3200 and .3400 of this Subchapter, except when separated by two-hour fire resistive construction.

When separated by two-hour fire-resistive construction, the adult care home portion of the facility shall meet the rules for adult care home in 10A NCAC 13F, Licensing of Adult Care Homes, which are incorporated by reference, including all subsequent amendments; and adult care home resident areas must be located in the adult care home section of the facility. Copies of 10A NCAC 13F, Licensing of Adult Care Homes, can be ~~obtained free of charge from the Division of Health Service Regulation, Adult Care Licensure Section, 2708 Mail Service Center, Raleigh, NC 27699 2708, or~~ accessed electronically free of charge at <http://reports.oah.state.nc.us/ncac/title%2010a%20-%20health%20and%20human%20services/chapter%2013%20-%20nc%20medical%20care%20commission/subchapter%20d/subchapter%20d%20rules.html>. <http://www.oah.nc.gov/>.

(f) An addition to an existing facility shall meet the same requirements as a new facility.

Authority G.S. 131E-102; 131E-104.

10A NCAC 13D .3102 APPLICATION OF PHYSICAL PLANT REQUIREMENTS (READOPTION WITHOUT SUBSTANTIVE CHANGES)

10A NCAC 13D .3103 SITE (READOPTION WITHOUT SUBSTANTIVE CHANGES)

10A NCAC 13D .3104 PLANS AND SPECIFICATIONS (READOPTION WITHOUT SUBSTANTIVE CHANGES)

SECTION .3200 - FUNCTIONAL REQUIREMENTS

10A NCAC 13D .3201 REQUIRED SPACES (READOPTION WITHOUT SUBSTANTIVE CHANGES)

10A NCAC 13D .3202 FURNISHINGS (READOPTION WITHOUT SUBSTANTIVE CHANGES)

SECTION .3400 – MECHANICAL: ELECTRICAL: PLUMBING

10A NCAC 13D .3401 HEATING AND AIR CONDITIONING

(a) A facility shall provide heating and cooling systems complying with the following:

- (1) The American National Standards Institute and American Society of Heating, Refrigerating, and Air Conditioning Engineers Standard 170: Ventilation of Health Care Facilities, which is incorporated by reference, including all subsequent amendments and editions, and may be ~~purchased for a cost of fifty four dollars (\$54.00) online at~~ [accessed electronically at http://www.techstreet.com/ashrae/lists.ashrae_standards.tmpl](http://www.techstreet.com/ashrae/lists.ashrae_standards.tmpl). This incorporation does not apply to Section 7.1, Table 7-1 Design Temperature for Skilled Nursing Facility. The environmental temperature control systems shall be capable of maintaining temperatures in the facility at 71 degrees F. minimum in the heating season and a maximum of 81 degrees F. during the non-heating season; and
- (2) The National Fire Protection Association 90A: Standard for the Installation of Air-Conditioning and Ventilating Systems, which is incorporated by reference, including all subsequent amendments and editions, and may be ~~purchased at a cost of thirty nine dollars (\$39.00) from the National Fire Protection Association online at~~ <http://www.nfpa.org/catalog/> ~~or~~ accessed electronically ~~free of charge~~ at <http://www.nfpa.org/aboutthecodes/AboutTheCodes.asp?DocNum=90A>.

(b) In a facility, the windows in dining, activity and living spaces, and bedrooms shall be operable from the inside. To inhibit patient and resident elopement from any window, the facility may restrict the window opening to a six-inch opening.

Authority G.S. 131E-102; 131E-104.

10A NCAC 13D .3402 EMERGENCY ELECTRICAL SERVICE

A facility shall provide an emergency electrical service for use in the event of failure of the normal electrical service. This emergency electrical service shall consist of the following:

- (1) In any existing facility:
 - (a) type 1 and 2 emergency lights as required by the North Carolina State Building Codes: Electrical Code;
 - (b) additional emergency lights for all control points required by Rule .3201(1)(9) of this Subchapter, medication preparation areas required

- by Rule .3201(1)(1) of this Subchapter and storage areas, and for the telephone switchboard, if applicable;
- (c) one or more portable battery-powered lamps at each control point required by Rule .3201(1)(9) of this Subchapter; and
- (d) a source of emergency power for life-sustaining equipment, if the facility admits or cares for occupants needing such equipment, to ensure continuous operation with on-site fuel storage for a minimum of 72 hours.
- (2) An emergency power generating set, including the prime mover and generator, shall be located on the premises and shall be reserved exclusively for supplying the essential electrical system. For the purposes of this Rule, the "essential electrical system" means a system comprised of alternate sources of power and all connected distribution systems and ancillary equipment, designed to ensure continuity of electrical power to designated areas and functions of a facility during disruption of normal power source, and also to minimize disruption within the internal wiring system as defined by the North Carolina State Building Codes: Electrical Code.
- (3) Emergency electrical services shall be provided as required by Rule .3101(b) of this Subchapter with the following modification: Section 517.10(B)(2) of the North Carolina State Building Codes: Electrical Code shall not apply to new facilities.
- (4) The following equipment, devices, and systems which are essential to life safety and the protection of important equipment or vital material shall be connected to the critical branch of the essential electrical system as follows:
 - (a) nurses' calling system;
 - (b) fire pump, if installed;
 - (c) one elevator, where elevators are used for the transportation of patients;
 - (d) equipment such as burners and pumps necessary for operation of one or more boilers and their necessary auxiliaries and controls, required for heating and sterilization, if installed;
 - (e) equipment necessary for maintaining telephone service; and
 - (f) task illumination of boiler rooms, if applicable.
- (5) A dedicated critical branch circuit per bed for ventilator-dependent patients is required. This critical branch circuit shall be provided with two duplex receptacles identified for emergency use. When staff determines that the electrical life support needs of the patient exceed the requirements stat in this Item, additional critical branch circuits and receptacles shall be provided. For the purposed of this Rule, a "critical branch circuit" is a circuit of the critical branch subsystem of the essential electrical system which supplies energy to task lighting, selected receptacles and special power circuits serving patient care areas as defined by the North Carolina State Building Codes: Electrical Code. This Item applies to both new and existing facilities.
- (6) Heating equipment provided for ventilator dependent patient bedrooms shall be connected to the critical branch of the essential electrical system and arranged for delayed automatic or manual connection to the emergency power source if the heating equipment depends upon electricity for proper operation. This Item applies to both new and existing facilities.
- (7) Task lighting connected to the automatically transferred critical branch of the essential electrical system shall be provided for each ventilator dependent patient bedroom. For the purposes of this Item, task lighting is defined as lighting needed to carry out necessary tasks for the care of a ventilator dependent patient. This Item applies to both new and existing facilities.
- (8) Where electricity is the only source of power normally used for the heating of space, an essential electrical system shall provide for heating of patient rooms. Emergency heating of patient rooms shall not be required in areas where the facility is supplied by at least two separate generating sources or a network distribution system with the facility feeders so routed, connected, and protected that a fault any place between the generating sources and the facility will not cause an interruption of more than one of the facility service feeders.
- (9) An essential electrical system shall be so controlled that after interruption of the normal electric power supply, the generator is brought to full voltage and frequency and connected within 10 seconds through one or more primary automatic transfer switches to all emergency lighting, alarms, nurses' call, and equipment necessary for maintaining telephone service. All other lighting and equipment required to be connected to the essential electrical system shall either be connected through the 10 second primary automatic transfer switching or shall be connected through delayed automatic or manual transfer switching. If manual transfer switching is provided, staff of he facility shall operate the manual transfer switch.
- (10) Sufficient fuel shall be stored for the operation of the emergency power generator for a period not less than 72 hours, on a 24-hour per day operational basis with on-site fuel storage. The

generator system shall be tested and maintained per National Fire Protection Association Health Care Facilities Code, NFPA 99, which is incorporated by reference, including all subsequent amendments and additions. Copies of this code may be obtained from the national Fire Protection Association – online at <http://www.nfpa.org/catalog/> or accessed electronically free of charge at <http://www.nfpa.org/aboutthecodes/AboutTheCodes.asp?DocNum=99>.

<http://www.nfpa.org/codes-and-standards/nfpa-99-standard-development/99>.

The facility shall maintain records of the generator system tests and shall make these records available to the Department for inspection upon request.

- (11) The electrical emergency service at existing facilities shall comply with the requirements established in Sections .3100, and .3400 of this Subchapter in effect at the time a license is first issued. Any remodeling of an existing facility that results in changes to the emergency electrical service shall comply with the requirements established in Sections .3100, and .3400 of this Subchapter in effect at the time of remodeling.

Authority G.S. 131E-102;131E-104.

10A NCAC 13D .3403 GENERAL ELECTRICAL (READOPTION WITHOUT SUBSTANTIVE CHANGES)

10A NCAC 13D .3404 OTHER

(a) In general patient areas of a facility, each room shall be served by at least one calling station and each bed shall be provided with a call button. Two call buttons serving adjacent beds may be served by one calling station. Calls shall register with the floor staff and shall activate a visible signal in the corridor at the patient's or resident's door. On multi-corridor nursing units, additional visible signals shall be installed at the corridor intersections. In rooms containing two or more calling stations, indicating lights shall be provided at each station. Nurses' calling systems that provide two-way voice communication shall be equipped with an indicating light at each calling station that lights and remains lighted as long as the voice circuit is operating. A nurses' call emergency button shall be provided for patients' and residents' use at each patient and resident toilet, bath, and shower.

(b) A facility shall provide:

- (1) at least one telephone located to be accessible by patients, residents, and families for making local phone calls; and
- (2) cordless telephones or telephone jacks in patient and resident rooms to allow access to a telephone by patients and residents when needed.

(c) Outdoor lighting shall be provided to illuminate walkways and drives.

(d) A flow of hot water shall be within safety ranges specified as follows:

- (1) Patient Areas – 6 ½ gallons per hour per bed and at a temperature of 100 to 116 degrees F;
- (2) Dietary Services – 4 gallons per hour per bed and at a minimum temperature of 140 degrees F; and
- (3) Laundry Areas – 4 ½ gallons per hour per bed and at a minimum temperature of 140 degrees F.

(e) If provided in a facility, medical gas and vacuum systems shall be installed, tested, and maintained in accordance with the National Fire Protection Association Health Care Facilities Code, NFPA 99, which is incorporated by reference, including all subsequent amendments and editions. Copies of this code may be purchased for a cost of sixty one dollars (\$61.00) from the National Fire Protection Association online at <http://www.nfpa.org/catalog/> or accessed electronically free of charge at <http://www.nfpa.org/aboutthecodes/AboutTheCodes.asp?DocNum=99>. <http://www.nfpa.org/codes-and-standards/nfpa-99-standard-development/99>.

(f) Each facility shall have a control mechanism and staff procedures for monitoring and managing patients who wander or are disoriented. The control mechanism shall include egress alarms and any of the following:

- (1) an electronic locking system;
- (2) manual locks; and
- (3) staff supervision.

This requirement applies to new and existing facilities.

(g) Sections of the National Fire Protection Association Life Safety Codes, NFPA 101, 2012 edition listed in this Paragraph are adopted by reference.

- (1) 18.2.3.4 with requirements for projections into the means of egress corridor width of wheeled equipment and fixed furniture;
- (2) 18.3.2.5 with requirements for the installation of cook tops, ovens and ranges in rooms and areas open to the corridors;
- (3) 18.5.2.3(2), (3) and (4) with requirements for the installation of direct-vent gas and solid fuel-burning fireplaces in smoke compartments; and
- (4) 18.7.5.6 with requirements for the installation of combustible decorations on walls, doors and ceilings.

Smoke compartments where the requirements of these Sections are applied must be protected throughout by an approved automatic sprinkler system. For the purposes of this Rules, "smoke compartments" are spaces within a building enclosed by smoke barriers on all sides, including the top and bottom as indicated in NFP 101, 2012 edition. Where these Sections are less stringent than requirements of the North Carolina State Building Codes, the requirements of the North Carolina State Building Codes shall apply. Where these Sections are more stringent than the North Carolina Building Codes, the requirements of these Sections shall apply. Copies of this code may be purchased for a cost of ninety three dollars (\$93.00) from the National Fire Protection Association online at <http://www.nfpa.org/catalog/> or accessed electronically free of charge at <http://www.nfpa.org/aboutthecodes/AboutTheCodes.asp?DocNum=99>.

~~m=101-~~ <http://nfpa.org/codes-and-standards/nfpa-99-standard-development/99>.

(h) Ovens, ranges, cook tops, and hot plates located in rooms or areas accessible by patients or residents shall not be used by patients or residents except under facility staff supervision. The degree of staff supervision shall be based on the facility's assessment of the capabilities of each patient and resident.

Authority G.S. 131E-102;131E-104.

TITLE 14B – DEPARTMENT OF PUBLIC SAFETY

Notice is hereby given in accordance with G.S. 150B-21.3A(c)(2)g. that the Alcoholic Beverage Control Commission intends to readopt with substantive changes the rules cited as 14B NCAC 15C .0103, and .0701-.0715.

Link to agency website pursuant to G.S. 150B-19.1(c):
<https://abc.nc.gov/legal/laws-rules-and-resources>

Proposed Effective Date: *May 1, 2026*

Public Hearing:

Date: *January 14, 2026*

Time: *10:00 a.m.*

Location: *NC ABC Commission, Hearing Room, 400 East Tryon Road, Raleigh, NC 27610*

Reason for Proposed Action: *Mandatory periodic review per G.S. 150B-21.3A.*

Comments may be submitted to: *Renee Metz, 400 East Tryon Road, Raleigh, NC 27610; phone (919) 948-7919; email rules@abc.nc.gov*

Comment period ends: *February 13, 2026*

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 15 - ALCOHOLIC BEVERAGE CONTROL COMMISSION

SUBCHAPTER 15C - INDUSTRY MEMBERS: RETAIL/INDUSTRY MEMBER RELATIONSHIPS: SHIP CHANDLERS: AIR CARRIERS: FUEL ALCOHOL

SECTION .0100 - DEFINITIONS: APPLICATION PROCEDURES

14B NCAC 15C .0103 BEER FRANCHISE LAW; "BRAND" DEFINED

For purposes of Article 13 of Chapter ~~18B~~, 18B of the General Statutes, the Beer Franchise Law, a distribution agreement between a supplier and wholesaler applies to all products distributed by the supplier under the same brand name. Different categories of products manufactured and marketed under a common identifying trade name are considered to be the same brand; ~~e.g., the "Old Faithful" brand manufactured by Yellowstone Brewery Co. would include "Old Faithful", "Old Faithful Light", "Old Faithful Draft", "Old Faithful Dry" and other products identified principally by and relying upon the "Old Faithful" name, but would not include "Old Teton" which was also manufactured by Yellowstone Brewery Co. brand.~~ The Commission shall determine the brand. ~~Determination of a product's brand shall be made by the Commission at the time the product is approved for sale in North Carolina Carolina. Later changes to advertising strategy or labeling and shall not affect the brand. be affected by later changes in the manufacturer's advertising strategy or labeling. Differences in packaging, such as different style, type or size of container, Different packaging, style, font, or container do not establish different brands. The name of the manufacturer shall not be the brand name unless no other information on the label qualifies as a brand.~~

Note: As an illustration, the "Old Faithful" brand manufactured by Yellowstone Brewery Co. would include "Old Faithful", "Old Faithful Light", "Old Faithful Draft", "Old Faithful Dry" and other products identified principally by and relying upon the "Old Faithful" name, but would not include "Old Teton" which was also manufactured by Yellowstone Brewery Co.

Authority G.S. 18B-100; 18B-207; 18B-1303(a).

SECTION .0700 - ALCOHOLIC BEVERAGES: RETAILER/INDUSTRY MEMBER RELATIONSHIP: TRADE PRACTICES

14B NCAC 15C .0701 DEFINITIONS

For the purposes of this Section, the following definitions shall apply:

- (1) "Equipment" shall include draft beer boxes, wine dispensing machines, refrigeration devices, sinks, dishwashers, dispensing trucks, trailers, caddies, and ~~any other item useful or~~

~~suitable items used for the preparation, serving, dispensing~~ dispensing, or cleaning of ~~food or beverages~~ food, beverages, or food and beverage containers.

- (2) "Point-of-Sale advertising" shall mean advertising material ~~such as including~~ signs, posters, banners, and ~~decorations that bears conspicuous and substantial product advertising matter, that has no secondary value to the retailer, and that is designed and intended to be used inside a retailer's licensed premises where alcoholic beverage products are displayed and sold.~~ decorations:
- (a) containing alcoholic beverage product advertising matter;
 - (b) having no secondary value to the retailer; and
 - (c) designed and intended to be used inside a retailer's licensed premises where alcoholic beverages are displayed and sold.
- (3) "Promotion" shall include ~~any advertising publicity~~ advertising, publicity, or sponsorship activity in connection with ~~any~~ a special event, ~~function~~ function, or holiday ~~that is outside the scope of routine sales and marketing, and shall include~~ including fundraisers, concerts, sporting events, festivals, celebrations, anniversaries, ceremonies, operations, observances, ~~sweepstakes~~ sweepstakes, or contests.

Authority G.S. 18B-100; 18B-207; 18B-1116.

14B NCAC 15C .0702 MALT BEVERAGES: ALLOWANCES FOR DAMAGE

~~No allowance shall be made by any malt~~ Malt beverage industry ~~member members shall not provide a credit or allowance to any a~~ retailer for flat beer or chipped or broken bottles, except ~~in instances where~~ when the retailer returns the tops of the bottles with glass attached to the industry member. ~~No refund shall be made by any industry member~~ Industry members shall not provide a refund on canned malt beverages that have been opened by a can opener or pull tab. Refunds Industry members may be made give refunds on canned malt beverages if ~~it is obvious the malt beverages have been damaged in~~ during shipment to the wholesaler or retailer.

Authority G.S. 18B-100; 18B-207; 18B-1116.

14B NCAC 15C .0703 REMOVAL OR DISTURBANCE OF OTHER BRANDS PROHIBITED

~~No wholesaler~~ Wholesalers shall not remove from a retailer's premises ~~any bottles, cartons~~ cartons, or kegs bearing brand identification ~~except brands that are distributed by that wholesaler, unless the wholesaler is authorized to distribute the brand.~~ No wholesaler Wholesalers shall not remove, ~~rearrange~~ rearrange, or otherwise disturb ~~any~~ malt beverages or wine

displayed ~~by another wholesaler~~ on a retail licensed premises ~~by another wholesaler, except:~~

- (1) to return merchandise to its ~~properly~~ assigned shelf space when ~~it has been inadvertently~~ placed in the wholesaler's assigned space; or
- (2) to remove a competitor's product from a promotional display area ~~that has been~~ assigned to the ~~wholesaler, and wholesaler if~~ the competitor's personnel are ~~not available~~ unavailable to move their own product from the ~~area at the time when~~ the wholesaler's product is scheduled to go on promotion.

Authority G.S. 18B-100; 18B-207; 18B-1116(b).

14B NCAC 15C .0704 QUANTITY DISCOUNTS PROHIBITED

~~No wholesaler or his employee~~ A wholesaler or salesman shall not give ~~any~~ a retailer a quantity discount on the price of malt beverages or ~~wine, nor shall a retailer wine.~~ A quantity discount includes charging a fee for an order of less than a full case. Retailers shall not require a wholesaler to provide ~~these~~ quantity discounts.

Authority G.S. 18B-100; 18B-207; 18B-1116(a).

14B NCAC 15C .0705 EXCLUSIVE OUTLETS

~~No~~ An industry member shall not require, by agreement or otherwise, ~~directly or indirectly, through direct or indirect means,~~ that ~~any~~ a retailer ~~engaged in the sale of malt beverages, wine or mixed beverages~~ purchase ~~any~~ alcoholic beverages from ~~that person~~ the industry member pursuant to ~~any of~~ the following practices:

- (1) ~~written or unwritten~~ contractual purchase agreements;
- (2) threat of loss of supply;
- (3) purchases made as a prerequisite for the purchase of short supply items; or
- (4) ~~any form of~~ coercion by the industry member, including threats of physical or economic harm.

Authority G.S. 18B-100; 18B-207; 18B-1116(a).

14B NCAC 15C .0706 INDUCEMENTS (TIED HOUSE)

~~No industry member shall:~~ Industry members shall not:

- (1) acquire or hold ~~any an~~ interest in ~~any~~ a license or permit ~~with respect to~~ or the premises of a retail permittee;
- (2) acquire ~~any an~~ interest in real or personal property owned, occupied, or used by a retail permittee ~~in the conduct of his~~ for the retailer's business;
- (3) furnish, give, rent, lend, or sell to a retail permittee ~~any~~ equipment, fixtures, signs, supplies, money, services, or ~~other~~ things of value except as ~~otherwise~~ provided in these Rules;
- (4) pay or credit a retail permittee for ~~any~~ advertising, display, or distribution service;

- (5) guarantee ~~any~~ a loan or the repayment of ~~any~~ a financial obligation of a retail permittee;
- (6) extend credit to a retail permittee, except as ~~otherwise~~ provided in these Rules;
- (7) require a retail permittee to take and dispose of a certain quota of ~~any~~ alcoholic beverages;
- (8) acquire ~~any~~ an interest in a mortgage or deed of trust on the retailer's business or property;
- (9) pay for the display of advertising on ~~any~~ signs or scorecards manufactured by a third party for a retailer;
- (10) furnish free warehousing by delaying delivery of alcoholic beverage product or by providing refrigerated vehicles for a retailer; or
- (11) purchase advertising on signs, scoreboards and programs at ballparks, racetracks, and coliseums from the retail concessionaire, unless the retailer is a city or county, and an exemption has been granted pursuant to G.S. 18B-1116(b).

Authority G.S. 18B-100; 18B-207; 18B-1116(a).

14B NCAC 15C .0707 COMMERCIAL BRIBERY

(a) ~~No industry member~~ Industry members shall ~~make not give~~ gifts or ~~payoffs~~ payments to purchasing agents, clerks, bartenders, ~~salesmen~~ salesmen, or other employees of retail permittees.

(b) ~~No industry member~~ Industry members shall ~~not~~ give ~~any~~ a bonus, ~~premium~~ premium, or compensation to ~~any~~ a retailer or an officer, ~~employee~~ employee, or agent of the retailer. Prohibited acts include:

- (1) monetary inducements ("push money") ~~given~~ to retailers or their employees;
- (2) ~~total or partial~~ payment of any part of a retailer's employee's salary;
- (3) sales promotion contests ~~in which~~ where a retailer's employees are offered or awarded ~~prizes, prizes such as trips abroad, cash, or automobiles that are totally or partially~~ financed by an industry member;
- (4) payments or gratuities to groups or associations of retailer's employees;
- (5) ~~other gifts such as trips, appliances, or other items given~~ to retail corporate officers; or
- (6) participation in a retailer's sales or management ~~meetings, conventions or outings~~ meeting, convention, or outing by sponsoring or underwriting ~~any events in connection with at the meeting, convention~~ convention, or outing, unless ~~such~~ participation is limited to the providing of a hospitality suite with light hors d'oeuvres and beverages, and the price paid for the suite is not greater than that paid by any other participant in the meeting, ~~convention~~ convention, or outing.

(c) Notwithstanding Paragraphs (a) and (b) of this Rule, an industry member may invite and pay for up to two employees or representatives of a retail permittee ~~who is~~ permitted under pursuant to G.S. 18B-1001, ~~to, and pay for, to for~~ a business meal

to discuss sales and promotions in person, ~~provided that:~~ with the following conditions:

- (1) ~~the business meal, including beverages consumed with the meal, shall take place within North Carolina and shall not take place at any entertainment venue or in conjunction with entertainment;~~ the industry member shall conduct the business meal in North Carolina but not at an entertainment venue or in conjunction with entertainment;
- (2) ~~if the industry member provides transportation, that it shall be by personal vehicle only;~~ the industry member shall use only a personal vehicle;
- (3) the industry member must accompany the employees or representatives of a retail permittee for the duration of the business meal;
- (4) ~~such~~ the industry member shall provide the business meal ~~shall be provided~~ without a corresponding obligation ~~on the part~~ of the retailer to purchase alcoholic beverages or to provide ~~any other~~ a benefit to ~~such the~~ industry member;
- (5) ~~such the industry member shall provide the business meal shall be provided~~ without a corresponding obligation ~~on the part~~ of the retailer to exclude from sale the products of ~~any other~~ another industry member;
- (6) the cost of the business meal shall not exceed the cost of a business meal in the food and non-alcoholic beverage industry provided in the ordinary course of business; and
- (7) an industry member shall pay for no more than two business meals per retail permittee per calendar year.

This Paragraph does not apply to ~~any an~~ industry member ~~that has a bona fide,~~ with a pre-existing relationship with ~~any~~ a retail permittee separate from the beverage alcohol industry.

Authority G.S. 18B-100; 18B-207; 18B-1116(a).

14B NCAC 15C .0708 CONSIGNMENT SALES: CONDITIONAL SALES: RETURNS

(a) Consignment Sales Prohibited. ~~No An~~ industry member shall not sell, offer for sale, or contract to sell to ~~any~~ a retail permittee, ~~nor shall any retail permittee and a retail permittee shall not~~ purchase, offer to purchase, or contract to purchase from ~~any an~~ industry member member, ~~any~~ alcoholic beverages on ~~consignment or consignment~~, under conditional sale, ~~or~~ with the privilege of return, or on ~~any~~ a basis other than a ~~bona fide~~ cash sale. For the ~~purposes~~ purpose of this Rule, a consignment sale is ~~any~~ a transaction ~~in which where~~ title to the merchandise is not transferred at the time of shipment or delivery and ~~which~~ does not involve ~~some form of~~ full cash settlement. ~~No An~~ industry member shall not contract or agree with a retailer to retain title to alcoholic beverages until those products are ~~sold~~ sold by the retailer.

(b) Privilege of Return. ~~No An~~ industry member and a retailer shall not enter into ~~any an~~ agreement ~~whereby where~~ the retailer

has an ~~expressed~~ express or implied right to return alcoholic beverages ~~that he the retailer~~ cannot sell. ~~Any An industry member's acceptance of returned merchandise is considered a strong indication that shall indicate~~ the "privilege of return" existed at the time of ~~sale, sale, and a repeated practice of accepting returned merchandise from a retailer would establish an implied privilege of return, even though no formal agreement has been made.~~

(c) Sales Conditioned on the Acquisition of Other Merchandise. ~~No An~~ industry member shall ~~make any not enter an~~ agreement with ~~any~~ a retailer ~~with terms that to~~ allow the industry member to remove the retailer's inventory ~~if~~ conditioned upon present or future sales. The exchange of alcoholic beverages for equal quantities of the same type and brand in containers of another size and style is not considered an acquisition of "other" alcoholic beverages ~~and, therefore, and~~ is not prohibited ~~where when~~ the return is ~~otherwise permissible. authorized.~~

(d) Exceptions. This Rule does not apply to the following transactions:

- (1) returns of malt beverages or wine for ~~ordinary and usual commercial~~ reasons arising after the alcoholic beverages have been sold, ~~such as including~~ mutilated or damaged labels or containers, ~~error in delivery, delivery error,~~ product deterioration, ~~products have been deemed unsafe by a declaration by State or federal authorities, authorities that the product is unsafe,~~ the product approval has been withdrawn ~~as referenced by pursuant to~~ 14B NCAC 15C .0201 and .0202, or ~~a bona fide permanent~~ discontinuance of the retailer's business;
- (2) exchanges of malt beverage products for equal quantities of the same brand and ~~type, so long as type if~~ the manufacturer's code date on the products will expire within 30 calendar days of the date of ~~exchange, and the exchange.~~ The quantity exchanged ~~does shall~~ not exceed 50 cases of each brand per 30 day period per retail permittee. For the purposes of this Rule, the term "exchange" means to replace product for product and does not authorize the wholesaler to accept returned malt beverage products for cash or credit; and
- (3) returns of wine or malt beverage products from a seasonal retailer who is open only a portion of the year if the products ~~are likely to may~~ spoil during the off-season. For purposes of this Rule, a "seasonal retailer" is defined as one that closes its business completely for a period of at least eight weeks during the summer or winter months. Returns from a seasonal retailer may be for cash or credit.

Note: The return or exchange of wine products is governed by this Rule and the regulations ~~under the Federal Alcohol Administration Act found in Title 27 of the United States Code of Federal Regulations, Part 11 (27 CFR Sec. 11.1 through 11.46), and pursuant to Part 11 of 27 CFR, and~~ nothing in these Rules

shall be construed to authorize the return or exchange of wine products if the transaction is prohibited by federal law.

Authority G.S. 18B-100; 18B-207; 18B-1116.

14B NCAC 15C .0709 PROHIBITED TRADE PRACTICES

(a) General. ~~It shall be a violation of this Rule for any An~~ alcoholic beverage ~~(including malt beverages, wines and spirituous liquors) industry member, member for malt beverages, wine, or spirituous liquor, whether or not licensed in this state, state or not,~~ or any officer, director, ~~employee employee,~~ or affiliate, ~~to either directly or indirectly shall not~~ lend, give, ~~furnish furnish,~~ or offer to ~~any a retail permittee or his permittee, a retailer's employee, or to the owner of the premises on which where~~ the business of a retailer is conducted, or for ~~any a retail permittee, employee, or owner to demand, require require,~~ or accept from ~~any an~~ industry member, ~~any~~ money, services, furniture, fixture, equipment, sign, glasses, barware, ~~supplies supplies,~~ or ~~other~~ thing of value, except as provided in this Rule.

(b) Prohibited Services. ~~By way of illustration, the The~~ following services shall not be furnished, given, ~~provided provided,~~ or made available to a retail permittee by an industry member, even if the retailer is charged or billed for the services for their market value:

- (1) installing, ~~repairing repairing,~~ or maintaining equipment, outdoor ~~signs signs,~~ or other fixtures;
- (2) promoting a retailer in advertising;
- (3) reconciling inventory for a retailer;
- (4) providing labor or employees to assist a retailer in the retailer's promotional events unless otherwise allowed in the rules of the Commission;
- (5) loaning or renting aerial displays or outdoor inflatables to a retailer for use, whether on or off the retailer's licensed premises;
- (6) pricing or repricing a product without the retailer's consent;
- (7) warehousing, by:
 - (A) making refrigerated vehicles available to the retailer; or
 - (B) delaying delivery from a manufacturer, importer, nonresident ~~vendor vendor,~~ or warehouse ~~in order to enable the retailer to take advantage of promotional prices or for any other reason; for the retailer's advantage;~~
- (8) affixing special retailer stamps or stickers to beer or wine ~~packaging, but a packaging.~~ A wholesaler may affix signs, stickers, stamps, or tags indicating the product's price to a container, ~~shelf shelf,~~ or display of ~~its the~~ wholesaler's products;
- (9) entering delivery data on a retailer's in-store computer;
- (10) providing data processing services;
- (11) sponsoring sports leagues ~~that are~~ also sponsored by a ~~retailer, retailer~~ or that use the facilities of a retailer for sporting events;

- (12) guaranteeing the loan of a retailer;
- (13) extending credit to a retailer;
- (14) failing to require a deposit equal to that charged by the supplier on kegs and returnable bottles; or
- (15) negotiating special prices for or financing of equipment.

(c) Prohibited Things of Value. ~~By way of illustration, the~~ The following things of value shall not be furnished, given, loaned, ~~rented rented~~, or sold to a retail permittee by ~~any an~~ industry member:

- (1) aerial displays or tethered inflatables;
- (2) parties ~~given~~ for retailers or groups of retailers' employees, unless otherwise allowed by the rules of the Commission;
- (3) prizes at retailer conventions;
- (4) advertising in a retailer periodical or advertising in a retailer publication designed for distribution to consumers;
- (5) outside signs;
- (6) cooperative advertising, including:
 - (A) providing or assisting retailer promotions, whether on or off the retailer's premises;
 - (B) participation with a retailer in the advertising of alcoholic beverages, the retailer's ~~business business~~, or special events unless specifically approved by the Commission in the case of fundraisers for non-profit charitable organizations after consideration of the factors listed in G.S. 18B-1116(b);
 - (C) underwriting the cost of T-markers, ~~scorecards scorecards~~, or scoreboards by the purchase of advertising from a third party; or
 - (D) customizing point-of-sale advertising materials, novelties, glassware, consumer ~~specialties specialties~~, or product displays by printing or having printed the retailer's name, slogan or logo on the item, unless otherwise specifically allowed in the rules of the Commission;
- (7) making discounts, ~~rebates rebates~~, or refunds to a retailer on the condition ~~that~~ the retailer use the discount, ~~rebate rebate~~, or refund to pay off a loan;
- (8) equipment, fixtures or furnishings; or
- (9) clothing, except as provided in ~~Rule .0711 of this Section.~~ 14B NCAC 15C .0711.

Authority G.S. 18B-100; 18B-207; 18B-1116.

14B NCAC 15C .0710 ACCEPTED TRADE PRACTICES; SERVICES

~~The following service activities are specifically allowed in transactions between alcoholic beverage (which includes malt beverages, wines and spirituous liquors) industry member and~~

~~retailers:~~ Malt beverage, wine, and spirituous liquor industry members are authorized to provide the following services to retailers:

- (1) Shelving and Pricing for Malt Beverage and Wine Wholesalers.
 - (a) Malt beverage and wine wholesalers ~~who have been~~ assigned space in retail permittee outlets may price or re-price their stock as ~~designated~~ requested by the retail permittee.
 - (b) Malt beverage and wine wholesalers may rearrange and place their brand or brands in their assigned shelf space ~~so as~~ to rotate their stock and to keep their assigned space clean and neat.
 - (c) Malt beverage and wine wholesalers may rearrange or reset a retail permittee's alcoholic beverage shelf space, display area, or department pursuant to that retail permittee's plan and ~~direction,~~ direction. ~~but that industry~~ Industry members shall not move or disturb brands sold by other industry members.
- (2) Coil Cleaning Service. An industry member may render coil cleaning services to a retailer.
- (3) Shelf Management Plans; Notice Prior to Reset.
 - (a) An industry member may discuss with a retailer shelf-management concepts and programs and may provide, publish, and make available data on market sales and analysis.
 - (b) An industry member may provide and suggest shelf-management plans which are customized for a specific retail permittee or group of retail permittees. The retail permittee shall remain solely responsible for implementing ~~any~~ a suggested shelf-management plan. If an industry member provides a suggested shelf-management plan to a retail permittee or group of retail permittees, he must provide a suggested plan to ~~any~~ other retail ~~permittee~~ permittees upon request. Shelf-management plans shall meet the following conditions:
 - (i) no retail permittee or person acting on ~~its~~ the retail permittee's behalf shall implement a shelf-management plan unless the retail permittee sends notice of the plan to all wholesalers ~~that service that servicing the~~ request to the retail permittee to receive such notice;

- (ii) requested notification from the retail permittee: the retail permittee shall provide the notice to wholesalers required under this ~~Sub item~~ SubItem at least two weeks prior to implementation of the plan and the notice shall include the date and time of the contemplated plan implementation and shall be provided at least two weeks before such time. implementation. In the event of an exigent or other unforeseen circumstance in which such If notice cannot be provided within the two week period, the retail permittee shall provide ~~such~~ notice within a reasonable period of time ~~as referenced by~~ pursuant to G.S. 25-1-205(a);

(iii) the retail permittee shall include the proposal in a notice if an industry member assists in the creation of a proposed plan, ~~the notice provided by the retail permittee shall also include the proposal; plan; and~~

(iv) if a retail permittee develops a shelf-management plan without assistance from an industry member or makes adjustments to less than 15 percent of the current shelf-management plan, the retail permittee is not required to send the notice to wholesalers required under this ~~Sub item~~ does not apply to a retail permittee that independently develops or designs his own shelf-management plan without the assistance of an industry member, or who makes adjustments to less than 15 percent of the current self-management plan. Sub-Item.

(c) A wholesaler may provide physical labor to implement a shelf-management plan.

(d) For purposes of this Rule, a shelf-management plan includes shelf resets.

(e) For purposes of this Rule, ~~notice from either a retail permittee or an industry member shall be provided~~ provide notice by verifiable electronic mail, certified mail, or other delivery service ~~which requires~~ requiring written verification of delivery, and shall include a ~~designated person and contact~~ contact person's information for return correspondence.

(4) Participation in Retailer Association Activities. An industry member may participate in retailer association activities by:

(a) displaying product at association conventions or trade shows;

(b) renting display or booth space ~~so long as only if~~ the rental fee is the same ~~as the~~ fee paid by all exhibitors;

(c) providing hospitality events which are independent from association sponsored activities;

(d) purchasing tickets to functions and paying registration fees only if ~~such fees are the same~~ fees are as paid by all exhibitors; and

(e) making payments for advertisements in programs or brochures at association shows within the dollar limits established by ~~27 C.F.R. 6.100 and the Bureau of Alcohol, Tobacco and Firearms which is incorporated herein by reference. Cost adjustment increases authorized by 27 C.F.R. 6.83 are also incorporated herein by reference but subsequent amendments to 27 C.F.R. 6.100 are not incorporated. Copies of these regulations are available for inspection and copying as provided by 14B NCAC 15C .0401. Subpart D of 27 CFR Part 6, incorporated herein by reference and available for free at <https://www.ecfr.gov/current/title-27/chapter-I/subchapter-A/part-6/subpart-D>.~~

(5) Educational Seminars. An industry member may provide or sponsor seminars for retailers and their employees in the following areas:

(a) the proper use of equipment;

(b) the proper storage, ~~handling~~ handling, and service of alcoholic beverages;

(c) safe driving programs;

(d) recognizing underage and intoxicated customers; and

(e) the history or aspects of a product's manufacturing process.

Seminars may be conducted at the premises of either the retailer or industry member. ~~Nothing in this Rule shall be construed to authorize an~~

- An industry member shall not pay the retailer's expenses in attending the seminar.
- (6) ~~Tastings. Beer and wine tastings may be conducted in accordance with 14B NCAC 15B .0901 and .0902. Industry members shall conduct tastings in compliance with 14B NCAC 15B, Section .0900.~~
- (7) Labor for Displays. An industry member may provide personnel to construct a promotional product display on the premises of a retailer, and may move other products from the display area ~~in accordance with per~~ 14B NCAC 15C .0703.
- (8) Installations. The following items may be installed by an industry member at no charge to a retailer:
- point of sale advertising materials; and
 - tapping accessories.
- (9) Bar Spending. An industry member may visit the premises of an on-premise retail account for the purpose of promoting its brands so long as:
- the visit is unannounced and not advertised; and
 - a patron who refuses the industry member's offer to consume a product is offered a comparable beverage of his choice, either alcoholic or non-alcoholic.
- (10) Non-alcoholic Beverages. A malt beverage wholesaler who is also engaged in the business of selling non-alcoholic beverage products may engage in the accepted trade practices of the soft drink and snack food industries, so long as the sales and practices surrounding the non-alcoholic beverage merchandise are not used as an unlawful inducement to purchase malt beverages.

Note: Wine wholesalers selling non-alcoholic beverage merchandise are governed by the provisions of 27 C.F.R. CFR 6.101.

Authority G.S. 18B-100; 18B-203(b); 18B-207; 18B-1116(b).

14B NCAC 15C .0711 ACCEPTED TRADE PRACTICES; THINGS OF VALUE; RETAIL PERMITTEES

(a) Items That Must Be Sold. ~~The following things of value shall not be given, loaned or rented by any alcoholic beverage (which includes malt beverages, wines and spirituous liquors) industry member~~ Malt beverage, wine, and spirituous liquor industry members shall not give, lend, or rent to a retail permittee, but may be sold sell to the retail permittee at the price paid for the item by the first industry member who acquires the item; following things of value:

- novelties, ~~such as~~ coolers, umbrellas, ice chests, beach towels, towels, and sports equipment, ~~so long as the novelty item if the item~~ has not been customized for a retail permittee with the retail permittee's name or logo;

- glassware and cups, ~~so long as the items have if the item has~~ not been customized for a retail permittee with the retail permittee's name or logo;
 - carbon dioxide;
 - ice;
 - beer tapping accessories, ~~including~~ faucets, rods, vents, taps, hoses, washers, couplings, gas gauges, vent tongues, shanks, and check valves; and
 - menus that exceed the number of food items ~~provided in pursuant to~~ 14B NCAC 15B .1006(a)(3).
- (b) Items That May Be Provided at No Charge. Industry members may give, provide, loan, rent, or sell the ~~The~~ following things of value ~~may be given, furnished, loaned, rented or sold by an industry member to a retail permittee:~~
- samples of malt beverage, ~~wine~~ wine, and spirituous liquor products in the following quantities:
 - no more than three gallons of any brand of malt beverages;
 - no more than three liters of any brand of wine; and
 - no more than 50 milliliters of any brand of spirituous liquor.

Industry members may only give samples ~~Samples may be given only~~ to a retail permittee who has not previously purchased those brands from the industry member within the previous calendar year.

- recipes, ~~booklets~~ booklets, and brochures for cooking with ~~wine, malt beverages~~ malt beverages, wine, or spirituous liquors as described in pursuant to 14B NCAC 15B ~~.1006(a)(3); .1006(a)(3);~~
- malt beverage, ~~wine~~ wine, and mixed beverage lists, ~~in accordance with~~ lists pursuant to 14B NCAC 15B ~~.1006(a)(3); .1006(a)(3);~~
- combination packaging, ~~as provided in~~ packaging pursuant to 27 C.F.R. CFR 6.93;
- consumer specialty items such as bottle or can openers, cork screws, ash trays, shopping bags, individual can coolers, hats, caps, visors, t-shirts (without collars or buttons), or key chains. Such items may be given to retail permittees for distribution to consumers, or may be provided by industry member personnel directly to consumers at the retail permittee's place of business during visits that are not announced or advertised to consumers. Consumer specialty items shall not be customized for a retail permittee with the retail permittee's name or logo; ~~and,~~
- product displays, ~~to include wine racks, bins, barrels, casks and shelving from which malt beverage, wine or spirituous liquor are displayed and sold, so long as:~~
 - ~~each display bears conspicuous and substantial advertising matter; and~~

(B) ~~the dollar limitations per brand do not exceed one hundred sixty dollars (\$160.00);~~

(7)(6) point of sale advertising materials which have value only as advertising, so long as the pieces have not been customized for any individual retail ~~permittee; and permittee.~~

(8) ~~retail permittee advertising specialty items as described in 14B NCAC 15B .1006(a)(4), so long as the items have not been customized for an individual retail permittee, and so long as the dollar limitations per brand do not exceed three hundred dollars (\$300.00) per year.~~

(c) Point-Of-Sale Advertising Materials. Notwithstanding having a secondary value, the following items are considered to be point-of-sale materials and an industry member is not required to submit need not be submitted by an industry member for approval prior to use, so long as the items bear conspicuous advertising matter:

- (1) clocks;
- (2) lamps;
- (3) lighted displays;
- (4) blackboards;
- (5) bulletin boards;
- (6) dart board backgrounds;
- (7) menu and price boards;
- (8) tap standards;
- (9) calendars;
- (10) mirrors; and
- (11) prizes offered in a consumer sweepstakes or contest pursuant to 14B NCAC 15C .0714(b). ~~The prizes shall bear a sticker that shows it is the property of the industry member. Industry members shall place a sticker on prizes to show the prize is the property of the industry member. The prizes shall be picked up by the industry member shall pick up the prize at the conclusion of the sweepstakes or contest.~~

(d) The provisions of ~~27 C.F.R. CFR~~ 6.93 referenced in this Rule are incorporated by ~~reference, but such incorporation does not include subsequent amendments. Copies of this regulation are available for inspection and copying as provided in 14B NCAC 15C .0401.~~ reference including subsequent amendments and editions that may be accessed at <https://www.ecfr.gov/current/title-27/section-6.93>.

(e) Nothing ~~within~~ in this Rule applies to ABC boards.

Authority G.S. 18B-100; 18B-105; 18B-207; 18B-1116(b).

14B NCAC 15C .0712 TRANSACTIONS WITH GOVERNMENT AND SPECIAL ONE-TIME PERMITTEES

(a) Permitted Activities. Notwithstanding the restrictions contained in 14B NCAC 15C .0709, ~~the following activities by alcoholic beverage (which includes malt beverages, wines and spirituous liquors) malt beverage, wine, and spirituous liquor industry members are allowed, as described in this Rule, authorized to conduct the following activities in transactions with cities, counties, the state, or State, in transactions with nonprofit or political organizations that have obtained a Special One-Time~~

permit under the provisions of G.S. 18B-1002(a)(2) or (5), or in transactions with nonprofit organizations that do not hold an ABC permit:

- (1) sponsorships of festivals, concerts, ~~fundraisers~~ fundraisers, or special events cosponsored by the local government, the ~~state~~ State, or nonprofit or political organizations, including payments of advertising fees;
- (2) loaning or renting portable equipment to a local government, the ~~state~~ State, or a nonprofit or political organization so long as the equipment loaned or rented is for a single event of limited duration;
- (3) contracts to provide payment for permanent advertising on signs or scoreboards when the industry member has submitted a request ~~for and received an exemption pursuant to G.S. 18B-1116(b); to legal@abc.nc.gov and received approval;~~
- (4) providing labor or employees to assist in the setting up or changing of draft beer kegs and equipment which has been loaned or rented pursuant to Subparagraph (a)(2) of this Rule;
- (5) loaning or renting ~~previously approved~~ aerial displays or outdoor ~~inflatables~~ inflatables, approved prior to the event by submission to legal@abc.nc.gov, for the duration of a special event;
- (6) loaning or allowing the use of refrigerated vehicles;
- (7) providing novelties, ~~prizes~~ prizes, or prize money to nonprofit organizations that have obtained a Special One-Time Permit;
- (8) providing cash contributions, product ~~donations~~ donations, and other consumer goods, ~~provided on the condition that any donated product remaining after the event is not supplied provided by the Special One-Time Permittee to a regular retail permittee;~~
- (9) participation with a local government or the ~~state~~ State in the advertising of events cosponsored by the local government or ~~state~~ State; and
- (10) ~~accepting after the event is over, accepting, for cash or credit, the return of alcoholic beverages not sold, for cash or credit, after the event is over, sold.~~

(b) Sponsorship/Advertising Agreements Restricted. ~~No~~ Industry members shall not enter a sponsorship agreement or advertising contract ~~between an industry member and with~~ a city, county, the ~~state~~, State, or a Special One-Time permittee ~~shall contain any agreement, either express or implied, where, either express or implied, that the industry member's products will be sold to the exclusion, in whole or in part, of other brands of alcoholic beverages offered by competitors.~~

(c) Cosponsorship with Retail Permittee. ~~In any promotion by an~~ An industry member shall not promote or sponsor an event with a local government, the ~~state~~, State, or a nonprofit organization ~~in which there is cosponsorship by where~~ a retailer other than the

local government or the state, State has a cosponsorship unless the industry member ~~shall obtain~~ obtains prior written approval from the Commission at legal@abc.nc.gov and as provided in 14B NCAC 15C .0715.

Authority G.S. 18B-100; 18B-207; 18B-1116(b).

14B NCAC 15C .0713 TOURNAMENTS

(a) General. ~~Sponsorship by an~~ An industry member may sponsor of a regional, ~~statewide~~ statewide, or national sports tournament, ~~when the tournament is held on the property or premises of a retail permittee, is permissible~~ permittee only if all of the following conditions are met:

- (1) The tournament is promoted or sanctioned by the official governing body of the sport, or is promoted and sponsored by a ~~bona fide~~ nonprofit organization for the purpose of raising funds for a civic, scientific, ~~charitable~~ charitable, or educational cause;
- (2) An industry member does not give, rent, or loan ~~No money, novelty items items, or other prohibited services services, or things of value are given, rented or loaned by an industry member to the retailer; and~~
- (3) An industry member gives all ~~All~~ sponsorship money or fees and other money, fees, and things of value ~~from the industry member are given to the official governing body of the sport or the nonprofit organization.~~

(b) Advertising. An industry member may advertise ~~via mass media~~ or pay for the advertising of a tournament when the ~~primary theme of the advertisement is the tournament and its purpose.~~ purpose are the main theme. The naming of Citing the retailer's premises as the location of a tournament shall not be construed to be cooperative advertising in violation of 14B NCAC 15B .1005 of this Chapter when the retailer's ~~tradename~~ trade name is stated in substantially smaller ~~typeface.~~ typeface than the majority of the advertisement.

(c) Sponsorship/Advertising Agreements Restricted. No industry member agreeing to sponsor a tournament shall enter into any agreement or contract, either express or implied, that a retailer or special one-time permittee will sell that industry member's products to the exclusion, in whole or in part, of other brands of alcoholic beverages offered by competitors.

(d) Joint Sponsorships. An industry member shall not agree to cosponsor ~~any~~ a tournament with ~~any~~ a retail permittee unless the proceeds from the tournament are paid to a nonprofit civic, scientific, ~~charitable~~ charitable, or educational organization.

(e) Prohibited Sponsorships. An industry member shall not sponsor or aid a retailer in the promotion of ~~any~~ a tournament held ~~primarily~~ to benefit the retailer, its employees, ~~members~~ members, or guests.

Authority G.S. 18B-100; 18B-207; 18B-1116(b).

14B NCAC 15C .0714 CONSUMER CONTESTS; SWEEPSTAKES

(a) General. Malt beverage, wine, and spirituous liquor industry members may offer consumer ~~Consumer~~ contests or sweepstakes

~~may be offered by an alcoholic beverage (which includes malt beverages, wines and spirituous liquors) industry member so long as only if no purchase is required. Entry forms may be attached to or part of an alcoholic beverage label or package so long as alternative methods of entry are available to the consumer by means of a tear pad of entry forms is available to the consumer at the point of purchase or by means of electronic entry forms are available on the internet.~~

(b) Point-of-Sale Permissible; Restriction on Retailer Involvement. An industry member may provide to a retailer point-of-sale advertising materials promoting a sweepstakes or contest. An industry member shall not offer or promote ~~any~~ a sweepstakes or contest in conjunction with ~~any~~ a retailer as a cosponsor or as the provider of ~~any~~ a prize. No prizes may be drawn or awarded on the premises of ~~any~~ a retailer. Officers, ~~employees~~ employees, and representatives of industry members and retailers are excluded from participating in a consumer sweepstakes or contest offered under this Rule.

Authority G.S. 18B-100; 18B-207; 18B-1116(b).

14B NCAC 15C .0715 CONDITIONS WHEN COMMISSION APPROVAL REQUIRED FOR PROMOTIONS

(a) Prior Approval Required; Exceptions. ~~An alcoholic beverage (which includes malt beverages, wines and spirituous liquors) A~~ malt beverage, wine, or spirituous liquor industry member shall obtain written approval from the Commission prior to entering into ~~any an~~ agreement to ~~engage in activities as a sponsor for any~~ a promotion, as ~~that term is defined in 14B NCAC 15C .0701(3), unless the activity involves the following:~~ .0701(3). Industry members are not required to obtain prior written approval for the following:

- (1) sponsorships of nonprofit organizations that are not special one-time permittees, and the sponsored activity is ~~neither not~~ held on the premises of a retailer ~~nor and is not~~ cosponsored by a retailer;
- (2) printing and distribution of items that are classified as point-of-sale advertising material, consumer specialty items, retailer specialty ~~items items,~~ or novelty ~~items,~~ so long as the ~~items are~~ items if displayed and distributed in compliance with 14B NCAC 15B .1006, 14B NCAC 15C .0709(c)(6)(B) and 14B NCAC 15C .0711;
- (3) promotions that occur on an annual or regular basis ~~and~~ that have received written approval by the Commission no greater than five years previously in previous years, if so long as the sponsorship activities engaged in by of the industry member have not changed; and
- (4) sponsorships of individual amateur sports teams, when:
 - (A) the services or things of value provided by the industry member are given to benefit the individual team and its members;

- (B) the team is not comprised of retailers or employees of retailers; and
 - (C) the team is not jointly sponsored by a retailer.
- (b) The Commission shall approve a promotion if:
- (1) the procedure for approval is complied with as required by Paragraph (c) of this Rule;
 - (2) the information provided as required by Paragraph (c) of this Rule is accurate; and
 - (3) the ~~event promotion~~ is a bona fide ~~promotional event~~ promotion.
- (c) Procedure for Approval. To receive consideration for approval by the Commission for a promotional activity, an industry member shall ~~comply with the following procedures:~~ submit the following to legal@abc.nc.gov:
- (1) ~~submit~~ a completed Industry Promotion Approval ~~form~~; found at <https://www.abc.nc.gov/legal/laws-rules-and-resources>;
 - (2) ~~submit~~ copies of broadcast and print advertisements; and
 - (3) ~~submit~~ samples of advertising pieces and costs of items.
- (d) Notification to Wholesaler. A malt beverage or wine manufacturer, ~~importer~~ importer, or nonresident vendor ~~of beer or wine~~ that receives approval for promotional activity under this Rule shall provide a copy of the Commission's approval to each of its wholesalers in this ~~state~~ State if that wholesaler ~~is or~~ will be participating in the promotion ~~in any manner~~, including the distribution of promotional materials.
- (e) Approvals Restricted to Industry Members. ~~No Industry member~~ approval for ~~any~~ a promotional activity ~~by an industry member~~ shall not be granted to a special one-time permittee, retailer, advertising agency, ~~broadcaster~~ broadcaster, or publisher.
- (f) Approvals Granted Only Upon Written Request. The Commission shall not approve ~~any~~ verbal requests or hypothetical fact presentations describing promotional activities requiring prior written approval under this Rule.
- (g) Timing of Requests. Industry members shall submit promotions for approval to legal@abc.nc.gov at least ~~two months~~ three weeks in advance of the promotion to allow adequate review by the Commission, ~~and to allow for the mailing of written approvals to the industry member.~~ Commission.
- (h) Promotion Agreements Restricted. Commission approval of a promotion under this Rule shall not be construed as approval for the industry member to enter into ~~any~~ an agreement, either express or implied, that its products will be sold or distributed by a retailer or special one-time permittee to the exclusion, in whole or in part, of other brands of alcoholic beverages offered by competitors.

Authority G.S. 18B-100; 18B-105; 18B-207; 18B-1116.

TITLE 15A – DEPARTMENT OF ENVIRONMENTAL QUALITY

Notice is hereby given in accordance with G.S. 150B-21.2 that the Environmental Management Commission intends to adopt the rule cited as 15A NCAC 02Q .0114, and amend the rules cited as

15A NCAC 02Q .0501, and .0507. This is a republication of text published in Volume 40, Issue 08.

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: *Pending on the first day of a month that is 60 days after the Secretary of the Department of Environmental Quality certifies to the Revisor of Statutes that the U.S. Environmental Protection Agency has approved the amended rule into the North Carolina State Implementation Plan, pursuant to S.L. 2023-134, Section 12.11, as amended by S.L. 2024-1, Section 4.13.*

Public Hearing:

Date: December 2, 2025

Time: 6:00 p.m.

Location: *1st Floor Training Room (#1210), DEQ Green Square Office Building, 217 West Jones St., Raleigh, NC 27603 or virtually using Cisco WebEx, Digital Hearing Link: <https://tinyurl.com/Pre-PermittingConstruction>*

Event password: NCDAQ

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: 2437 902 8679

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 4:00 PM on December 2, 2025. To register, please click the following link: <https://forms.office.com/g/ZUPPSLbhCF>

**For instructions on ways to join the public hearing, please refer to the following link: <https://files.nc.gov/ncdeq/Air%20Quality/rules/hearing/instructions-on-ways-to-join-webex.pdf> <https://www.webex.com/test-meeting.html>*

**If you have technical difficulties, the following automated voicemail has been set up to receive your verbal comments: 919-707-8430*

Reason for Proposed Action: *This is a republication of the proposed rule actions previously published in Volume 40, Issue 08 of the North Carolina Register, published on October 15, 2025. The only change is to extend the end of the comment period until December 31, 2025.*

To receive comments on the proposed adoption of 15A NCAC 02Q .0114, Activities Allowed Prior to Permit Issuance, and amendments to 15A NCAC 02Q .0501, Purpose of Section and Requirement for a Permit, and .0507, Application, and the accompanying regulatory impact analysis (RIA). 15A NCAC 02Q .0114 is proposed for adoption and 15A NCAC 02Q .0501 and

.0507 are proposed for amendment in response to changes in the pre-permitting construction provisions reflected in Session Law (S.L.) 2023-134, Section 12.11(e)-(g). This law was part of the 2023 Appropriations Act for North Carolina passed in October 2023 and amended with technical corrections in S.L. 2024-1, Section 4.13. S.L. 2023-134 modifies air permitting provisions in North Carolina General Statute (G.S.) 143-215.108A, Control of sources of air pollution; construction of new facilities; alteration or expansion of existing facilities. This statute applies to construction of any new facility and construction associated with the modification of a permit for an existing facility. S.L. 2023-134, Section 12.11(e) changes North Carolina's air permitting procedures by revising G.S. 143-215.108A to allow the construction, but not operation, of sources prior to receipt of an air permit, upon determination that an administratively complete application has been submitted to the Division of Air Quality (DAQ). As specified in the provisions of S.L. 2023-134, Section 12.11(f) and (g), the new pre-permitting construction provisions do not become effective until the first day of a month that is 60 days after the Secretary of the Department of Environmental Quality (DEQ) certifies to the Revisor of Statutes that the U.S. Environmental Protection Agency (EPA) has approved an amendment based on the statutory revisions into the North Carolina State Implementation Plan (SIP). On July 10, 2025, the Environmental Management Commission approved proceeding to public comment on the proposed adoption of 15A NCAC 02Q .0114 and amendments to 15A NCAC 02Q .0501 and .0507 and the accompanying RIA. The text of the rules and RIA are available on the DAQ website: <http://deq.nc.gov/about/divisions/air-quality/air-quality-rules/rules-hearing-process>

Comments may be submitted to: Katherine Quinlan, 217 West Jones St., 1641 Mail Service Center, Raleigh, NC 27699-1641; phone (919) 707-8702; email daq.publiccomments@deq.nc.gov (Please type "Pre-permitting Construction Rules" in subject line)

Comment period ends: December 31, 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 02Q - AIR QUALITY PERMITS PROCEDURES

15A NCAC 02Q .0114 ACTIVITIES ALLOWED PRIOR TO PERMIT ISSUANCE

Upon determination that an application for a permit or permit modification contains all information required by statute, regulation, and application form, consistent with G.S. 143-213, the construction, but not operation, of a new air contaminant source, equipment, or associated air cleaning or emissions control devices may commence prior to permit issuance if the emissions source is not subject to:

- (1) permit limits set pursuant to programs for prevention of significant deterioration pursuant to 15A NCAC 02D .0530 and for the attainment of air quality standards in nonattainment areas pursuant to 15A NCAC 02D .0531;
- (2) a residual risk-based hazardous air pollutant standard pursuant to 15A NCAC 02D .1111; or
- (3) a case-by-case maximum achievable control technology (MACT) permit requirement issued by the Division pursuant to 15A NCAC 02D .1109 and Rule .0526 of this Subchapter.

The undertaking of pre-permitting activities pursuant to this Rule shall not entitle the applicant to operate any air contaminant source, equipment, or associated air cleaning or emissions control devices prior to permit issuance.

Authority G.S. 143-212; 143-213; 143-215.3(a)(1); 143-215.108A.

SECTION .0500 - TITLE V PROCEDURES

15A NCAC 02Q .0501 PURPOSE OF SECTION AND REQUIREMENT FOR A PERMIT

(a) The purpose of this Section is to establish an air quality permitting program as required pursuant to Title V of the Clean Air Act and 40 CFR Part 70.
(b) With the exception in Paragraph (c) of this ~~Rule~~, Rule and the provisions of 15A NCAC 02Q .0114, the owner or operator of an existing facility, new facility, or modification of an existing facility (except for minor modifications pursuant to 15A NCAC 02Q .0515), including significant modifications that would not contravene or conflict with a condition in the existing permit, shall not begin construction without first obtaining:

- (1) a construction and operation permit following the procedures set forth in this Section (except for 15A NCAC 02Q .0504); or
- (2) a construction and operation permit following the procedures set forth in 15A NCAC 02Q .0504 and filing a complete application within 12 months after commencing operation to

modify the construction and operation permit to meet the requirements of this Section.

(c) With the exception provided in the provisions of 15A NCAC 02Q .0114, if ~~if~~ the owner or operator proposes to make a significant modification pursuant to 15A NCAC 02Q .0516 that would contravene or conflict with a condition in the existing permit, the owner or operator shall not begin construction or make the modification until the owner or operator has obtained:

- (1) a construction and operation permit following the procedures set forth in this Section (except for 15A NCAC 02Q .0504); or
- (2) a construction and operation permit following the procedures set forth in 15A NCAC 02Q .0504 and, before beginning operation, files an application and obtains a permit modifying the construction and operation permit to meet the requirements of this Section (except for 15A NCAC 02Q .0504).

(d) All facilities subject to this Section shall have a permit to operate that assures compliance with 40 CFR Part 70 and all applicable federal and State requirements.

(e) Except as allowed pursuant to 15A NCAC 02Q .0515(f) (minor modifications), no facility subject to the requirements of this Section may operate after the time that it is required to submit a timely and complete application pursuant to this Section except in compliance with a permit issued pursuant to this Section. This Paragraph does not apply to ~~to~~ permit renewals pursuant to 15A NCAC 02Q .0513.

(f) If the conditions of 15A NCAC 02Q .0512(b) (application shield) are met, the facility's failure to have a permit pursuant to this Section shall not be a violation of operating without a permit.

(g) If the owner or operator of a facility subject to the requirements of this Section submits an application for a revision to his permit before receiving the initial permit pursuant to this Section, the application for the revision shall be processed pursuant to 15A NCAC 02Q .0300.

(h) The owner or operator of a facility or source subject to the requirements of this Section may also be subject to the toxic air pollutant procedures set forth in 15A NCAC 02Q .0700.

(i) The owner or operator of an affected unit subject to the acid rain program requirements of Title IV is also subject to the procedures pursuant to 15A NCAC 02Q .0400.

(j) The owner or operator of a facility subject to the requirements of this Section shall pay permit fees in accordance with the requirements of 15A NCAC 02Q .0200.

Authority G.S. 143-215.3(a)(1); 143-215.107(a)(10); 143-215.108; 143-215.108A.

15A NCAC 02Q .0507 APPLICATION

(a) Except for:

- (1) minor permit modifications covered pursuant to 15A NCAC 02Q .0515;
- (2) significant modifications covered pursuant to 15A NCAC 02Q .0516(c); or
- (3) renewals submitted pursuant to 15A NCAC 02Q .0513;

the owner or operator of a new or existing source shall have 12 months after the facility or source becomes subject to the Title V

operating permit program pursuant to 15A NCAC 02Q .0500 to file a complete application for a permit or permit revision. However, except as provided in 15A NCAC 02Q .0114, the owner or operator of a source shall not begin construction or operation of a source until he or she has obtained a construction and operation permit pursuant to 15A NCAC 02Q .0501(b) or (c) and 15A NCAC 02Q .0504.

(b) An application shall include the information described in 40 CFR 70.3(d) and 70.5(c), including a list of insignificant activities because of size or production rate but not including insignificant activities because of category. An application shall be certified by a responsible official for truth, accuracy, and completeness. In an application submitted pursuant to this Rule, the applicant may attach copies of applications submitted pursuant to 15A NCAC 02Q .0400 or 15A NCAC 02D .0530 or .0531 if the information in those applications contains information required in this Section and is current, accurate, and complete.

(c) Application for a permit, permit revision, or permit renewal shall be made in accordance with 15A NCAC 02Q .0104 on forms of the Division and shall include plans and specifications with complete data and information as required by this Rule. If the information provided on these forms does not describe the source or its air pollution abatement equipment to the extent necessary to evaluate the application, the Director shall request that the applicant provide other information necessary to evaluate the source and its air pollution abatement equipment.

(d) Along with filing a complete application, the applicant shall also file the following:

- (1) for a new facility or an expansion of existing facility, a consistency determination in accordance with G.S. 143-215.108(f) that:
 - (A) bears the date of receipt entered by the clerk of the local government; or
 - (B) consists of a letter from the local government indicating that zoning or subdivision ordinances are met by the facility;
- (2) for a new facility or an expansion of an existing facility in an area without zoning, an affidavit and proof of publication of a legal notice as required pursuant to 15A NCAC 02Q .0113; and
- (3) if required by the Director, information showing that:
 - (A) the applicant is financially qualified to carry out the permitted activities; or
 - (B) the applicant has substantially complied with the air quality and emissions standards applicable to any activity in which the applicant has previously been engaged and has been in substantial compliance with federal and State environmental laws and rules.

(e) An applicant who fails to submit relevant facts or submits incorrect information in a permit application shall, upon becoming aware of the failure or incorrect submittal, submit supplementary facts or corrected information to resolve the deficiency. In addition, an applicant shall provide additional

information to address requirements to which the source becomes subject after the date the applicant filed a complete application but prior to release of a draft permit.

(f) The submittal of a complete permit application shall not affect the requirement that a facility have a permit pursuant to 15A NCAC 02D .0530, .0531, or .0532 or pursuant to 15A NCAC 02Q .0400.

(g) The Director shall give priority to permit applications containing early reduction demonstrations pursuant to Section 112(i)(5) of the federal Clean Air Act. The Director shall take final action on these permit applications after receipt of the complete permit application.

(h) Except as specified in 15A NCAC 02Q .0203(i), a non-refundable permit application processing fee, defined in 15A NCAC 02Q .0200, shall accompany the application. The permit application shall be deemed incomplete until the permit application processing fee is received.

(i) The applicant shall retain during the permit term one complete copy of the application package and the information submitted in support of the application package.

Authority G.S. 143-215.3(a)(1); 143-215.107(a)(10); 143-215.108; 143-215.108A.

TITLE 21 - OCCUPATIONAL LICENSING BOARDS AND COMMISSIONS

CHAPTER 08 - CERTIFIED PUBLIC ACCOUNTANT EXAMINERS

Notice is hereby given in accordance with G.S. 150B-21.2 and G.S. 150B-21.3A(c)(2)g. that the Board of Certified Public Accountant Examiners intends to adopt the rules cited as 21 NCAC 08F .0411, .0505; 08J .0113; 08N .0216, .0310, readopt with substantive changes the rules cited as 21 NCAC 08A .0102, .0301, .0307; 08B .0101, .0104, .0202, .0501, .0502, .0507; 08C .0104, .0121, .0126; 08F .0101, .0103, .0107, .0113, .0302, .0401, .0409, .0410, .0502, .0504; 08G .0401, .0403, .0406, .0409; 08H .0101, .0102, .0104; 08I .0101, .0105; 08J .0101, .0105- .0112; 08K .0104, .0201, .0301; 08M .0105, .0106; 08N .0203, .0302, .0305- .0307, .0401, .0402, .0411, readopt without substantive changes the rules cited as 21 NCAC 08A .0101, .0103, .0203, .0308- .0310; 08B .0102, .0105, .0304, .0307, .0503, .0508; 08C .0103, .0105, .0107- .0111, .0114- .0116, .0118, .0122- .0125; 08F .0102, .0105, .0106, .0111, .0303; 08G .0404; 08I .0102, .0104; 08K .0105; 08M .0107; 08N .0101- .0103, .0201, .0202, .0204- .0209, .0211- .0215, .0303, .0304, .0308, .0309, .0403- .0406, .0408- .0410 and repeal through readoption the rules cited as 21 NCAC 08A .0201; 08N .0301, and .0412.

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>.

Pursuant to G.S. 150B-21.2(c)(1), the text of the rule(s) proposed for readoption without substantive changes are not required to be

published. The text of the rules are available on the OAH website: <http://reports.oah.state.nc.us/ncac.asp>.

Link to agency website pursuant to G.S. 150B-19.1(c): <https://nccpaboard.gov/>

Proposed Effective Date: May 1, 2026

Public Hearing:

Date: January 21, 2026

Time: 10:00 am

Location: 1101 Oberlin Road, Raleigh, NC 27605

Reason for Proposed Action: *Readoption per periodic rule process:*

Rules being adopted are to address the need for a rule to address forms used by the Board or where the Board is moving a previous rule into its proper categorization

Rules being repealed are due to lack of need for the rule or that the repeal of the rule is due to it moving to its proper categorization

Rules with substantive changes are addressing issues due to the wrong statutory reference, clean-up in accordance to the OAH style guide, or update to the rules based on changes that have occurred in the profession

Rules without substantive changes are current and reflect the state of the profession

Comments may be submitted to: David R Nance, 1101 Oberlin Rd, Raleigh, NC 27605; phone (919) 733-4215; email dnance@nccpaboard.gov (Please note in the subject line of any email sent that it pertains to written comments on the Board's proposed rules)

Comment period ends: February 13, 2026

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 08A - DEPARTMENTAL RULES

SECTION .0100 - ORGANIZATIONAL RULES

21 NCAC 08A .0101 FORMAL NAME (READOPTION WITHOUT SUBSTANTIVE CHANGES)

21 NCAC 08A .0102 ADDRESS AND PHONE

~~NUMBER~~ ADDRESS, PHONE NUMBER, AND WEBSITE

The Board's physical address is Suite 104, 1101 Oberlin Road, Raleigh, North Carolina 27605. The mailing address is Post Office Box 12827, Raleigh, North Carolina 27605-2827. The telephone number is (919) 733-4222. The Board's website is <https://nccpaboard.gov>.

Authority G.S. 93-12(3).

21 NCAC 08A .0103 OFFICE HOURS (READOPTION WITHOUT SUBSTANTIVE CHANGES)

SECTION .0200 - BOARD OF CERTIFIED PUBLIC ACCOUNTANT EXAMINERS

21 NCAC 08A .0201 ELECTION OF OFFICERS

Authority G.S. 93-12.

21 NCAC 08A .0203 QUORUM (READOPTION WITHOUT SUBSTANTIVE CHANGES)

SECTION .0300 - DEFINITIONS

21 NCAC 08A .0301 DEFINITIONS

(a) The definitions set out in G.S. 93-1(a) apply when those defined terms are used in this Chapter.

(b) In addition to the definitions set out in G.S. 93-1(a), the following definitions apply when these terms are used in this Chapter:

- (1) "Active," when used to refer to the status of a person, describes a person who possesses a North Carolina certificate of qualification and who has not otherwise been granted inactive or CPA-retired status;
- (2) "Agreed-upon procedures" means a professional service whereby a CPA is engaged to issue a report of findings based on specific procedures performed on identified subject matter;
- (3) "AICPA" means the American Institute of Certified Public Accountants;
- (4) "Applicant" means a person who has applied to take the CPA examination or applied for a certificate of qualification;

(5) "Attest service" means a professional service whereby a CPA in the practice of public accounting is engaged to issue or does issue:

(A) any audit or engagement to be performed in accordance with the Statements on Auditing Standards, Statements on Generally Accepted Governmental Auditing Standards, Public Company Accounting Oversight Board Auditing Standards, and International Standards on Auditing;

(B) any review engagement to be performed in accordance with the Statements on Standards for Accounting and Review Services;

(C) any compilation engagement to be performed in accordance with the Statements on Standards for Accounting and Review Services; or

(D) any engagement to be performed in accordance with the Statements on Standards for Attestation Engagements;

(6) "Audit" means a professional service whereby a CPA is engaged to examine financial statements, items, accounts, or elements of a financial statement prepared by management, in order to express an opinion on whether the financial statements, items, accounts, or elements of a financial statement are presented in conformity with an applicable reporting framework, that enhances the degree of confidence that intended users can place on the financial statements, items, accounts, or elements of a financial statement;

(7) "Calendar year" means the 12 months beginning January 1 and ending December 31;

(8) "Candidate" means a person whose application to take the CPA examination has been accepted by the Board and who may sit for the CPA examination;

(9) "Client" means a person or an entity who orally or in writing agrees with a licensee to receive any professional services performed or delivered;

(10) "Commission" means compensation, except a referral fee, for recommending or referring any product or service to be supplied by another person;

(11) "Compilation" means a professional service whereby a CPA is engaged to present, in the form of financial statements, information that is the representation of management without ~~undertaking to express~~ expressing any assurance on the statements;

(12) "Contingent fee" means a fee established for the performance of any service pursuant to an arrangement in which no fee will be charged

- unless a specified finding or result is attained, or in which the amount of the fee is otherwise dependent upon the finding or result of such service;
- (13) "CPA" means certified public accountant;
- (14) "CPA firm" means ~~a sole proprietorship, a partnership, a professional corporation, a professional limited liability company, or a registered limited liability partnership that uses~~ certified public accountant(s) or CPA(s) in or with its name or offers to or renders any attest services in the public practice of accountancy; an entity that is registered with the Board pursuant to Rule 08J .0108 of this Chapter or practices in the State by exercising the practice privilege as set forth by G.S. 93-10;
- (15) "CPE" means continuing professional education;
- (16) "Disciplinary action" means revocation, suspension of, or refusal to grant a certificate, or the imposition of a reprimand, probation, constructive comment, or any other penalty or condition;
- (17) "FASB" means the Financial Accounting Standards Board;
- (18) "Firm network" means an association of entities that includes one or more firms that cooperate for the purpose of enhancing the firms' capabilities to provide professional services and share one or more of the following characteristics:
- (A) the use of a common brand name, including initials, as part of the firm name;
 - (B) common control among the firms through ownership, management, or other means;
 - (C) profits or costs, excluding costs of operating the association; costs of developing audit methodologies, manuals, and training courses; and other costs that are immaterial to the firm;
 - (D) common business strategy that involves ongoing collaboration amongst the firms whereby the firms are responsible for implementing the association's strategy and are accountable for performance pursuant to that strategy;
 - (E) significant part of professional resources; or
 - (F) common quality control policies and procedures that firms are required to implement and that are monitored by the association;
- (19) "GASB" means the Governmental Accounting Standards Board;
- (20) "Inactive," when used to refer to the status of a person, describes a person who has requested inactive status and has been approved by the Board and who does not use the title certified public accountant, nor does he or she allow anyone to refer to him or her as a certified public accountant, and neither he nor she nor anyone else refers to him or her in any representation as described in Rule .0308(b) of this Section;
- (21) "IRS" means the Internal Revenue Service;
- (22) "Jurisdiction" means any state or territory of the United States or the District of Columbia;
- (23) "License year" means the 12 months beginning July 1 and ending June 30;
- (24) "Member of a CPA firm" means any CPA who has an equity ownership interest in a CPA firm;
- (25) "NASBA" means the National Association of State Boards of Accountancy;
- (26) "NCACPA" means the North Carolina Association of Certified Public Accountants;
- (27) "North Carolina office" means any office physically located in North Carolina;
- (28) "Person" means any natural person, corporation, partnership, professional limited liability company, registered limited liability partnership, unincorporated association, or other entity;
- (29) "Professional" means arising out of or related to the particular knowledge or skills associated with CPAs;
- (30) "Referral fee" means compensation for recommending or referring any service of a CPA to any person;
- (31) "Revenue Department" means the North Carolina Department of Revenue;
- (32) "Review" means a professional service whereby a CPA is engaged to perform procedures, limited to analytical procedures and inquiries, to obtain a reasonable basis for expressing limited assurance on whether any material modifications should be made to the financial statements for them to be in conformity with generally accepted accounting principles or other comprehensive basis of accounting;
- (33) "Reviewer" means a member of a review team including the review team captain;
- (34) "Suspension" means a revocation of a certificate for a specified period of time. A CPA may be reinstated after a specific period of time if the CPA has met all conditions imposed by the Board at the time of suspension;
- (35) ~~"Trade name" means a name used to designate a business enterprise;~~
- (36)(35) "Work papers" mean the CPA's records of the procedures applied, the tests performed, the information obtained, and the conclusions reached in attest services, tax services,

consulting services, special report services, or other engagements. Work papers include programs used to perform professional services, analyses, memoranda, letters of confirmation and representation, checklists, copies or abstracts of company documents, and schedules of commentaries prepared or obtained by the CPA. The forms include handwritten, typed, printed, word processed, photocopied, photographed, and computerized data, or in any other form of letters, words, pictures, sounds, or symbols; and

(37) ~~"Work product" means the end result of the engagement for the client that may include a tax return, attest or assurance report, consulting report, or financial plan. The forms include handwritten, typed, printed, word processed, photocopied, photographed, and computerized data, or in any other form of letters, words, pictures, sounds, or symbols.~~

(c) Any requirement to comply by a specific date to the Board that falls on a weekend or federal holiday shall be received as in compliance if postmarked by U.S. Postal Service cancellation by that date, if received by a private delivery service by that date, or received in the Board office on the next business day.

Authority G.S. 93-1; 93-12; 93-12(3).

21 NCAC 08A .0307 PUBLIC PRACTICE OF ACCOUNTANCY OR ACCOUNTING

(a) A person is engaged in the "public practice of accountancy" who:

- (1) holds ~~himself or herself~~ out to the public as a certified public accountant or an accountant; and
- (2) in consideration of compensation received or to be received, offers to perform or does perform for other persons services that involve:
 - (A) preparing, auditing, or verifying financial transactions, books, accounts, or records;
 - (B) preparing, verifying or certifying financial, accounting, and related statements intended for publication, including preparing tax returns;
 - (C) rendering professional services or assistance in or about any and all matters of principle or detail relating to accounting procedure and systems; or
 - (D) recording, presenting or certifying, and interpreting such service (including tax, consulting or management advisory services) through statements and reports.

(b) Services, as described in Subparagraph (a)(2) of this Rule, may be performed on a full-time, part-time or temporary basis in the various accounting fields, including public accounting, governmental or other not-for-profit accounting, industrial,

commercial or financial accounting, taxation and tax-related ~~matters, or accounting education matters.~~

Authority ~~G.S. 93-1; G.S. 93-1(a)(5); 93-12.~~

21 NCAC 08A .0308 HOLDING OUT TO THE PUBLIC (READOPTIO WITHOUT SUBSTANTIVE CHANGES)

21 NCAC 08A .0309 CONCENTRATION IN ACCOUNTING (READOPTIO WITHOUT SUBSTANTIVE CHANGES)

21 NCAC 08A .0310 DIRECT SUPERVISION DEFINED (READOPTIO WITHOUT SUBSTANTIVE CHANGES)

SUBCHAPTER 08B - RULE-MAKING PROCEDURES

SECTION .0100 - PETITIONS FOR RULE-MAKING

21 NCAC 08B .0101 PETITIONS

Any person wishing to submit a petition requesting the adoption, amendment or repeal of a rule by the Board shall address a petition to the Board's Executive Director, ~~as at the address as~~ set forth in ~~21 NCAC 8A .0102; 21 NCAC 08A .0102.~~

Authority G.S. 93-12; ~~150B-11(1); 150B-16; 150B-20.~~

21 NCAC 08B .0102 CONTENTS OF PETITION FOR NEW RULE (READOPTIO WITHOUT SUBSTANTIVE CHANGES)

21 NCAC 08B .0104 CONTENTS OF PETITIONS FOR RULE AMENDMENT OR REPEAL

A petition requesting the amendment or repeal of a rule should contain the following information:

- (1) rule affected;
- (2) reasons for change;
- (3) either a draft of the proposed amendment or a summary of the proposed amendment, if the petition is to amend the rule;
- (4) data supporting the rule proposal;
- (5) effect of the proposed change on existing practices in the area involved; and
- (6) ~~name and address of each petitioner.~~ name, address and phone number of each petitioner.

Authority G.S. 93-12; ~~150B-11(1); 150B-16; 150B-20.~~

21 NCAC 08B .0105 GRANTING OR DENYING PETITIONS (READOPTIO WITHOUT SUBSTANTIVE CHANGES)

SECTION .0200 - NOTICE

21 NCAC 08B .0202 MAILING LIST

(a) Persons or agencies desiring to be placed on the mailing list for the Board's rule-making notices issued pursuant to G.S. 150B-

21.2 may file a request in writing, furnishing their name and mailing address to the Executive Director of the Board, at the address set forth in ~~21 NCAC 8A .0102~~, 21 NCAC 08A .0102.

(b) The request shall state the subject areas within the authority of the agency for which notice is requested.

Authority G.S. 93-12; 150B-21.2.

SECTION .0300 - HEARINGS

21 NCAC 08B .0304 ORAL PRESENTATION (READOPTION WITHOUT SUBSTANTIVE CHANGES)

21 NCAC 08B .0307 CONTROL OF RULE-MAKING HEARINGS (READOPTION WITHOUT SUBSTANTIVE CHANGES)

SECTION .0500 - DECLARATORY RULINGS

21 NCAC 08B .0501 REQUEST FOR DECLARATORY RULING

Any person aggrieved, as defined in G.S. 150B-2(6), by a statute administered or rule promulgated by the Board may request a declaratory ruling as to how the statute or rule applies to a given factual situation or whether a particular Board rule is valid. All requests for declaratory rulings shall be in writing and mailed to the Board ~~at its address, as~~ at the address as set forth in ~~21 NCAC 8A .0102~~, 21 NCAC 08A .0102.

Authority G.S. 93-12; ~~150B-17~~; 150B-4.

21 NCAC 08B .0502 CONTENTS OF REQUEST

All requests for a declaratory ruling must include the following information:

- (1) ~~name and address of petitioner;~~ name, address, and phone number of each petitioner;
- (2) statute or rule to which the petition relates;
- (3) concise statement of the manner in which the petitioner is aggrieved, as defined in G.S. 150B-2(6), or thinks that he or she may be injured by the rule or statute and its application to him or her; and
- (4) statement of whether an oral hearing is desired and if so the reasons for such an oral hearing.

Authority G.S. 93-12; 150B-4.

21 NCAC 08B .0503 REFUSAL TO ISSUE DECLARATORY RULING (READOPTION WITHOUT SUBSTANTIVE CHANGES)

21 NCAC 08B .0507 CIRCUMSTANCES

As a general rule the Board will issue a declaratory ruling except:

- (1) when the subject of a requested declaratory ruling is also the subject of a lawsuit pending in a court of this state or a federal court;
- (2) when the facts presented in the request were considered at a rule-making hearing; or

- (3) in other special ~~circumstances~~, circumstances, as determined by the Board.

Authority G.S. 93-12; ~~150B-17~~; 150B-4.

21 NCAC 08B .0508 REQUESTS FOR INFORMAL OPINIONS (READOPTION WITHOUT SUBSTANTIVE CHANGES)

SUBCHAPTER 08C - CONTESTED CASES

SECTION .0100 - PROCEDURE IN CONTESTED CASES

21 NCAC 08C .0103 ADDITIONAL INFORMATION ON NOTICES OF HEARINGS (READOPTION WITHOUT SUBSTANTIVE CHANGES)

21 NCAC 08C .0104 WRITTEN PETITION FOR INTERVENTION

A person desiring to intervene in a contested case must file a written petition with the Board ~~at its address set~~ at the address as set forth in ~~21 NCAC 8A .0102~~, 21 NCAC 08A .0102. A petition to intervene shall be filed in accordance with G.S. 1A-1, Rule 24.

Authority G.S. 93-12; 150B-38.

21 NCAC 08C .0105 NOTICE OF ALLOWANCE OR DENIAL OF PETITION TO INTERVENE (READOPTION WITHOUT SUBSTANTIVE CHANGES)

21 NCAC 08C .0107 DISQUALIFICATION OF BOARD MEMBER (READOPTION WITHOUT SUBSTANTIVE CHANGES)

21 NCAC 08C .0108 AFFIDAVIT OF DISQUALIFICATION (READOPTION WITHOUT SUBSTANTIVE CHANGES)

21 NCAC 08C .0109 FILING AFFIDAVIT OF DISQUALIFICATION (READOPTION WITHOUT SUBSTANTIVE CHANGES)

21 NCAC 08C .0110 DETERMINATION OF DISQUALIFICATION (READOPTION WITHOUT SUBSTANTIVE CHANGES)

21 NCAC 08C .0111 NEW HEARING AFTER DISQUALIFICATION (READOPTION WITHOUT SUBSTANTIVE CHANGES)

21 NCAC 08C .0114 PRE-HEARING CONFERENCE (READOPTION WITHOUT SUBSTANTIVE CHANGES)

21 NCAC 08C .0115 PURPOSES OF A PRE-HEARING CONFERENCE (READOPTION WITHOUT SUBSTANTIVE CHANGES)

**21 NCAC 08C .0116 NOTICE OF PRE-HEARING
CONFERENCE (READOPTION WITHOUT
SUBSTANTIVE CHANGES)****21 NCAC 08C .0118 CONTINUANCES
(READOPTION WITHOUT SUBSTANTIVE CHANGES)****21 NCAC 08C .0121 SERVICE OF SUBPOENAS**

(a) Subpoenas shall be served as the officer issuing the subpoenas shall direct and as may be appropriate to the circumstances of the case. The Executive Director, Board counsel, or staff member designated by the Executive Director may serve subpoenas on behalf of the Board pursuant to G.S. 1A-1, Rule 45(e).

(b) Subpoenas shall be issued in duplicate ~~with a "Return of Service" form attached to each copy, and contain a Return of Service.~~ The Return of Service shall be the same as that found in the Subpoena and Return of Service forms provided by the North Carolina Administrative Office of the Courts. The person serving the subpoena shall fill out the attached "Return of Service" Return of Service form for each copy and promptly return one copy of the subpoena and containing the completed "Return of Service" Return of Service form to the Board office.

Authority G.S. 93-12; 150B-39.

**21 NCAC 08C .0122 OBJECTIONS TO SUBPOENAS
(READOPTION WITHOUT SUBSTANTIVE CHANGES)****21 NCAC 08C .0123 RESPONSES TO OBJECTIONS
TO SUBPOENAS (READOPTION WITHOUT
SUBSTANTIVE CHANGES)****21 NCAC 08C .0124 HEARINGS ON SUBPOENA
CHALLENGES (READOPTION WITHOUT
SUBSTANTIVE CHANGES)****21 NCAC 08C .0125 RECORDS OF CONTESTED
CASES (READOPTION WITHOUT SUBSTANTIVE
CHANGES)****21 NCAC 08C .0126 HEARING EXHIBITS**

(a) The Board staff shall serve upon the Respondent copies of documents it plans to offer as evidence at a contested case hearing at least ~~44~~ 10 business days prior to the scheduled hearing.

(b) Respondent shall likewise serve upon the Board staff copies of documents Respondent plans to offer as evidence at the hearing at least ~~44~~ 10 business days prior to the scheduled hearing.

(c) ~~Additional exhibits may be introduced by the Board staff or Respondent and admitted into evidence at the hearing if the presiding officer determines that the document(s) were not otherwise available to the party 14 business days prior to the hearing or the documents(s) are offered in response to documents served by the other party. A party may object to the admission of evidence that was not timely served in accordance with this Rule. The objecting party must show that it was prejudiced by a violation of this Rule. Upon a valid objection, the presiding officer may refuse to admit the evidence, continue the hearing to a future date, or take other action within the presiding officer's discretion.~~

(d) Respondents shall supply at the hearing 16 copies of any document(s) that ~~is of this Rule~~ was not served upon the Board staff in advance as prescribed in Paragraph (b) of this Rule.

Authority G.S. 93-12; 150B-41.

**SUBCHAPTER 08F - REQUIREMENTS FOR CERTIFIED
PUBLIC ACCOUNTANT EXAMINATION AND
CERTIFICATE APPLICANTS****SECTION .0100 - GENERAL PROVISIONS****21 NCAC 08F .0101 TIME AND PLACE OF CPA
EXAMINATIONS**

(a) The Board shall offer the CPA examination through the examination vendors(s), who have contracted with NASBA, ~~at least eight months in a through out the calendar year.~~

(b) The months the CPA Examination is administered are determined by the examination vendor(s).

(c) The examination vendor(s) shall provide examination applicants with computer access ~~to~~ at the testing centers for the CPA examination.

Authority G.S. 93-12(3); 93-12(4).

**21 NCAC 08F .0102 TYPE OF CPA EXAMINATION
(READOPTION WITHOUT SUBSTANTIVE CHANGES)****21 NCAC 08F .0103 FILING OF EXAMINATION
APPLICATIONS AND FEES**

(a) All applications for CPA examinations shall be filed with the Board and accompanied by the examination ~~fee.~~ fees. The Board sets the ~~fee~~ fees for each examination at the amount that enables the Board to recover its actual costs of examination services. If a check or credit card authorization fails to clear the bank, the application shall be deemed incomplete and returned. CPA examination applications and fee information are on the Board's website at nccpaboard.gov and may be requested from the Board.

(b) The initial application filed to take the examination shall include supporting documentation demonstrating that all legal requirements have been met, including:

- (1) minimum legal age;
- (2) education; and
- (3) good moral character.

(c) In addition, any person born outside the United States shall furnish to the Board office:

- (1) evidence of citizenship; or
- (2) evidence of resident alien status; or
- (3) other bona fide evidence that the applicant is legally allowed to remain in the United States; or
- (4) a notarized affidavit of intention to become a U.S. citizen; or
- (5) evidence that the applicant is a citizen of a foreign jurisdiction that extends to citizens of this State like or similar privileges to be examined.

(d) Education and satisfaction of degree requirements shall be proven by submission of either original official transcripts, not

photocopies, signed by the college registrar and bearing the college seal or by electronic delivery of official transcripts directly from the college registrar or through the institution's chosen provider. Official transcripts shall show the grades the applicant received on courses completed and shall also show degree(s) awarded. A letter from the college registrar of the school may be filed as documentation that the applicant has met the graduation requirements if the degree has not been awarded and posted to the transcript. No examination grades shall be released until an official transcript is filed with the Board confirming the education requirement as stated in the college registrar's letter.

(e) Applicants for re-examination shall not ~~re-submit~~ be required to resubmit official transcripts, additional statements, or affidavits regarding education.

(f) To document good moral character as required by G.S. 93-12(5), three persons not related by blood or marriage to the applicant shall sign the application certifying the good moral character of the applicant and the Board shall conduct a background check of the applicant including a check of criminal records.

(g) An applicant shall include as part of any application for the CPA examination a statement of explanation and a certified copy of the final disposition if the applicant has been arrested, charged, convicted or found guilty of, received a prayer for judgment continued, or pleaded nolo contendere to any criminal offense. An applicant shall not be required to disclose any arrest, charge, or conviction that has been expunged by a court.

(h) If an applicant has been denied any license by any state or federal agency, the applicant shall include as part of the application for the CPA examination a statement explaining such denial. An applicant shall include a statement of explanation and a certified copy of applicable license records if the applicant has been registered with or licensed by a state or federal agency and has been disciplined by that agency.

(i) An applicant shall submit one photograph or digital image as part of the application for the CPA examination. The photograph or digital image shall be of the applicant alone, front view, full face, taken in normal street attire without a hat or dark glasses, with a plain light background, and taken within the last six months. The photograph or digital image may be in black and white or in color. Retouched photographs or digital images shall not be accepted. If submitting a photograph, applicants shall write their names on the back of their photograph, with the photograph two by two inches in size.

(j) If an applicant's name has legally changed and is different from the name on any transcript or other document supplied to the Board, the applicant shall furnish copies of the documents legally authorizing the name change.

(k) Candidates shall file initial and re-exam applications to sit for the CPA examination on forms provided by the Board.

(l) Examination fees are valid for a six-month period from the date of the applicant's notice to schedule for the examination from the examination vendor.

(m) No application for examination shall be considered while the applicant is serving a sentence for any criminal offense. Serving a sentence includes incarceration, ~~probation (supervised or unsupervised)~~, supervised probation, parole, or conditionally suspended sentence, any of which are imposed as a result of having been convicted or having pled to a criminal charge.

Authority G.S. 93-2; ~~93-10~~; 93-12(3); 93-12(4); 93-12(5); 93-12(7).

21 NCAC 08F .0105 CONDITIONING REQUIREMENTS (READOPTIO WITHOUT SUBSTANTIVE CHANGES)

21 NCAC 08F .0106 GRANTING EXAMINATION CREDIT FROM OTHER JURISDICTIONS (READOPTIO WITHOUT SUBSTANTIVE CHANGES)

21 NCAC 08F .0107 COMMUNICATION OF RESULTS OF CPA EXAMINATIONS

~~(a) The Board shall communicate to candidates in writing the result achieved in each of their examinations. NASBA notifies candidates once their score(s) are finalized and the results are available for review.~~ Grades awarded to candidates shall not be released to third parties except by written consent of the candidate.

~~(b) In no event shall any information concerning answers of candidates be given to anyone other than the candidate.~~

~~(c) Examination grades shall be mailed to the candidates upon receipt by the Board.~~

Authority G.S. 93-12(2); 93-12(3).

21 NCAC 08F .0111 INELIGIBILITY DUE TO VIOLATION OF ACCOUNTANCY ACT (READOPTIO WITHOUT SUBSTANTIVE CHANGES)

21 NCAC 08F .0113 CANDIDATE'S REQUEST TO REVIEW CPA EXAMINATION

The Board ~~may~~ shall allow a North Carolina ~~candidate~~ candidate pursuant to ~~G.S. 93B-8~~ G.S. 93B-8 to have the privilege to review his or her their CPA Examination within 60 days after the release of the grades in question. examination. The candidate must make the request for the review within 60 days after the release of the grades in question.

Authority G.S. 93-12(3).

SECTION .0300 - EDUCATIONAL REQUIREMENTS FOR EXAMINATION

21 NCAC 08F .0302 EDUCATION AND WORK ~~EXPERIENCE REQUIRED PRIOR TO CPA EXAM~~

(a) Applicants who intend to demonstrate their possession of sufficient education to become a CPA by showing that they possess a bachelor's degree shall submit official transcripts with their application to take the CPA examination. Official transcripts shall show the grades the applicant received on courses completed and shall also show degrees awarded. ~~An official transcript bears the seal of the school and the signature of the registrar or assistant registrar.~~

(b) The Board may approve an application to take the CPA examination prior to the applicant's obtaining the concentration of accounting or the receipt of a bachelor's degree, if:

- (1) the concentration in accounting that shall be included in or supplement the bachelor's degree

- is already complete or is reasonably expected to be completed by the end of the school term within which the examination falls; and
- (2) an applicant reasonably expects to receive the bachelor's degree within 120 days after the application is ~~received~~ approved by the Board. However, if the applicant fails to receive the degree within the specified time, the CPA examination grades shall not be released and if the applicant wishes to retake the examination, the applicant shall reapply.

Authority G.S. 93-12(3); 93-12(5).

**21 NCAC 08F .0303 SEMESTER HOUR
EQUIVALENT (READOPTIO WITHOUT
SUBSTANTIVE CHANGES)**

SECTION .0400 - EXPERIENCE

**21 NCAC 08F .0401 WORK EXPERIENCE
REQUIRED OF CANDIDATES FOR CPA
CERTIFICATION**

(a) ~~G.S. 93-12(5)(e)~~ G.S. 93-12(5)c. sets forth work experience alternatives, one of which is required of candidates applying for CPA certification. In connection with those requirements, the following provisions apply:

- (1) the work experience shall be acquired prior to the date a candidate applies for certification; and
 - (2) all experience that is required to be under the direct supervision of a CPA shall be under the direct supervision of a licensed CPA on active status in one of the U.S. states or jurisdictions.
- (b) The following provisions apply to all candidates seeking to meet the work experience requirement of ~~G.S. 93-12(5)(e)(3)~~ G.S. 93-12(5)c.3. by working in the field of accounting:
- (1) One year of work experience is 52 weeks of full-time employment. The candidate is employed full-time when the candidate is expected by the employer to work for the employer at least 30 hours each week. Any other work is working part-time.
 - (2) All weeks of actual full-time employment are added to all full-time equivalent weeks in order to calculate how much work experience a candidate has acquired. Dividing that number by 52 results in the years of work experience the candidate has acquired.
 - (3) Full-time-equivalent weeks are determined by the number of actual part-time hours the candidate has worked. Actual part-time hours do not include hours paid for sick leave, vacation leave, attending continuing education courses, or other time not spent directly performing accounting services. For each calendar week during which the candidate worked actual part-time hours of 30 hours or more, the candidate receives one full-time-

equivalent week. The actual part-time hours worked in the remaining calendar weeks are added together and divided by 30. The resulting number is the additional number of full-time-equivalent weeks to which the candidate is entitled.

- (4) The candidate shall submit experience affidavits on ~~a form~~ forms provided by the Board from all of the relevant ~~employers;~~ employers as identified by Rule .0411 of this section. If the experience was obtained while working under the supervision of a CPA, then the supervising CPA must sign the affidavit. The affidavit will confirm the dates of employment for the CPA and the type of duties assigned to the applicant. The affidavit does not require the supervising CPA to state an opinion regarding the applicant's competency or the quality of the applicant's work. provided that when such If the experience was not acquired while employed with a CPA firm, the candidate shall also submit details of the work experience and supervision on a form provided by the Board. Experience affidavits for part-time work shall contain a record of the actual part-time hours the candidate has worked for each week of part-time employment. Both the experience affidavit and the form for additional detail shall be certified by the employer's office supervisor or an owner of the firm who is a certificate holder.

(c) Rule .0409 of this Section applies to teaching experience acquired pursuant to ~~G.S. 93-12(5)(e)(2) and (4).~~ G.S.93-12(5)c.2.and 4.

Authority G.S. 93-12(3); 93-12(5).

**21 NCAC 08F .0409 SATISFACTION OF
EXPERIENCE REQUIREMENT BY TEACHING**

(a) Teaching Experience. The requirement of "four years experience teaching accounting," G.S. 93-12(5), means teaching accounting full-time for four years.

- (1) Full-time teaching as described by the rules of the educational institution where the applicant taught will be accepted by the Board to be full-time teaching. However, in no case will less than 12 semester hours, or the equivalent, be accepted by the Board as full-time teaching.
- (2) If the applicant has not taught accounting full-time for four years, credit will be allowed by the Board for teaching accounting less than full-time on a pro rata basis based upon the number of semester hours required for full-time teaching at the educational institution where the applicant taught. However, in no case can an applicant receive credit for a full-time teaching year for teaching done in less than one academic year or more credit than one full-time

- teaching year for teaching done within one calendar year.
- (3) Courses outside the field of accounting will not be counted toward full-time teaching. Such courses include, but are not limited to: business law, finance, computer applications, personnel management, economics and statistics.
- (4) Of the four years of full-time teaching experience, teaching accounting principles (below intermediate accounting) cannot be counted toward the educational requirement for more than the equivalent of two full-time years. The remaining two full-time teaching years must be taught in at least two different areas of advanced accounting such as auditing, income tax, intermediate financial accounting or advanced managerial accounting, and the applicant must have taught at least nine semester hours, or the equivalent, in at least two of the different areas.

~~The purpose of this Subparagraph is to render unacceptable as meaningful experience both the continuous teaching of the elementary accounting course and the continuous teaching of the advanced courses in only one area of accounting.~~

(b) Required Information. Applicants must submit with their application a letter from each institution where they taught, certified by the applicant's dean or department head at that institution. The letter must state:

- (1) the number of credit hours which the applicant taught each year;
- (2) the names and academic level of the courses taught; and
- (3) the number of hours set by the rules of the institution as full-time teaching for each relevant year.

(c) Burden of Proof. An applicant having taught in an accredited ~~community college or technical institute~~ institution other than a four-year accredited college or university has the burden of proving that the credits earned by students taking those courses which the applicant taught would transfer to a four-year accredited college or university.

Authority G.S. 93-12(5).

21 NCAC 08F .0410 EDUCATION REQUIRED OF CANDIDATES FOR CPA CERTIFICATION

(a) ~~G.S. 93-12(5)(a)~~ G.S. 93-12(5)a sets forth the education required of candidates applying for CPA certification. The ~~450 semester~~ educational hours required include:

- (1) a concentration in accounting, as defined by 21 NCAC 08A .0309; and
- (2) 24 semester hours of coursework that includes one ~~three semester~~ three-semester hour course from at least 8 of the following 10 fields of study:
 - (A) communications;
 - (B) computer technology;
 - (C) economics;
 - (D) ethics;

- (E) finance;
- (F) humanities or social science;
- (G) international environment;
- (H) law;
- (I) management; or
- (J) statistics.

(b) Anyone applying for CPA certification who holds a Master's or more advanced degree in accounting, tax law, economics, finance, business administration, or a law degree from an accredited college or university is in compliance with Subparagraph (a)(2) of this Rule.

Authority G.S. 93-12(5).

21 NCAC 08F .0411 WORK EXPERIENCE FORMS

(a) A CPA license applicant shall complete and submit work experience affidavits to the Board to document the work experience required of applicants applying for CPA certification.

(b) The work experience forms shall contain the following:

- (1) The applicant's full name;
- (2) The applicant's mailing address;
- (3) Identification of the type of work experience obtained by the applicant in accordance with G.S. 93-12(5)c. A separate form must be completed for each different type of experience provided;
- (4) Identification of the beginning and ending dates during which the work experience was obtained;
- (5) A description of the job titles and/or classifications of work performed during the time period noted;
- (6) A description of the job duties assigned to the applicant during the time period noted;
- (7) The affidavit of the supervising CPA affirming the work experience being reported by the applicant. The affidavit should include the following information from the supervising CPA:
 - (A) Signature, printed name, title, telephone number, and the CPAs certificate number and date of certificate issuance;
 - (B) Company where the work experience was obtained, mailing address, and email address;
 - (C) Date that the affidavit was signed;
 - (D) Identification as to whether the CPA certificate was issued by North Carolina or from another jurisdiction and the current status of the CPA certificate;
 - (E) Whether the CPA certificate(s) of the CPA supervisor(s) has ever been revoked or suspended and if so, documentation that states the dates, periods, and reasons for the revocation(s) or suspension(s);

(F) If the employment of the CPA supervisor has changed since the work experience was earned, the CPA supervisor should provide current address, email address, and daytime telephone number.

(c) If the work experience is obtained through part-time work, the applicant must complete a supplemental form that documents the hours worked, by week, in meeting the work experience requirement. Part-time hours are measured as per Rule .0401(b)(3) of this Section.

(d) If the work experience is obtained through self-employment, the applicant must complete a supplemental form that affirms work performed for clients during the same period needed for certification. The affidavit should include the following information:

- (1) The applicant's full name;
- (2) The beginning and end dates of accounting service provided to the client;
- (3) Identification of the types of services provided by the applicant to the client;
- (4) Signature, date, printed name, address, company name, telephone number, fax number, and email address of the client for whom the accounting services were performed;
- (5) The affidavit must be notarized for authentication.
- (6) Affidavits must be completed for a minimum of five different individuals of companies to affirm that the applicant has performed accounting work on full-time basis for the entire reported period. In addition, the applicant must submit supporting documentation to support the self-employment experience. Examples include state or local privilege licenses and/or copies of Schedule C pages of the applicant's tax returns.

(e) If the work experience is obtained through teaching, the applicant must complete a supplemental form that affirms the qualifying teaching experience. The teaching experience affirmation shall contain the following:

- (1) The applicant's full name;
- (2) The beginning and end dates during which the applicant was teaching at the educational institution;
- (3) Information as to whether the institution is on a quarter or semester hour system and the minimum amount of time necessary to be categorized as full-time teaching;
- (4) A listing by quarter/semester/year of the course that was taught by the applicant and the number of hours related to the course taught;
- (5) The printed name, signature, date, and name of the educational institution for the person affirming the teaching experience;
- (6) The seal for the educational institution.

Authority G.S. 93-12(5)c..

SECTION .0500 - APPLICATIONS FOR CERTIFICATES

21 NCAC 08F .0502 APPLICATION FOR CPA CERTIFICATE

(a) A person applying for a certificate of qualification shall file with the Board an application and an experience affidavit on forms provided by the Board and supporting documentation to determine that the applicant has met the statutory and rule requirements. CPA certificate applications and fee information are on the Board's website at www.nccpa-board.gov as set forth in 21 NCAC 08A .0102 or may be requested from the Board.

(b) The application for a CPA certificate shall include three certificates of good moral character on forms as identified per Rule .0505 of this Section and provided by the Board and which shall be completed by CPAs and the CPAs. The certificate of good moral character will require CPAs to describe their familiarity with the applicant and to state whether they believe the applicant will conscientiously observe the professional responsibilities of a CPA. They will also disclose whether they are aware of any events that need to be disclosed pursuant to Paragraph (c) of this Rule. The Board shall conduct a background check of the applicant including a check of criminal records.

(c) An applicant shall include as part of any application for a CPA certificate a statement of explanation and a certified copy of final disposition if the applicant has been arrested, charged, convicted or found guilty of, received a prayer for judgment continued, or pleaded nolo contendere to any criminal offense. An applicant shall not be required to disclose any arrest, charge, or conviction that has been expunged by the court.

(d) If an applicant has been denied any license by any state or federal agency, the applicant shall also include as part of the application for the CPA certificate a statement explaining such denial. An applicant shall include a statement of explanation and a certified copy of applicable license records if the applicant has been registered with or licensed by a state or federal agency and has been disciplined by that agency.

(e) No application for a certificate shall be considered while the applicant is serving a sentence for any criminal offense. Serving a sentence includes incarceration, probation (supervised or unsupervised), parole, or conditionally suspended sentence, any of which are imposed as a result of having been convicted or having pled to a criminal charge.

Authority G.S. 93-2; 93-10; 93-12(3); 93-12(5).

21 NCAC 08F .0504 CANDIDATES' ACCOUNTANCY LAW COURSE REQUIREMENT

(a) Within one year prior to applying for certification, all candidates for original or reciprocal certification must ~~pass an open-book examination~~ complete an 400-minute course on the North Carolina Accountancy Statutes and Rules, including the Rules of Professional Ethics and Conduct contained therein.

(b) ~~In lieu of taking the examination, a candidate may complete an eight-hour CPE course on the subject of the examination within one year prior to applying for the CPA certificate. Such course or examination must meet the requirements of 21 NCAC 08G .0404(a). This course may count toward the candidate's annual CPE requirement.~~

Authority G.S. 93-12(8a).

21 NCAC 08F .0505 MORAL CHARACTER FORM

(a) A CPA license applicant shall complete and submit three certificates of moral character completed by CPAs.

(b) The moral character form shall contain the following:

- (1) The applicant's full name and mailing address;
- (2) Identification as to whether the application type is for an original CPA certificate applicant, a reinstatement of a CPA certificate, or a reissuance of a CPA certificate;
- (3) Identification of the number of years and months that the signing CPA has known the applicant;
- (4) A description in detail of the opportunities that the signing CPA has had to evaluate the applicant's moral character;
- (5) Affirmation that the applicant is of good moral character within the expectations of the professional responsibilities of a CPA;
- (6) Affirmation, to the best of the signing CPA's knowledge, that the applicant has not been convicted of, found guilty of, received a prayer for judgment continued, or pleaded nolo contendere to any office, excluding non-criminal traffic infractions. If so, a statement providing additional information is required that provides the jurisdiction, charge, and disposition of each conviction;
- (7) An affirmation from the signing CPA that includes:
 - (1) Signature, printed name, and title of the signing CPA;
 - (2) The employer of the signing CPA, mailing address, daytime phone number, and email address;
 - (3) Date that the affidavit was signed;
 - (4) Identification of the signing CPA's certificate number and the issuing jurisdiction.

Authority G.S. 93-2.

SUBCHAPTER 08G - CONTINUING PROFESSIONAL EDUCATION (CPE)

SECTION .0400 - CPE REQUIREMENTS

21 NCAC 08G .0401 CPE REQUIREMENTS FOR CPAS

- (a) In order for a CPA to receive credit for CPE activities:
- (1) the CPA shall attend or complete the activity and receive a certificate of completion as set forth in the Standards for CPE Program Sponsors in the NASBA/AICPA Statement on Standards for Continuing Professional Education (CPE) Programs, including subsequent amendments and editions, that are hereby incorporated by reference. Copies of the Standards for CPE Program Sponsors can be

found at no cost on the NASBA website at www.nasbaregistry.org/the-standards;

- (2) the activity shall meet the requirements set out in Rule .0404 of this Section; and
- (3) the activity shall increase the professional competency of the CPA.

(b) An activity that increases the professional competency of a CPA shall be an activity in an area of the profession in which the CPA practices or is planning to practice, or in the area of professional ethics.

(c) Because of differences in the education and experience of CPAs, an activity may contribute to the professional competence of one CPA but not another. Each CPA shall therefore exercise judgment in selecting activities for which CPE credit is claimed and choose only those that contribute to that CPA's professional competence. Courses that cover substantially the same content, learning objectives, and materials as a course the CPA has already completed and received credit for within the certification cycle, regardless of the format or provider, are considered duplicate courses and do not qualify for additional CPE credit.

(d) Active CPAs shall complete 2,000 CPE minutes computed in accordance with Rule .0409 of this Section by December 31 of each year, except as follows:

- (1) CPAs having certificate applications approved by the Board in April to June shall complete 1,500 CPE minutes during the same calendar year;
- (2) CPAs having certificate applications approved by the Board in July to September shall complete 1,000 CPE minutes during the same calendar year; or
- (3) CPAs having certificate applications approved by the Board in October to December shall complete 500 CPE minutes during the same calendar year; and

Any CPE minutes completed during the calendar year in which the certificate application is approved may be used for that year's requirement even if the minutes were completed before the certificate was granted.

(e) A CPA shall complete a minimum of 50 CPE minutes annually in activities on regulatory or behavioral professional ethics and conduct. Ethics CPE shall be offered by a CPE sponsor registered with NASBA pursuant to Rule .0403(c) of this Section.

(f) There shall be no CPE requirements for inactive or CPA-retired CPAs.

(g) When a CPA has completed more than the required number of minutes of CPE in any one calendar year, up to 1,000 minutes shall be carried forward and treated as minutes earned in the following year. Ethics CPE minutes may not be included in any carry forward minutes to meet the requirement of Paragraph (e) of this Rule. A CPA shall not claim CPE credit for activities taken in any year prior to the year of certification.

(h) Any CPE minutes used to satisfy the requirements for change of status as set forth in 21 NCAC 08J .0105, for reissuance as set forth in 21 NCAC 08J .0106, or for application for a new certificate as set forth in Rule 08I .0104 of this Chapter may be used to satisfy the annual CPE requirement set forth in Paragraph (d) of this Rule.

(i) It shall be the CPA's responsibility to maintain records substantiating the CPE credits claimed for the current year and for each of the four calendar years prior to the current year.

(j) A non-resident licensee may satisfy the annual CPE requirements in the jurisdiction where the CPA is licensed and currently works or resides. If there is no annual CPE requirement in the jurisdiction where the CPA is licensed and currently works or resides, the CPA shall comply with Paragraph (d) of this Rule. A non-resident licensee whose office is in North Carolina shall comply with Paragraph (e) of this Rule. All other non-resident licensees may satisfy Paragraph (e) of this Rule by completing the ethics requirements in the jurisdiction in which the non-resident licensee is licensed as a CPA and works or resides. If there is no ethics CPE requirement in the jurisdiction where the non-resident licensee is licensed and currently works or resides, the non-resident licensee shall comply with Paragraph (e) of this Rule.

Authority G.S. 93-12(3); 93-12(8b).

21 NCAC 08G .0403 QUALIFICATION OF CPE SPONSORS

(a) The Board shall not register CPE ~~activities nor sponsors~~ activities, sponsors, or providers of CPE activities.

(b) CPE providers not ~~in good standing~~ listed on the NASBA National Registry of CPE Sponsors shall comply with the Standards for CPE Program Sponsors in the NASBA/AICPA Statement on Standards for Continuing Professional Education (CPE) Programs found on the NASBA website at www.nasbaregistry.org.

(c) Sponsors of continuing education activities that are listed ~~in good standing~~ on the NASBA National Registry of CPE Sponsors shall be considered by the Board as compliant with the Standards for CPE Program Sponsors in the NASBA/AICPA Statement on Standards for Continuing Profession Education (CPE) Programs found on the NASBA website at www.nasbaregistry.org.

(d) ~~Failure of a~~ If a sponsor listed on the National Registry of CPE Sponsor fails to comply with Paragraph (c) of this Rule, it shall be grounds for the Board to disqualify the sponsor as a CPE sponsor with this Board and to notify NASBA and the public of this action.

Authority G.S. 93-12(3); 93-12(8b).

21 NCAC 08G .0404 REQUIREMENTS FOR CPE CREDIT (READOPTION WITHOUT SUBSTANTIVE CHANGES)

21 NCAC 08G .0406 COMPLIANCE WITH CPE REQUIREMENTS

(a) All active CPAs shall file a reporting of CPE minutes by the July 1 renewal date of each year. The Board may ~~audit~~ verify the information submitted by licensees who apply for a renewal license.

(b) If a CPA fails to complete the CPE requirements prior to the end of the previous calendar year but the CPA has completed them by June 30, the Board may:

- (1) issue a letter of warning for the first such failure within a five-calendar year period; and

- (2) deny the renewal of the CPA's certificate for a period of not less than 30 days and until the CPA meets the ~~reinstatement~~ reissuance requirements set forth in 21 NCAC 08J .0106 for the second such failure within a five-calendar year period.

Authority G.S. 93-12(8b); 93-12(9)(e).

21 NCAC 08G .0409 COMPUTATION OF CPE CREDITS

(a) Group Activity. CPE credit for a group activity shall be given based on contact minutes.

(b) Completing a College Course. CPE credit for completing a college course in the college curriculum shall be granted based on converting the number of credit hours the college gives the CPA for completing the course into minutes. One semester hour of college credit shall be 750 CPE minutes. No CPE credit shall be given to a CPA who audits a college course. No more than 50 percent of the CPE credits required for a year shall be credits for completing a college course.

(c) Self Study Activity. CPE credit for a self-study activity shall be given based on the number of minutes needed to complete the activity as determined by the sponsor.

(d) Preparing or Presenting a CPE Activity. CPE credit for preparing or presenting a CPE activity for CPAs shall be given based on the number of minutes spent in preparing or presenting the activity. Preparing includes activities such as authoring or conducting a technical review. No more than 50 percent of the CPE credits required for a year shall be credits for preparing for or presenting CPE activities. CPE credit for preparing or presenting an activity shall be allowed only once a year for an activity prepared or presented more than once in the same year by the same CPA.

(e) Authoring a Publication. CPE credit for published articles and books shall be given based on the number of minutes the CPA spent writing the article or book. No more than 25 percent of a CPA's required CPE credits for a year shall be credits for published articles or books. An article written for a CPA's client or business newsletter shall not receive CPE credit.

(f) Instructing a College Course. CPE credit for instructing a college course above the level of accounting principles shall be given based on the number of credit hours the college gives a student for completing the course, using the calculation set forth in Paragraph (b) of this Rule. No more than 50 percent of the CPE credits required for a year shall be credits for instructing a college course.

(g) Nano Learning Activity. CPE credit for Nano Learning, a tutorial activity without interaction with a real-time instructor that is designed to permit a participant to learn a given subject through electronic media including technology applications/processes, computer-based or web-based technology, shall be based on the number of contact minutes. Nano Learning is not a group program. This CPE activity shall be offered by a CPE sponsor registered with NASBA pursuant to Rule .0403(c) of this Section.

(h) Blended Learning Activity. A Blended Learning program offers participants learning in multiple formats or delivery methods. Activities can include lectures, discussion, guided practice, games, case studies, and simulation. The varied delivery

methods include Group Live, Group Internet Based, Self Study, or Nano Learning. The primary component of the program may be concurrent (a group program) or nonconcurrent, allowing the participant to control a portion of the time and place of the learning. CPE credit for Blended Learning shall be based on the number of contact minutes incorporated in all the learning formats in the Blended Learning activity. This CPE activity shall be offered by a CPE sponsor registered with NASBA pursuant to Rule .0403(c) of this Section.

(i) No more than 50 percent of the CPE credits required for a year in the aggregate shall be credits claimed under Paragraphs (b), (d), and (f) of this Rule.

Authority G.S. 93-12(8b).

SUBCHAPTER 08H – RECIPROCITY

21 NCAC 08H .0101 RECIPROCAL CERTIFICATES

(a) Unless utilizing a practice privilege per G.S. 93-10(a), a person having a CPA certificate from another jurisdiction who desires to utilize the CPA title in this State or offer or render professional services as a CPA to his or her employer or a client in this State shall obtain a reciprocal North Carolina CPA certificate.

(b) The fee for a reciprocal certificate shall be \$100. The fee specified does not exceed the maximum amount allowed by as set forth in G.S. 93-12(7a).

(c) An applicant for a reciprocal certificate shall meet the following requirements:

- (1) The applicant has the legal authority to use the CPA title and to practice public accountancy in a United States jurisdiction; and
- (2) The applicant has received a passing score on each section of the Uniform CPA Examination.
- (3) The applicant meets the minimum education requirements as defined by G.S. 93-12(5).

Authority G.S. 93-12(6); 93-12(7a).

21 NCAC 08H .0102 TEMPORARY PERMIT

(a) The Board may grant temporary permits only to applicants for reciprocal certificates pending their qualification under ~~21 NCAC 8H .0101 and application to the Board on forms provided by the Board.~~ 21 NCAC 08H .0101.

(b) Upon approval of a temporary permit, the Board will issue the applicant a statement confirming that the CPA is in good standing in the state issuing the CPA's certificate and is entitled temporarily to use the CPA title and engage in the public practice of accountancy in North Carolina for a stated period. The stated period shall expire 120 days after issue or upon issuance of the individual's reciprocal certificate, whichever comes first.

Authority G.S. 93-12(6); 93-12(7a).

21 NCAC 08H .0104 NOTICE TO BOARD OF DISCIPLINE BY OTHER AGENCY

Any applicant for or holder of a temporary permit or reciprocal certificate issued by this Board shall also comply with the

reporting requirements listed in ~~21 NCAC 8N .0208.~~ 21 NCAC 08N .0208.

Authority G.S. 93-12(3).

SUBCHAPTER 08I - REVOCATION OF CERTIFICATES AND OTHER DISCIPLINARY ACTION

21 NCAC 08I .0101 DISCIPLINARY ACTION

(a) Any person may file a complaint with the Board against a CPA, pursuant to G.S. 150B, Article 3A for disciplinary action against a CPA for violations of G.S. 93 and this ~~Chapter on forms provided by the Board that are on the Board's website at www.nccpaboard.gov and may be requested from the Board.~~ Chapter.

(b) The complaint ~~shall form, which can be found on the Board's website or may be requested from the Board,~~ requires the complainant to set forth the facts upon which the complaint is based. The complainant shall confirm that he or she believes the facts stated in the complaint are true and that he or she is prepared to prove them at a hearing. The complaint form shall contain the following:

- (1) The full name, mailing address, phone number, email address, and preferred method of contact for the complainant;
- (2) If represented by attorney, the attorney's name, address, phone number, and email address;
- (3) Identification as to whether there is a pending or completed lawsuit regarding the complaint;
- (4) The name of the CPA respondent, CPA business name, mailing address, phone number, email address, and CPA certificate number, if known;
- (5) A summary of the complaint;
- (6) Evidence to support the complaint including copies of business documents such as engagement letters, tax returns, financial statements, and correspondence;
- (7) A list of witnesses who can provide testimony to support the complaint, including their names, mailing addresses, phone numbers, and email addresses;
- (8) A verification by the complainant confirming the facts and supporting documents presented as part of the complaint are true to the best of their knowledge or belief.

(c) The complaint shall be filed in the office of the Board. The Board's professional standards staff shall open a case file, notify the complainant of receipt of the complaint, notify and provide a copy of the complaint to the respondent named in the complaint, and conduct an investigation of the allegations in the complaint. Based upon the investigation and the recommendation of the Professional Standards Committee of the Board appointed by the Board President, and with the approval of the Board, the professional standards staff may do any of the following:

- (1) close the case without prejudice;
- (2) close the case with prejudice;
- (3) prepare a Consent Order;
- (4) apply to the courts for injunctive relief; or

(5) prepare a proposed Hearing Notice.

The Professional Standards Committee shall determine whether the allegations in a case warrant applying to the courts for injunctive relief and whether the allegations in the proposed Hearing Notice, if proven, warrant a contested case proceeding pursuant to ~~G.S. 150B-38~~ 150B-42. ~~G.S. 150B-38 through G.S. 150B-42~~. A copy of any Hearing Notice filed and application for injunctive relief applied for shall be provided to the complainant in that matter.

(d) The Board shall notify the complainant and the respondent in any complaint filed with the Board of the disposition of the case and shall publish or announce the disciplinary action against a CPA.

Authority G.S. 55B-12; 93-12(9); 57D-2-02.

21 NCAC 08I .0102 PROCEDURE WHEN PETITION AGAINST BOARD MEMBER OR EMPLOYEE (READOPTIO WITHOUT SUBSTANTIVE CHANGES)

21 NCAC 08I .0104 MODIFICATION OF DISCIPLINE (READOPTIO WITHOUT SUBSTANTIVE CHANGES)

21 NCAC 08I .0105 REVOCATION OF CERTIFICATES

(a) When a certificate is revoked either for a specific period of time or permanently, the certificate holder shall return the certificate to the Board office within 15 days of receipt of notice of revocation.

(b) Pursuant to the provisions of ~~21 NCAC 8I .0004~~, 21 NCAC 08I .0104, the Board may issue a new certificate ~~under a new number bearing the previously issued number~~ to anyone whose certificate has been revoked.

Authority G.S. 55B-12; 93-12(8); G.S. 93-12(8); 93-12(9); 93-12(15).

SECTION .0100 -RENEWALS AND REGISTRATIONS

21 NCAC 08J .0101 ANNUAL RENEWAL OF CERTIFICATE, FORFEITURE, AND REAPPLICATION

(a) All active CPAs shall renew their certificates annually by the first day of July. ~~The fee for such renewal is the maximum amount allowed by G.S. 93-12(8).~~

(b) ~~To renew a certificate a CPA shall submit to the Board: CPAs may renew their certificates online or by completing a certificate renewal application form as requested from the Board and described at Rule .0113 of this Section and paying the annual renewal fee of \$60. The fee specified does not exceed the maximum fee as set forth in G.S. 93-12(8).~~

- (1) ~~a completed certificate renewal application form;~~
- (2) ~~a completed CPE report, as required by 21 NCAC 08G .0406(a); and~~
- (3) ~~the annual renewal fee set forth in G.S. 93-12(8).~~

(c) Upon failure of a CPA to comply with any applicable part of Paragraph (b) of this Rule by July 1, the Board shall send notice

of such failure in the form of a demand letter to the CPA at the most recent mailing address the Board has on file. Completed renewal application packages shall be postmarked with proper postage not later than 30 days after the mailing date of the demand letter, unless that date falls on a weekend, in which case the renewal package shall be postmarked or received in the Board office on the next business day. For renewal packages sent via the U.S. Postal Service, only a U.S. Postal Service cancellation shall be considered as the postmark. If the renewal package is sent to the Board office via a private delivery service, the date the package is received by the delivery service shall be considered as the postmark. Subsequent failure of the CPA to comply with any applicable part of Paragraph (b) of this Rule within 30 days after such notice is mailed by the Board automatically results in forfeiture of the CPA's certificate, as required by G.S. 93-12(15). (d) Upon forfeiture of a certificate, the certificate holder is no longer a CPA and the Board shall send notice of such forfeiture to the certificate holder by certified mail to the most recent mailing address the Board has on file. The certificate holder shall return the certificate to the Board office within 15 days after receipt of notice of forfeiture or, if the certificate has been destroyed or lost, shall submit an affidavit, on a form supplied by the Board, within 15 days of receipt of such notice that the certificate has been destroyed or has been lost and shall be returned to the Board if found.

(e) A person who has forfeited a certificate pursuant to G.S. 93-12(15) for failure to renew his or her certificate may apply for reissuance under Rule .0106 of this Section.

(f) If a check or credit card authorization for the annual renewal fee fails to clear the bank, the annual renewal shall be deemed incomplete and returned.

(g) Any active CPA serving in the armed forces of the United States and to whom an extension of time to file a tax return is granted pursuant to G.S. 105-249.2, shall be granted the same extension of time to comply with the requirements of Paragraphs (a) and (b) of this Rule.

Authority G.S. 93-12(7a); 93-12(8); 93-12(8a); 93-12(8b); 93-12(15); 93B-15.

21 NCAC 08J .0105 INACTIVE STATUS: CHANGE OF STATUS

(a) A CPA may apply to the Board for change of status to inactive status provided the CPA meets the description of inactive status as defined in 21 NCAC 08A .0301. Application for any status change shall be made on the form provided by the Board.

(b) A CPA who does not meet the definition of inactive may not remain on inactive status.

- (c) A CPA on inactive status may change to active status by:
- (1) paying the certificate ~~renewal~~ fee amount of \$100 for the license year in which the application for change of status is ~~received~~; received. The fee is less than the maximum as set forth in G.S. 93-12(7a);
 - (2) furnishing the Board with evidence of satisfactory completion of ~~40 hours~~ 2,000 minutes of CPE courses during the 12-month period immediately preceding the application for change of status. ~~Eight~~ Four hundred of the

required ~~hours~~ 2,000 minutes shall be credits derived from a course or examination in North Carolina accountancy statutes and rules (including the Code of Professional Ethics and Conduct as set forth in 21 NCAC 08N contained therein) as set forth in 21 NCAC 08F .0504; and

- (3) ~~submitting three certificates of good moral character and completed by CPAs; submitting a reinstatement application in accordance with the requirements as set forth in 21 NCAC 08F .0502(b) through (c).~~

(d) The reclassification to inactive form shall contain the following:

- (1) The licensee's full name and CPA certificate number;
- (2) The licensee's mailing address, telephone number, and email address;
- (3) Whether this is new contact information for the licensee;
- (4) Whether the licensee wants to continue receiving the Board's communications by email;
- (5) An affirmation that the licensee desires to be reclassified to inactive status and has read and understands that the licensee can no longer use the CPA title as an inactive CPA;
- (6) The licensee's signature to certify that he or she has prepared the application and has read the answers; that the information provided in the application is true; and that he or she has read the Board rules found in 21 NCAC 08A .0301(b)(20), 08A .0308, and 08J .0105.

Authority G.S. 93-12(3); 93-12(7a); 93-12(8); 93-12(8b).

21 NCAC 08J .0106 FORFEITURE OF CERTIFICATE AND REISSUANCE

(a) A person who has forfeited a certificate is no longer a CPA and thus is not subject to the renewal fee or CPE requirements contained in these Rules.

(b) A person who requests reissuance of a forfeited certificate shall make application and provide the following to the Board:

- (1) ~~payment of the current certificate application fee; fee of \$100. This fee does not exceed the maximum as set forth in G.S. 93-12(7a);~~
- (2) ~~three certificates of moral character provided by the Board and completed by CPAs; and submitting a reissuance application in accordance with the requirements as set forth in 21 NCAC 08F .0502(b) through (c); and~~
- (3) evidence of satisfactory completion of the CPE requirement described in Rule .0105(c)(2) of this Section.

(c) The certificate may be reissued if determined by the Board that the person meets the requirements as listed in Paragraph (b) of this Rule.

(d) The reissuance application form shall contain the following:

- (1) The applicant's full name and CPA certificate number;
- (2) The applicant's home address, telephone number, and email address;
- (3) The applicant's business name, address, telephone number, email address, and job title;
- (4) The applicant's occupation category, business concentration, and any membership associations;
- (5) Three certificates of moral character as per 21 NCAC 08F .0505;
- (6) Affirmation to the licensee's moral character as per 21 NCAC 08F .0505 and 21 NCAC 08N .0204 and, if applicable, a statement providing the relevant explanation and documents for any yes responses;
- (7) Affirmation that the applicant has refrained from using the CPA title during the period of revocation or forfeiture;
- (8) Whether the applicant classifies as active-duty military or a military veteran;
- (9) Whether the applicant has completed the accountancy law course within the 12-month period prior to submission of the application;
- (10) A report of the CPE credit minutes obtained by the applicant during the 12-month period prior to submission of the application identifying attending at least 2,000 continuing education minutes of courses in accordance with Section .0400 – CPE Requirements of these Rules;
- (11) Whether the licensee has been subject to any investigation for employee misclassification since the previous renewal application was submitted;
- (12) The licensee's signature to certify that he or she has prepared the application and has read the answers; that the information provided in the application is true; and that he or she has read the Board's applicable statutes and rules; and
- (13) The application fee, as prescribed by G.S. 93-12(7a). If the application fee is dishonored by the licensee's drawee bank for any reason, the Board shall suspend the license until the renewal fees and non-sufficient fund charges are paid.

Authority G.S. 93-12(3); 93-12(5); 93-12(7a); 93-12(8a); 93-12(8b).

21 NCAC 08J .0107 MAILING ADDRESSES OF CERTIFICATE HOLDERS AND CPA FIRMS

All certificate holders ~~and CPA firms~~ shall notify the Board electronically or in writing within 30 days of any change in home address and phone number; home address, phone number, or email address. CPA firms shall notify the Board electronically or in writing within 30 days of any change in the CPA firm address mailing address, and phone number; business location physical address, and phone number; number, and or contact email address.

Authority G.S. 55B-12; 57D-2-02; 93-12(3); 93-12(7b)(5).

21 NCAC 08J .0108 CPA FIRM REGISTRATION AND ONGOING REQUIREMENTS

(a) All CPA firms shall register with the Board within 30 days after opening a North Carolina office or beginning a new CPA firm unless they are a professional corporation, professional limited liability company, or registered limited liability partnership, in which case they shall register prior to formation pursuant to 21 NCAC 08K .0104 and .0301.

(b) In addition to the registration required by Paragraph (a) of this Rule, all CPA firms shall renew annually by January 31 with the Board upon forms provided by the Board.

(c) The information provided by the registration shall include:

- (1) Either an application for exemption from peer review, a request to be deemed in compliance with peer review or registration for peer review, pursuant to 21 NCAC 08M .0105;
- (2) For all CPA firms not exempt from the peer review program, with the registration immediately following its review, the information required by 21 NCAC 08M .0106(a);
- (3) For all North Carolina offices, an office registration form indicating the name of the office supervisor, the location of the office and its telephone number;
- (4) For all partnerships or registered limited liability partnerships, a list of all resident and nonresident partners of the partnership;
- (5) For all professional limited liability companies, the information set forth in 21 NCAC 08K .0104(d);
- (6) For all incorporated CPA firms, the information set forth in 21 NCAC 08K .0104(d);
- (7) For all CPA firms, the appropriate registration fees as set forth in 21 NCAC 08J .0110; and
- (8) For all new CPA firms, the percentage of ownership held individually by each non-CPA owner who has five percent or more of ownership by CPAs;
 - (A) in the new CPA firm; and
 - (B) at the year end in each CPA firm in which that owner was an owner during the preceding two years.
- (9) For all changes in ownership of a CPA firm, the percentage of ownership held individually by each owner who has five percent or more of ownership.

(d) All information provided for registration renewal with the Board shall pertain to events of and action taken during the year preceding the year of registration. The last day of the preceding calendar year is the "year end" since the CPA firm's last registration or renewal.

(e) With regard to Paragraph (c)(3) of this Rule, one representative of a CPA firm may file all documents with the Board on behalf of the CPA firm's offices in North Carolina. However, responsibility for compliance with this Rule remains with each office supervisor.

(f) With regard to Paragraph (c)(4) or (c)(5) of this Rule, one annual listing by a representative of the partnership, registered limited liability partnership, or professional limited liability company shall satisfy the requirement for all owners of the CPA firm. However, each owner remains responsible for compliance with this Rule. The absence of a filing under Paragraph (c)(4) or (c)(5) of this Rule shall be construed to mean that no partnership, registered limited liability partnership, or professional limited liability company exists.

(g) Notice that a CPA firm has dissolved or any change in the information required by Paragraph (c)(3) of this Rule shall be delivered to the Board's office within 30 days after the change or dissolution occurs. A professional corporation or professional limited liability company which is dissolving shall deliver the Articles of Dissolution to the Board's office within 30 days of filing with the Office of the Secretary of State.

~~(h) Upon written petition by a CPA firm, the Board shall grant the CPA firm a conditional registration for a period of 60 days or less, if the CPA firm shows that circumstances beyond its control prohibited it from registering with the Board, completing a peer review or notifying the Board of change or dissolution pursuant to Paragraphs (a), (b), (c), and (g) of this Rule. The Board may grant a second extension under continued extenuating circumstances.~~

~~(i) A complete registration, renewal, as required by Paragraphs (b) and (c) of this Rule, shall be postmarked with proper postage or received in the Board office not later than the last day of January unless that date falls on a weekend or federal holiday, in which case that day shall be the next business day. Only a U.S. Postal Service cancellation is considered as the postmark. If a registration is sent to the Board office via a private delivery service, the date the package is received by the delivery service is considered as the postmark. (h) a complete renewal, as required by Paragraphs (b) and (c) of this Rule, if delivered on a paper form, shall be postmarked with proper postage and received in the Board office not later than the last day of January unless that date falls on a weekend or federal holiday, in which case that day shall be the next business day. Only a U.S. Postal Service cancellation is considered as the postmark. If a renewal is sent to the Board office via a private delivery service, the date the package is received by the delivery service is considered as the postmark. If the renewal is delivered by electronic means, it shall be sent not later than midnight on the last day of January unless that date falls on a weekend or federal holiday, in which case that day shall be the next business day.~~

Authority G.S. 55B-10; G.S. 55B-6; 55B-10; 55B-12; 57D-1; 57D-2; 59-84.2; 93-12(8a); 93-12(8c).

21 NCAC 08J .0109 CPA FIRM PRACTICE PRIVILEGE NOTIFICATION

(a) Notice pursuant to G.S. 93-10(c)(3) shall be made on a form supplied by the Board. The form requires the out-of-state CPA firm to identify itself and to disclose which of the services listed in G.S. 93-10(c)(3) are being provided to North Carolina clients.

(b) The notification form shall contain the following:

- (1) The CPA firm's full name;
- (2) The CPA firm's mailing address, telephone number, and website address;

- (3) The supervising CPA's name, and email address;
- (4) The supervising CPA's certificate number and issuing jurisdiction;
- (5) An alternate contact person's name and email address;
- (6) The date of the last accepted peer review and the administering entity of that peer review;
- (7) Identification of the services listed in G.S. 93-10(c)(3) that are being provided to North Carolina clients;
- (8) The supervising CPA's signature to certify that he or she has prepared the application and has read the answers; that the information provided in the application is true; and that the CPA firm will comply with the Board's applicable statutes and rules; and
- (9) The notification is provided to the Board without a fee.

Authority G.S. 93-10.

21 NCAC 08J .0110 REGISTRATION FEES

The annual registration fees shall be as follows:

- (1) For all professional corporations or professional limited liability companies, twenty-five dollars (\$25.00); and
- (2) For all non-incorporated CPA firms which have offices both within and outside the state of North Carolina, whether sole proprietorships, partnerships, or registered limited liability partnerships, an amount equal to two thousand five hundred dollars ~~(\$2,500.00)~~ (\$2,500) or the number of CPA members of the CPA firm multiplied by ten dollars (\$10.00), whichever is less.

Authority G.S. 55B-11; 55B-12; 57D-1; 57D-2; 59-84.2; 93-12(7b); 93-12(8a); 93-12(8c).

21 NCAC 08J .0111 COMPLIANCE WITH CPA FIRM REGISTRATION

If a CPA firm fails to comply with any part of Rule .0108 or Rule .0110 of this Section, and continues to offer or render services, the Board may take disciplinary action against the CPA firm's members. ~~As set forth in G.S. 93-12(9)(e),~~ The disciplinary action may include:

- (1) one hundred dollars (\$100.00) civil penalty for non-compliance of less than 60 days;
- (2) two hundred dollars (\$200.00) civil penalty for non-compliance in excess of 60 days but not more than 120 days;
- (3) five hundred dollars (\$500.00) civil penalty for each member for non-compliance in excess of 120 days.

Authority G.S. 55B-12; 57D-2-02; 59-84.2; 93-12(8c); 93-12(9).

21 NCAC 08J .0112 RETIRED STATUS - CHANGE OF STATUS

(a) A CPA on active or inactive status may apply to the Board for a change to CPA-retired status if that CPA completes an application provided by the Board confirming the following:

- (1) they will not perform any of the services listed in ~~21 NCAC 08A .0307(2)~~ 21 NCAC 08A .0307(a)(2) except that:
 - (A) they may prepare tax returns for themselves and their immediate family members without compensation. Immediate family is defined as spouse, domestic partner, parent, child, sibling, stepparent, parent-in-law, stepchild, child-in-law, grandparent, grandchild, sibling-in-law, or legal dependent; and
 - (B) they may prepare tax returns through public service programs without compensation, such as the Volunteer Income Tax Assistance program.
- (2) they will not hold themselves out to the public as a certified public accountant while they remain on CPA-retired status except that they may use the designation "CPA-retired".
- (3) they consent to the continued regulatory authority of the Board.

(b) Individuals on CPA-retired status may receive compensation for any services that are not listed in ~~21 NCAC 08A .0307(2)~~ 21 NCAC 08A .0307(a)(2).

(c) Individuals on CPA-retired status must renew their certificate annually as set forth in 21 NCAC 08J .0101. However, individuals on CPA-retired status are exempt from the Board's annual CPE requirements.

(d) Individuals on CPA-retired status may not have an ownership interest in a CPA firm.

~~(d)(e)~~ In addition to the requirements in Paragraph (a) of this Rule, the application to move from inactive status to CPA-retired status will also contain the requirements set forth in 21 NCAC 08F .0502. However, the application will not require an experience affidavit or three certificates of good moral character.

~~(e)(f)~~ An individual on CPA-retired status may change to active status by:

- (1) furnishing the Board with evidence of satisfactory completion of ~~40 hours~~ 2,000 minutes of CPE courses during the 12-month period immediately preceding the application for change of status. Eight of the required hours shall be credits derived from a course or examination in North Carolina accountancy statutes and rules (including the Code of Professional Ethics and Conduct as set forth in 21 NCAC 08N contained therein) as set forth in 21 NCAC 08F .0504; and
- (2) ~~submitting three certificates of good moral character completed by CPAs on active status.~~ submitting a reinstatement application in accordance with the requirements as set forth in 21 NCAC 08F .0502(b) through (e).

Authority G.S. 93-12(3); 93-12(8); 93-12(8b).

21 NCAC 08J .0113 LICENSE RENEWAL FORM

(a) To renew a CPA certificate, the licensee annually shall complete and submit to the Board a renewal application. Failure to submit a completed renewal application by July 31 shall cause the licensee's license to be forfeited.

(b) The renewal form shall contain the following:

- (1) The licensee's full name and license number;
- (2) Whether the licensee is renewing an active or retired status pursuant per Rule .0112 of this Section;
- (3) The licensee's job concentration area, occupation area, and job title;
- (4) Whether the licensee has complied with the Board's continuing professional education rules;
- (5) A report of the CPE credit minutes obtained by the licensee during the current reporting period identifying attending at least 2,000 continuing education minutes of courses in accordance with Section .0400 – CPE Requirements of these Rules since the previous renewal application was submitted;
- (6) Affirmation to the licensee's moral character as per 21 NCAC 08F .0505 and 21 NCAC 08N .0204 since the previous renewal application was submitted and, if so, a statement providing the relevant explanation and documents for any no responses;
- (7) Whether the licensee has been subject to any investigation for employee misclassification since the previous renewal application was submitted;
- (8) The licensee's signature to certify that he or she has prepared the application and has read the answers; that the information provided in the application is true; and that he or she has read the NC Industrial Commission Public Notice Statement; and
- (9) The application fee, as prescribed by G.S. 93-12(8). If the application fee is dishonored by the licensee's drawee bank for any reason, the Board shall suspend the license until the renewal fees and non-sufficient fund charges are paid.

Authority G.S. 93-12(8).

**SUBCHAPTER 08K - PROFESSIONAL CORPORATIONS
AND PROFESSIONAL LIMITED LIABILITY
COMPANIES****SECTION .0100 - GENERAL PROVISIONS****21 NCAC 08K .0104 REGISTRATION AND
RENEWAL**

(a) Domestic CPA professional corporations or professional limited liability companies must be formed and all CPA

professional corporations or professional limited liability companies must be operated in accordance with the requirements set out in G.S. 55B and 57D. Before any CPA professional corporation or professional limited liability company can offer to perform or perform any professional services in this state, it must register with the Board.

(b) Initial registration.

- (1) Domestic CPA Corporation or Professional Limited Liability Company. In order to register initially with this Board, the incorporators of a domestic CPA corporation or professional limited liability company, prior to incorporation of the CPA firm, must:
 - (A) prepare and file with the Board the articles of incorporation along with any supporting documents and appropriate checks for fees payable to the Secretary of State;
 - (B) complete and file with the Board the application for professional corporation or professional limited liability company registration form along with any supporting documents; and
 - (C) pay to the Board an initial registration fee ~~of fifty dollars (\$50.00)~~ of fifty dollars (\$50.00) as set forth in G.S. 93-12(7b).
- (2) Foreign CPA Corporation or Foreign Limited Liability Company. To register initially with the Board, the officers of a foreign corporation or foreign limited liability company, prior to performing services or offering to perform services in North Carolina, must submit to the Board:
 - (A) on an application for registration form provided by the Board, a list of its present shareholders or members and the state or territory issuing the CPA certificate, or the equivalent, of each shareholder or member and the number of each certificate or equivalent; and
 - (B) the documents required by G.S. 55-15-01(a) and 57D-7.
 - (C) pay to the Board an initial registration fee of fifty dollars (\$50.00) as set forth in G.S. 93-12(7b).

(c) In addition to its initial registration, every CPA corporation or professional limited liability company, whether domestic or foreign, must ~~register~~ renew annually pursuant to 21 NCAC 08J .0108.

(d) The application for registration by a CPA corporation or professional limited liability company shall provide the following information:

- (1) ~~the name and address~~ name, address, phone number, and email address of the professional corporation or professional limited liability company;

- (2) the address of each office operated or maintained by the corporation or professional limited liability company;
- (3) the names and addresses of all the officers, directors, shareholders, or members; and
- (4) the names and addresses of all the employees and managers of the corporation or professional limited liability company licensed by the Board under the provisions of G.S. 93.

Authority G.S. 55B-11; 57D-1; 57D-2; 59-84.2; 93-8; 93-12(7b); 93-12(8c).

**21 NCAC 08K .0105 SUPPLEMENTAL REPORTS
(READOPTED WITHOUT SUBSTANTIVE CHANGES)**

**SECTION .0200 - PRACTICE PROCEDURES OF
PROFESSIONAL CORPORATIONS AND
PROFESSIONAL LIMITED LIABILITY COMPANIES**

**21 NCAC 08K .0201 CORPORATE AND
PROFESSIONAL LIMITED LIABILITY COMPANY
NAMES**

- (a) The corporate name of a professional corporation registered under these Rules shall contain the wording "corporation," "incorporated," "limited," "company," "professional corporation," or "professional association," or an abbreviation of one of the foregoing: "Corp.," "Inc.," "Ltd.," "Co.," "P.C.," or "P.A."
- (b) The corporate name of a professional limited liability company registered under these Rules shall contain the wording "professional limited liability company," "professional ltd. liability co.," "professional limited liability co.," or "professional ltd. liability company," or an abbreviation of one of the foregoing: "P.L.L.C." or "PLLC."
- (c) The use of "CPA" or "Certified Public Accountant(s)" in the corporate name is encouraged, but not required. Any name shall also meet the requirements in ~~21 NCAC 08N .0302 and .0307.~~ 21 NCAC 08N .0302 and .0307.

Authority G.S. 55B-5; 55B-12; 57C-1; 57C-2.

**SECTION .0300 - REGISTERED LIMITED LIABILITY
PARTNERSHIPS**

**21 NCAC 08K .0301 REGISTERED LIMITED
LIABILITY PARTNERSHIPS**

- (a) Any ~~Registered Limited Liability Partnership~~ CPA registered limited liability partnership created pursuant to and in compliance with G.S. 59 shall also comply with all accountancy laws and rules pertaining to partnerships.
- (b) Before any CPA registered limited liability partnership may perform or offer to perform any professional services in this state, it shall file with the Board the certificate of registration of the Secretary of State and appropriate fees payable to the Secretary of State.

Authority G.S. 59-84.2; 59-84.3; 93-12.

**SUBCHAPTER 08M - REPORT AND PEER REVIEW
PROGRAM**

SECTION .0100 - GENERAL ~~SQR~~ REQUIREMENTS

**21 NCAC 08M .0105 PEER REVIEW
REQUIREMENTS**

- (a) A CPA or CPA firm providing any of the following services to the public shall participate in a peer review program:
 - (1) audits;
 - (2) reviews of financial statements;
 - (3) compilations of financial statements; or
 - (4) any engagement to be performed in accordance with the Statements on Standards for Attestation Engagements.
- (b) A CPA or CPA firm not providing any of the services listed in Paragraph (a) of this Rule is exempt from peer review until the issuance of the first report provided to a client. A CPA or CPA firm shall register with the peer review program as listed in Paragraph (d) of this Rule within 30 days of the issuance of the first report provided to a client.
- (c) A CPA, a new CPA firm, or a CPA firm exempt from peer review that starts providing any of the services in Paragraph (a) of this Rule shall furnish to the peer review program selected financial statements, corresponding work papers, and any additional information or documentation required for the peer review program within 18 months of the issuance of the first report provided to a client.
- (d) ~~Participation~~ Enrollment in and completion of the AICPA Peer Review Program, or a program that substantially complies with the AICPA Standards for Performing and Reporting on Peer Reviews, shall be required. The AICPA Standards for Performing and Reporting on Peer Reviews are incorporated by reference, including subsequent amendments and editions. This document may be accessed at <https://us.aicpa.org/research/standards/peerreview> at no cost.
- (e) CPA firms shall not rearrange their structure or act in any manner with the intent to avoid ~~participation~~ enrollment in peer review.
- (f) A CPA firm that does not have offices in North Carolina and that has provided any services as listed in G.S. 93-10(c)(3) to North Carolina clients shall ~~participate~~ enroll in a peer review program.
- (g) Subsequent peer reviews of a CPA firm are due three years and six months from the year end of the 12-month period of the first peer review, unless granted an extension by the peer review program.
- (h) All CPA firms enrolled in the AICPA Peer Review Program registered with this Board shall also participate in the AICPA Facilitated State Board Access ~~process.~~ process and shall not opt out of any part of the process.
- (i) The firm shall allow the administrating entity to provide the Board access to the documents and peer review information via a secure website process such as the AICPA Facilitated State Board Access (FSBA).

Authority G.S. 93-10(c); 93-12(8c).

21 NCAC 08M .0106 COMPLIANCE

(a) A CPA firm registered for peer review shall provide to the Board the following:

- (1) peer review due date;
- (2) year end date;
- (3) ~~final Letter of Acceptance~~ the acceptance letter from the administering entity from the peer review program within 60 days of the date of the letter; and
- (4) ~~a package to include the Peer Review Report, Letter of Response, and Final Letter of Acceptance~~ for all failed and second passed with deficiencies ~~reports~~ reports, a package to include the following items issued by a peer review program within 60 days of the date of the ~~Final Letter of Acceptance~~ completion letter;

- (a) peer review report accepted by the administering entity;
- (b) the firm's letter of response to the peer review report;
- (c) the acceptance letter from the administering entity; and
- (d) letter signed by the administering entity notifying the firm that the required actions have been appropriately completed, if applicable.

(b) A peer review shall not be complete until the ~~Final Letter of Acceptance~~ completion letter is issued by the peer review program with the new due date.

(c) If a CPA firm fails to comply with Rule .0105(c), (d), or (g) of this Section, and continues to offer or render services, the Board may take disciplinary action against the CPA firm's members that may include a suspension of each members' CPA certificate for a period of not less than 30 days and a civil penalty up to one thousand dollars (\$1,000) as set forth in ~~G.S. 93-12(b)(9).~~ G.S. 93-12(9).

Authority G.S. 93-12(7b); 93-12(8c).

21 NCAC 08M .0107 ETHICAL DUTIES OF REVIEWER (READOPTIO

SUBCHAPTER 08N – PROFESSIONAL ETHICS AND CONDUCT

SECTION .0100 - SCOPE AND APPLICABILITY

21 NCAC 08N .0101 SCOPE OF THESE RULES (READOPTIO

21 NCAC 08N .0102 APPLICABILITY AND ORGANIZATION OF RULES (READOPTIO

21 NCAC 08N .0103 RESPONSIBILITY FOR COMPLIANCE BY OTHERS (READOPTIO

SECTION .0200 - RULES APPLICABLE TO ALL CPAS

21 NCAC 08N .0201 INTEGRITY (READOPTIO

21 NCAC 08N .0202 DECEPTIVE CONDUCT PROHIBITED (READOPTIO

21 NCAC 08N .0203 DISCREDITABLE CONDUCT PROHIBITED

(a) A CPA shall not engage in conduct discreditable to the accounting profession.

(b) Prohibited discreditable conduct includes:

- (1) acts that reflect adversely on the CPA's honesty, integrity, trustworthiness, good moral character, or fitness as a CPA;
- (2) stating or implying an ability to improperly influence a governmental agency or official;
- (3) failing to comply with any order issued by the Board;
- (4) failing to fulfill the terms of a peer review engagement contract;
- (5) misrepresentation in reporting CPE credits;
- (6) entering into any settlement or other resolution of a dispute that purports to keep its contents confidential from the ~~Board;~~ or Board;
- (7) failing to participate in a peer review program pursuant to ~~21 NCAC 08M .0105.~~ 21 NCAC 08M .0105; or
- (8) failing to execute an experience affidavit as set forth in 21 NCAC 08F .0401(b)(4) following a determination by the Board that the license applicant meets the Board's criteria to execute that affidavit.

Authority G.S. 55B-12; 57D-2-02; 93-12(3); 93-12(9).

21 NCAC 08N .0204 DISCIPLINE BY FEDERAL AND STATE AUTHORITIES (READOPTIO

21 NCAC 08N .0205 CONFIDENTIALITY (READOPTIO

21 NCAC 08N .0206 COOPERATION WITH BOARD INQUIRY (READOPTIO

21 NCAC 08N .0207 VIOLATION OF TAX LAWS (READOPTIO

21 NCAC 08N .0208 REPORTING CONVICTIONS, JUDGMENTS, AND DISCIPLINARY ACTIONS (READOPTIO

21 NCAC 08N .0209 ACCOUNTING PRINCIPLES (READOPTIO

21 NCAC 08N .0211 RESPONSIBILITIES IN TAX PRACTICE (READOPTION WITHOUT SUBSTANTIVE CHANGES)**21 NCAC 08N .0212 COMPETENCE (READOPTION WITHOUT SUBSTANTIVE CHANGES)****21 NCAC 08N .0213 OTHER RULES (READOPTION WITHOUT SUBSTANTIVE CHANGES)****21 NCAC 08N .0214 OUTSOURCING TO THIRD-PARTY PROVIDERS (READOPTION WITHOUT SUBSTANTIVE CHANGES)****21 NCAC 08N .0215 INTERNATIONAL FINANCIAL ACCOUNTING STANDARDS (READOPTION WITHOUT SUBSTANTIVE CHANGES)****21 NCAC 08N .0216 PROFESSIONAL JUDGMENT**

A CPA shall not subordinate the CPA's professional judgment to non-CPAs.

Authority G.S. 55B-12; 57D-2-02; 93-12(9).

SECTION .0300 - RULES APPLICABLE TO ALL CPAS WHO USE THE CPA TITLE IN OFFERING OR RENDERING PRODUCTS OR SERVICES TO CLIENTS**21 NCAC 08N .0301 PROFESSIONAL JUDGMENT**

Authority G.S. 55B-12; 57D-2-02; 93-12(9).

21 NCAC 08N .0302 FORMS OF PRACTICE

(a) Authorized Forms of Practice. A CPA who uses CPA in or with the name of the business or offers or renders audits, reviews, compilations, agreed-upon procedure or engagement services performed in accordance with the standards in 21 NCAC 08A .0301(b)(5) in the public practice of accountancy to clients shall do so only through a registered sole proprietorship, partnership, Professional Corporation, Professional Limited Liability Company, or Registered Limited Liability Partnership.

(b) Authorized Ownership. A CPA firm may have an ownership of up to 49 percent by non-CPAs. A CPA firm shall have ownership of at least 51 percent and be controlled in law and fact by holders of valid CPA certificates who have the unrestricted privilege to use the CPA title and to practice public accountancy in a jurisdiction and at least one of whom shall be licensed by this Board.

(c) CPA Firm Registration Required. A CPA shall not offer or render professional services through a CPA firm that is in violation of the registration requirements of 21 NCAC 08J .0108, 08J .0110, or 08M .0105.

(d) Supervision of CPA Firms. Every North Carolina office of a CPA firm registered in North Carolina shall be actively and locally supervised by a designated actively licensed North Carolina CPA whose primary responsibility and a corresponding amount of time shall be work performed in that office.

(e) CPA Firm Requirements for CPA Ownership. A CPA firm and its designated supervising CPA shall be accountable for the following in regard to a CPA owner:

- (1) a CPA owner shall be a natural person or a general partnership or a limited liability partnership directly owned by natural persons;
- (2) a CPA owner shall actively participate in the business of the CPA firm; and
- (3) a CPA owner who, prior to January 1, 2006, is not actively participating in the CPA firm may continue as an owner until such time as his or her ownership is terminated.

(f) CPA Firm Requirements for Non-CPA Ownership. A CPA firm and its designated supervising CPA owner shall be accountable for the following in regard to a non-CPA owner:

- (1) a non-CPA owner shall be a natural person or a general partnership or limited liability partnership directly owned by natural persons;
- (2) a non-CPA owner shall actively participate in the business of the firm or an affiliated entity as his or her principal occupation;
- (3) a non-CPA owner shall comply with all applicable accountancy statutes and the rules as set forth in G.S. 93 and all rules in this Chapter.
- (4) a non-CPA owner shall be of good moral character and shall be dismissed and disqualified from ownership for any conduct that, if committed by a licensee, would result in a discipline pursuant to G.S. 93-12(9); and
- (5) a non-CPA owner shall report his or her name, home address, phone number, social security number, and Federal Tax ID number (if any) on the CPA firm's registration.

(g) ESOP Ownership. Notwithstanding the restrictions set forth in subparagraph (f) of this section, up to 49 percent of the ownership in a CPA firm may be held in an employee stock ownership plan ("ESOP") that meets the requirements of Section 409 of the Internal Revenue Code. All trustees of the ESOP must be licensed CPAs in a United States jurisdiction. Further, the beneficial ownership in an ESOP may not be held by persons who are not active participants in the CPA firm.

Authority G.S. 55B-12; 57D-2-02; 93-12(9).

21 NCAC 08N .0303 OBJECTIVITY AND CONFLICTS OF INTEREST (READOPTION WITHOUT SUBSTANTIVE CHANGES)**21 NCAC 08N .0304 CONSULTING SERVICES STANDARDS (READOPTION WITHOUT SUBSTANTIVE CHANGES)****21 NCAC 08N .0305 RETENTION OF CLIENT RECORDS**

(a) A CPA shall return client-provided records in the CPA's custody or control to the client at the client's request. Client-provided records are accounting or other records, including hardcopy and electronic reproductions of such records, belonging

to the client that were provided to the CPA by, or on behalf of, the client.

(b) Unless a CPA and the client have agreed to the contrary, when a client makes a request for CPA prepared records or a CPA's work products that are in the CPA's custody or control that have not previously been provided to the client, the CPA shall respond to the client's request as follows:

- (1) The CPA shall provide CPA prepared records relating to a completed and issued work product to the client, except that such records may be withheld if fees are due to the CPA for that specific work product; and
- (2) The CPA's work products shall be provided to the client, except that such work products may be withheld:
 - (A) if fees are due to the CPA for the specific work product;
 - (B) if the work product is incomplete;
 - (C) if for the purpose of complying with professional standards. For example, withholding an audit report due to outstanding audit issues; or
 - (D) if threatened or outstanding litigation exists concerning the engagement or CPA's work.

(c) CPA prepared records are accounting or other records that the CPA was not specifically engaged to prepare and that are not in the client's books and records or are otherwise not available to the client, thus rendering the client's financial information incomplete. Examples include adjusting, closing, combining, or consolidating journal entries including computations supporting such entries and supporting schedules and documents that the CPA proposed or prepared as part of an engagement, an audit being an example. CPA's work products are deliverables set forth in the terms of the ~~engagement, such as tax returns.~~ engagement.

(d) Once a CPA has complied with the requirements described in Paragraphs (a) and (b) of this Rule, he or she shall not be under any further ethical obligation to:

- (1) comply with any subsequent requests to again provide records or copies of records described in Paragraphs (a) and (b) of this Rule. If subsequent to complying with a request, a client experiences a loss of records due to a natural disaster, the CPA shall comply with an additional request to provide such records that are in possession of the CPA; and
- (2) retain records for periods that exceed applicable professional standards, state and federal statutes and regulations, and contractual agreements relating to the service performed.

(e) A CPA who has provided records to an individual designated or held out as the client's representative, such as the general partner, or majority shareholder, shall not be obligated to provide such records to other individuals associated with the client. However, in the case of joint individual tax returns, each named taxpayer on that return shall be entitled to a copy of the tax returns and supporting schedules from the CPA.

(f) Work papers shall be the CPA's property, and the CPA is not required to provide such information to the client. However, state

and federal statutes and regulations and contractual agreements may impose additional requirements on the CPA.

(g) In fulfilling a request for client provided records, CPA prepared records, or a CPA's work products, the CPA may:

- (1) charge the client a fee for the time and expense incurred to retrieve and copy such records and require that the client pay the fee before the CPA provides the records to the client;
- (2) provide the requested records in any format usable by the client. The CPA is not required to convert records that are not in electronic format to electronic format. If the client requests records in a specific format and the records are available in such format within the CPA's custody and control, the client's request shall be honored. In addition, the CPA is not required to provide the client with formulas, unless the formulas support the client's underlying accounting or other records or the CPA was engaged to provide such formulas as part of a completed work product. The CPA is not required to provide electronic data files to a client if they were created with tax preparation software owned or licensed by the CPA; and
- (3) make and retain copies of any records that the CPA returned or provided to the client.

(h) A CPA who is required to return or provide records to the client shall comply with the client's request as soon as practicable, but no later than 45 days after the request is made.

Authority G.S. 55B-12; 57D-2-02; 93-12(9).

21 NCAC 08N .0306 ADVERTISING OR OTHER FORMS OF SOLICITATION

(a) Deceptive Advertising. A CPA shall not seek to obtain clients by advertising or using other forms of solicitation in a manner that is deceptive.

(b) Specialty Designations. A CPA may advertise the nature of services provided to clients, but the CPA shall not advertise or indicate a specialty designation or other title unless the CPA has met the requirements of the granting organization for the separate title or specialty designation and the individual is currently on active status and in good standing with the granting organization for the separate title or specialty designation.

(c) The CPA firm shall offer to perform or perform professional services only in the exact name of the CPA firm as registered with the Board. The exact CPA firm name as registered with the Board shall be used on the following documents:

- ~~(1)~~ ~~letterhead;~~
- ~~(2)~~⁽¹⁾ contracts;
- ~~(3)~~⁽²⁾ engagement letters;
- ~~(4)~~⁽³⁾ tax returns; and
- ~~(5)~~⁽⁴⁾ all professional services reports.

(d) The CPA firm may advertise professional services using the exact name of the CPA firm, a portion of the CPA firm name, or initials or acronyms derived from the exact CPA firm name as registered with the Board.

(e) Any CPA or CPA firm offering to or performing professional services via the Internet shall include the following information on the Internet:

- (1) CPA business or CPA firm name as registered with the Board;
- (2) ~~principal place of business;~~
- (3)(2) business phone number; and
- (4)(3) North Carolina certificate number and North Carolina as jurisdiction of certification.

(f) The use of the phrase "certified public accountant(s)" or "CPA(s)" in the name of any business entity on letterhead, professional services reports, business cards, brochures, building signage, office signs, telephone directories, contracts, engagement letters, tax returns, Internet directories, or any other advertisements or forms or solicitation shall be prohibited except for registered CPA firms.

Authority G.S. 55B-12; 57D-2-02; 93-12(9).

21 NCAC 08N .0307 CPA FIRM NAMES

(a) Registration of Firm Names. A business may not use a CPA firm name unless that name has been registered with the Board.

(b) Misleading Names Prohibited. A CPA firm shall not trade upon the CPA title through use of any name that is misleading. A misleading CPA firm name ~~is one which~~ includes, but are not limited to, the following:

- (1) Implies the existence of a partnership or registered limited liability partnership or a professional corporation or professional limited liability company if the firm is not, in fact, one of those entities;
- (2) Includes the name of an individual who is not a CPA if the words "certified public accountants" or "CPAs" are included in the firm name;
- (3) Includes information about or indicates an association with persons who are not current or former members of the firm, unless the name is that of a firm network;
- (4) Includes the terms "& Company", "& Associates", or "Group", but the firm does not include, in addition to the named partner, shareholder, owner, or member, at least one other unnamed partner, shareholder, owner, member, or staff employee;
- (5) Contains any representation that would be likely to cause a reasonable person to have a false or unjustified expectation of favorable results or capabilities, including names indicating qualitative superiority or pricing differences;
- (6) Claims or implies the ability to influence a regulatory body or official; or
- (7) Includes the name of an owner whose license has been revoked for disciplinary reasons by the Board, whereby the licensee has been prohibited from practicing public accountancy or prohibited from using the title CPA or holding themselves out as a Certified Public Accountant.

(c) Permissible Firm Names: The following is a non-exhaustive list of types of CPA firm names that are not in and of themselves misleading and are permissible so long as they do not violate other firm name provisions:

- (1) A firm name that includes the names or initials of one or more former or current owners;
- (2) A firm name that excludes the names of one or more former or current owners;
- (3) A firm name that uses the "CPA" title as part of the firm name when all named individuals are owners of the firm who hold the CPA title or are former owners who held the CPA title at the time they ceased to be owners of the firm; or
- (4) A firm name that includes the name of a non-CPA owner if the words "certified public accountant" or "CPA" title are not a part of the firm name.

(d) Any CPA firm registered in another jurisdiction that provides notification of intent to practice pursuant to G.S. 93-10(c)(3) may practice under the name as registered with that jurisdiction.

Authority G.S. 55B-5; 55B-12; 57D-2-02; 93-12(9).

21 NCAC 08N .0308 VALUATION SERVICES STANDARDS (READOPTED WITHOUT SUBSTANTIVE CHANGES)

21 NCAC 08N .0309 PERSONAL FINANCIAL PLANNING SERVICES (READOPTED WITHOUT SUBSTANTIVE CHANGES)

21 NCAC 08N .0310 FORENSIC SERVICES

(a) Statement on Standards for Forensic Services. A CPA shall not render forensic services unless the CPA has complied with the Statement on Standards for Forensic Services.

(b) Statement on Standards for Forensic Services. The Statement for Forensic Services, including the definition of such services, issued by the AICPA are incorporated by reference, including subsequent amendments and editions. This document may be accessed at <https://www.aicpa.org/resources/download/statement-on-standards-for-forensic-services> at no cost.

Authority G.S. 55B-12; 57-D-02); 93-12(9).

SECTION.0400 - RULES APPLICABLE TO CPAS PERFORMING ATTEST SERVICES

21 NCAC 08N .0401 PUBLIC RELIANCE

The rules in this Section apply to any CPA who engages in attest services as defined in ~~21 NCAC 08A .0301(b).~~ 21 NCAC 08A .0301(b)(5).

Authority G.S. 55B-12; 57D-2-02; 93-12(9).

21 NCAC 08N .0402 INDEPENDENCE

(a) A CPA, or the CPA's firm, who is performing an engagement in which the CPA, or the CPA's firm, will issue a report on financial statements of any client (other than a report in which

lack of independence is disclosed) ~~shall be independent with respect to the client in fact and appearance. shall conform in fact and in appearance to the independence standards established by the AICPA and this Board, and, where applicable, the SEC, the U.S. GAO, the PCAOB and other national or international regulatory or professional standard setting bodies.~~

(b) ~~Independence is impaired if, during the period of the professional engagement, a covered person: The PCAOB independence rules are hereby incorporated by reference, including subsequent amendments and editions. They may be accessed at www.pcaobus.org/oversight/standards/ethics-independence-rules.~~

- ~~(1) had or was committed to acquire any direct or material indirect financial interest in the client;~~
- ~~(2) was a trustee of any trust or executor or administrator of any estate if such trust or estate had or was committed to acquire any direct or material indirect financial interest in the client; and~~
 - ~~(A) the covered person (individually or with others) had the authority to make investment decisions for the trust or estate;~~
 - ~~(B) the trust or estate owned or was committed to acquire more than 10 percent of the client's outstanding equity securities or other ownership interests; or~~
 - ~~(C) the value of the trust's or estate's holdings in the client exceeded 10 percent of the total assets of the trust or estate;~~
- ~~(3) had a joint closely held investment that was material to the covered person; or~~
- ~~(4) except as permitted in the AICPA Professional Standards Code of Professional Conduct and Bylaws, had any loan to or from the client or any officer or director of the client, or any individual owning 10 percent or more of the client's outstanding equity securities or other ownership interests.~~

(c) ~~Independence is impaired if during the period of the professional engagement, a shareholder, a member, a partner or professional employee of the firm, his or her immediate family and close relatives, (as defined in the AICPA Code of Professional Conduct and Bylaws) or any group of such persons acting together owned more than five percent of a client's outstanding equity securities or other ownership interests. The SEC independence rules are codified at 17 CFR 210.2-01 and are hereby incorporated by reference, including subsequent amendments and editions. They may be accessed at www.ecfr.gov/current/title-17/chapter-11 at no cost.~~

(d) ~~Independence is impaired if, during the period covered by the financial statements, or during the period of the professional engagement, a shareholder, a member, a partner, or professional employee of the firm was simultaneously associated with the client as a:~~

- ~~(1) director, officer, employee, or in any capacity equivalent to that of a member of management;~~

- ~~(2) promoter, underwriter, or voting trustee; or~~
- ~~(3) trustee for any pension or profit sharing trust of the client.~~

(e) ~~For the purposes of this Rule "covered person" is~~

- ~~(1) an individual on the attest engagement team;~~
- ~~(2) an individual in a position to influence the attest engagement;~~
- ~~(3) a partner or manager who provides non attest services to the attest client beginning once he or she provides 10 hours of non attest services to the client within any fiscal year and ending on the later of the date:~~
 - ~~(A) the firm signs the report on the financial statements for the fiscal year during which those services were provided; or~~
 - ~~(B) he or she no longer expects to provide 10 or more hours of non attest services to the attest client on a recurring basis;~~
- ~~(4) a partner in the office in which the lead attest engagement partner primarily practices in connection with the attest engagement;~~
- ~~(5) the firm, including the firm's employee benefit plans; or~~
- ~~(6) an entity whose operating, financial, or accounting policies can be controlled (as defined by generally accepted accounting principles (GAAP) for consolidation purposes) by any of the individuals or entities described in Subparagraphs (1) through (5) of this Paragraph or by two or more such individuals or entities if they act together;~~

~~(f) The impairments of independence listed in this Rule shall not be interpreted to be an all inclusive list.~~

Authority G.S. 55B-12; 57D-2-02; 93-12(9).

21 NCAC 08N .0403 AUDITING STANDARDS (READOPTION WITHOUT SUBSTANTIVE CHANGES)

21 NCAC 08N .0404 ACCOUNTING AND REVIEW SERVICES STANDARDS (READOPTION WITHOUT SUBSTANTIVE CHANGES)

21 NCAC 08N .0405 GOVERNMENTAL ACCOUNTING STANDARDS (READOPTION WITHOUT SUBSTANTIVE CHANGES)

21 NCAC 08N .0406 ATTESTATION STANDARDS (READOPTION WITHOUT SUBSTANTIVE CHANGES)

21 NCAC 08N .0408 PEER REVIEW STANDARDS (READOPTION WITHOUT SUBSTANTIVE CHANGES)

21 NCAC 08N .0409 GOVERNMENT AUDITING STANDARDS (READOPTION WITHOUT SUBSTANTIVE CHANGES)

**21 NCAC 08N .0410 INTERNATIONAL STANDARDS
ON AUDITING (READoption WITHOUT
SUBSTANTIVE CHANGES)**

**21 NCAC 08N .0411 AUDITS SUBJECT TO THE
SINGLE AUDIT ACT**

A CPA rendering audit services to a state or local government entity, non-profit organization, or other entity that is subject to the Single Audit Act of 1984, P.L. 98-502, and the Single Audit Act Amendments of 1996, P.L. 104-156, must comply with the Single Audit Act amendments as implemented through Subpart F - Audit Requirements of Title 2 of C.F.R., Chapter II, Part 200 Uniform Administrative Requirements, Cost Principles, and Audit

Requirements for Federal Awards (2 CFR part 200). 2 CFR part 200 is hereby incorporated by reference, including subsequent amendments and editions. This document may be accessed at www.ecfr.gov/current/title-2 at no cost.

Authority G.S. 55B-12; 57D-2-02; 93-12(9).

21 NCAC 08N .0412 FORENSIC SERVICES

Authority G.S. 55B-12; 57-D-02); 93-12(9).

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 21 – OCCUPATIONAL LICENSING BOARDS AND COMMISSIONS

CHAPTER 12 - GENERAL CONTRACTORS

Rule-making Agency: *Licensing Board for General Contractors*

Rule Citation: *21 NCAC 12A .0202*

Effective Date: *December 2, 2025*

Date Approved by the Rules Review Commission: *November 20, 2025*

Reason for Action: *Due to the unforeseeable and devastating impact of Hurricane Helene in Western North Carolian, many private bridges were destroyed, thus preventing North Carolina citizens from returning to their homes. Because of the topography of the Western North Carolina foothills and mountains, bridges are often required in order to ingress/egress to/from residential property. Currently, only licensed general contractors with a "highway" classification are permitted to construct these bridges as this is the only classification that includes bridge construction. There are only 1,640 licensed general contractors who hold a highway classification versus 8,356 licensed general contractors who hold an unlimited building classification. Expanding the pool of general contractors who can repair and reconstruct these residential, non-publicly maintained bridges to include unlimited building general contractors will help the citizens in Western North Carolina return to their homes more quickly and safely and balance the need to protect the public by allowing only the most qualified general contractors to construct these bridges.*

SUBCHAPTER 12A – GENERAL PROVISIONS

SECTION .0200 - LICENSING REQUIREMENTS

21 NCAC 12A .0202 CLASSIFICATION

(a) A general contractor shall be certified in one of the following five classifications:

- (1) **Building Contractor.** This classification covers all building construction and demolition activity including: commercial, industrial, institutional, and all residential building construction. It includes installation of solar panels; parking decks; all site work, grading and paving of parking lots, driveways, sidewalks, and gutters; storm drainage, retaining or screen walls, and hardware and accessory structures; and indoor and outdoor recreational facilities including natural and artificial surface athletic fields, running tracks,

bleachers, and seating. It also covers work done under the specialty classifications of S(Concrete Construction), S(Insulation), S(Interior Construction), S(Marine and Freshwater Construction), S(Masonry Construction), S(Roofing), S(Metal Erection), S(Swimming Pools), S(Asbestos), S(Wind Turbine), and S(Sign/Billboard).

a- (A) For the purposes of providing disaster relief assistance pursuant to a declaration of a state of an emergency, if a contractor who holds this classification with an unlimited limitation as defined in Gen. Stat. § 87-10(a1) and has been pre-qualified by the North Carolina Department of Public Safety, Emergency Management Division, this classification also includes construction and repair of non-publicly maintained bridges.

b- (B) For the purposes of this rule, Rule, a "declaration of a state of an emergency" shall be defined as in chapter Chapter 16A, Article 1A, Part 4 of the N.C. General Statutes.

e- (C) For the purposes of this rule, Rule, a "non-publicly maintained bridge" shall be defined as a bridge that is not maintained by the State, Federal government, municipality, or county.

(2) **Residential Contractor.** This classification covers all construction and demolition activity pertaining to the construction of residential units that are required to conform to the Residential Building Code adopted by the Building Code Council pursuant to G.S. 143-138; all site work, driveways, sidewalks, and water and wastewater systems ancillary to the aforementioned structures and improvements; and the work done as part of such residential units under the specialty classifications of S(Insulation), S(Interior Construction), S(Masonry Construction), S(Roofing), S(Swimming Pools), and S(Asbestos). This classification also covers the installation of solar panels on residential units that are required to conform to the residential building code.

(3) **Highway Contractor.** This classification covers all highway construction activity including: demolition, grading, paving of all types,

- installation of exterior artificial athletic surfaces, relocation of public and private utility lines ancillary to a principal project, bridge construction and repair, culvert construction and repair, parking decks, sidewalks, curbs, gutters and storm drainage. It also includes installation and erection of guard rails, fencing, signage, and ancillary highway hardware; covers paving and grading of airport and airfield runways, taxiways, and aprons, including the installation of fencing, signage, runway lighting and marking; and work done under the specialty classifications of S(Boring and Tunneling), S(Concrete Construction), S(Marine and Freshwater Construction), S(Railroad Construction), H(Grading and Excavating), S(Metal Erection), and S(Sign/Billboard).
- (4) Public Utilities Contractor. This classification includes demolition and operations that are the performance of construction work on water and wastewater systems and on the subclassifications of facilities set forth in G.S. 87-10(b)(3). The Board shall issue a license to a public utilities contractor that is limited to any of the subclassifications set forth in G.S. 87-10(b)(3) for which the contractor qualifies. A public utilities contractor license covers work done under the specialty classifications of S(Boring and Tunneling), PU(Communications), PU(Fuel Distribution), PU(Electrical-Ahead of Point of Delivery), PU(Water Lines and Sewer Lines), PU(Water Purification and Sewage Disposal), and S(Swimming Pools).
- (5) Specialty Contractor. This classification covers all construction operation and performance of contract work outlined as follows:
- (A) H(Grading and Excavating). This classification covers the digging, moving, and placing of materials forming the surface of the earth, excluding air and water, in such a manner that the cut, fill, excavation, grade, trench, backfill, or any similar operation may be executed with the use of hand and power tools and machines used for these types of digging, moving, and material placing. It covers work on earthen dams and the use of explosives used in connection with all or any part of the activities described in this Subparagraph. It also includes clearing and grubbing, and erosion control activities.
- (B) S(Boring and Tunneling). This classification covers the construction of underground or underwater passageways by digging or boring through and under the earth's surface, including the bracing and compacting of such passageways to make them safe for the purpose intended. It includes preparation of the ground surfaces at points of ingress and egress.
- (C) PU (Communications). This classification covers the demolition and installation of the following:
- (i) all types of pole lines, and aerial and underground distribution cable for telephone systems;
 - (ii) aerial and underground distribution cable for cable TV and master antenna TV systems capable of transmitting R.F. signals;
 - (iii) underground conduit and communication cable, including fiber optic cable; and
 - (iv) microwave systems and towers, including foundations and excavations where required, when the microwave systems are being used for the purpose of transmitting R.F. signals; and installation of PCS or cellular telephone towers and sites.
- (D) S(Concrete Construction). This classification covers the construction, demolition, and installation of foundations, pre-cast silos, and other concrete tanks or receptacles, prestressed components, and gunite applications, but excludes bridges, streets, sidewalks, curbs, gutters, driveways, parking lots, and highways.
- (E) PU(Electrical-Ahead of Point of Delivery). This classification covers the construction, installation, alteration, maintenance, or repair of an electrical wiring system, including sub-stations or components thereof, which is or is intended to be owned, operated, and maintained by an electric power supplier, such as a public or private utility, a utility cooperative, or any other properly franchised electric power supplier, for the purpose of furnishing electrical services to one or more customers. This classification includes the construction of solar arrays.

- (F) PU(Fuel Distribution). This classification covers the construction, installation, alteration, maintenance, or repair of systems for distribution of petroleum fuels, petroleum distillates, natural gas, chemicals, and slurries through pipeline from one station to another. It includes all excavating, trenching, and backfilling in connection therewith. It covers the installation, replacement, and removal of above ground and below ground fuel storage tanks.
- (G) PU(Water Lines and Sewer Lines). This classification covers demolition and construction work on water and sewer mains, water service lines, and house and building sewer lines, as defined in the North Carolina State Building Code, and covers water storage tanks, lift stations, pumping stations, and appurtenances to water storage tanks, lift stations, and pumping stations. It includes pavement patching, backfill, and erosion control as part of construction.
- (H) PU(Water Purification and Sewage Disposal). This classification covers the demolition and performance of construction work on water and wastewater systems; water and wastewater treatment facilities; and all site work, grading, and paving of parking lots, driveways, sidewalks, curbs, and gutters that are ancillary to such construction of water and wastewater treatment facilities. It covers the work done under the specialty classifications of S(Concrete Construction), S(Insulation), S(Interior Construction), S(Masonry Construction), S(Roofing), and S(Metal Erection) as part of the work on water and wastewater treatment facilities.
- (I) S(Insulation). This classification covers the installation, alteration, or repair of materials classified as insulating media used for the non-mechanical control of temperatures in the construction of residential and commercial buildings. It does not include the insulation of mechanical equipment, and lines and piping that are ancillary to the building.
- (J) S(Interior Construction). This classification covers the installation and demolition of acoustical ceiling systems and panels, load bearing and non-load bearing partitions, lathing and plastering, flooring and finishing, interior recreational surfaces, window and door installation, and installation of fixtures, cabinets, and millwork. It includes the removal of asbestos and replacement with non-toxic substances.
- (K) S(Marine and Freshwater Construction). This classification covers all marine and freshwater demolition and construction and repair activities and all types of marine and freshwater construction and demolition in deep-water installations and in harbors, inlets, sounds, bays, channels, canals, rivers, lakes, ponds, or any navigable waterway; it covers dredging, construction, and installation of pilings, piers, decks, slips, docks, and bulkheads. It does not include other structures that may be constructed on docks, slips, and piers.
- (L) S(Masonry Construction). This classification covers the demolition and installation, with or without the use of mortar or adhesives, of the following:
- (i) brick, concrete block, gypsum partition tile, pumice block, or other lightweight and facsimile units and products common to the masonry industry;
 - (ii) installation of fire clay products and refractory construction; and
 - (iii) installation of rough cut and dressed stone, marble panels and slate units, and installation of structural glazed tile or block, glass brick or block, and solar screen tile or block.
- (M) S(Railroad Construction). This classification covers the demolition, building, construction, and repair of railroad lines including:
- (i) the clearing and filling of rights-of-way;
 - (ii) shaping, compacting, setting, and stabilizing of road beds;
 - (iii) setting ties, tie plates, rails, rail connectors, frogs, switch plates, switches, signal markers, retaining walls, dikes, fences, and gates; and
 - (iv) construction and repair of tool sheds and platforms.

- (N) S(Roofing). This classification covers the installation, demolition, and repair of roofs and decks on residential, commercial, industrial, and institutional structures requiring materials that form a water-tight and weather-resistant surface. The term "materials" for purposes of this Subparagraph includes cedar, cement, asbestos, clay tile and composition shingles, all types of metal coverings, wood shakes, single ply and built-up roofing, protective and reflective roof and deck coatings, sheet metal valleys, flashings, gravel stops, gutters and downspouts, and bituminous waterproofing, including torch down roof systems. Any insulation material installed as a component of a torch down roofing system shall be included as work covered under this classification.
- (O) S(Metal Erection). This classification covers:
- (i) the field fabrication, demolition, erection, repair, and alteration of architectural and structural shapes, plates, tubing, pipe and bars, not limited to steel or aluminum, that are or may be used as structural members for buildings, equipment, and structure; and
 - (ii) the layout, assembly and erection by welding, bolting, riveting, or fastening in any manner metal products as curtain walls, tanks of all types, hoppers, structural members for buildings, towers, stairs, conveyor frames, cranes and crane runways, canopies, carports, guard rails, signs, steel scaffolding as a permanent structure, rigging, flagpoles, fences, steel and aluminum siding, bleachers, fire escapes, and seating for stadiums, arenas, and auditoriums.
- (P) S(Swimming Pools). This classification covers the construction, demolition, service, and repair of all swimming pools. It includes:
- (i) excavation and grading;
 - (ii) construction of concrete, gunite, fiberglass, metal-walled with liner, steel-walled with liner, and plastic-type pools, pool decks, and walkways, and tiling and coping; and
- (iii) installation of all equipment including pumps, filters, and chemical feeders. It does not include direct connections to a sanitary sewer system or to portable water lines, nor the grounding and bonding of any metal surfaces or the making of any electrical connections.
- (Q) S(Asbestos). This classification covers renovation or demolition activities involving the repair, maintenance, removal, isolation, encapsulation, or enclosure of Regulated Asbestos Containing Materials (RACM) for any commercial, industrial, or institutional building, whether public or private. It also covers all types of residential building construction involving RACM during renovation or demolition activities. This specialty is required only when the cost of asbestos activities as described herein are equal to or exceed forty thousand dollars (\$40,000).
- (R) S(Wind Turbine). This classification covers the construction, demolition, installation, and repair of wind turbines, wind generators, and wind power units. It includes assembly of blades, generator, turbine structures, and towers. It also includes ancillary foundation work, field fabrication of metal equipment, and structural support components.
- (S) S(Sign/Billboard). This classification covers the construction, renovation, installation, repair, erection, or demolition of any structural signs or billboards, as used in G.S. 136-128(3) that are permanently annexed to real property and as defined in Article 11 of Chapter 136 of the N.C. General Statutes.
- (b) An applicant may be licensed in more than one classification of general contracting provided the applicant meets the qualifications for the classifications, which includes passing the examinations for the classification requested by the applicant. The license granted to an applicant who meets the qualifications for all of the classifications set forth in the rules of this Section shall be designated "unclassified."

TEMPORARY RULES

History Note: Authority G.S. 87-1; 87-4; 87-10;
Eff. February 1, 1976;
Readopted Eff. September 26, 1977;
Amended Eff. June 1, 1994; June 1, 1992; May
1, 1989; January 1, 1983;
Temporary Amendment Eff. February 18, 1997;
Amended Eff. April 1, 2014; June 1, 2011;
September 1, 2009; April 1, 2004; April 1,
2003; August 1, 2002; April 1, 2001; August 1,
2000; August 1, 1998;

*Pursuant to G.S. 150B-21.3A, rule is necessary
without substantive public interest Eff. July 23,
2016;
Amended Eff. September 1, 2019; April 1, 2018;
Recodified from 21 NCAC 12 .0202 Eff.
January 2, 2020;
Amended Eff. September 1, 2025; December 1,
2023; January 1, 2023; January 1, 2022;
Temporary Amendment Eff. December 2, 2025.*

This Section contains information for the meeting of the Rules Review Commission December 18, 2025 at 1711 New Hope Church Road, RRC Commission Room, Raleigh, NC. Anyone wishing to submit written comments on any proposed permanent rule before the Commission should submit those comments pursuant to 26 NCAC 05 .0103. Anyone wishing to submit written comments on any proposed permanent rule before the Commission should submit those comments pursuant to 26 NCAC 05 .0104. Anyone wishing to address the Commission should comply with 26 NCAC 05 .0105 and .0106.

RULES REVIEW COMMISSION MEMBERS**Appointed by Senate**

Bill Nelson (Chair)
Jeanette Doran
John Hahn
Jeff Hyde
Wyatt Dixon, III

Appointed by House

Jake Parker (1st Vice-Chair)
Paul Powell (2nd Vice-Chair)
Wayne R. Boyles, III
Christopher Loutit
Randy Overton

COMMISSION COUNSEL

Seth M. Ascher 984-236-1934
Travis Wiggs 984-236-1929
Christopher S. Miller 984-236-1935

RULES REVIEW COMMISSION MEETING DATES

December 18, 2025 February 26, 2026
January 29, 2026 March 3, 2026

AGENDA**RULES REVIEW COMMISSION**

***Thursday, December 18, 2025, 10:00 A.M.
1711 New Hope Church Rd., Raleigh, NC 27609***

- I. Ethics reminder by the chair as set out in G.S. 138A-15(e)
- II. Approval of the minutes from the last meeting
- III. Follow-up matters
 - 1. Commission for Public Health -10A NCAC 43D .0205, .0304 (Ascher)
 - 2. Coastal Resources Commission - 15A NCAC 07H .0508 (Ascher)
 - 3. State Human Resources Commission - 25 NCAC 01E .1006 (Miller)
- IV. Review of Log of Filings (Permanent Rules) for rules filed October 21, 2025 through November 20, 2025
 - 1. Criminal Justice Education and Training Standards Commission (Wiggs)
 - 2. Alcoholic Beverage Control Commission (Ascher)
 - 3. Environmental Management Commission (Miller)
 - 4. Marine Fisheries Commission (Ascher)
 - 5. Board of Funeral Service (Miller)
 - 6. Respiratory Care Board (Wiggs)
- V. Log of Filings (Temporary Rules) for any rule filed within 15 business days before the RRC Meeting
- VI. Existing Rules Review
 - Review of Reports
 - 1. 02 NCAC 48F - Plant Conservation Board (Ascher)
 - 2. 02 NCAC 52B, 52C, 52D, 52E, 52F, 52G, 52H, 52 – Board of Agriculture (Ascher)
 - 3. 08 NCAC 01, 02, 03, 04, 05, 06, 09, 10 – State Board of Elections (Ascher)
 - 4. 15A NCAC 02A, 02Q - Environmental Management Commission (Ascher)
 - 5. 15A NCAC 02D - Environmental Management Commission (Wiggs)
 - 6. 15A NCAC 27 - Well Contractors Certification Commission (Wiggs)
 - Readoptions
 - 1. 11 NCAC 05A,D; 07 - Office of State Fire Marshall (Wiggs)

2. 12 NCAC 09A-G - Criminal Justice Education and Training Standards Commission (Wiggs)
3. 15A NCAC 02G, I, L,N,O,P - Environmental Management Commission (Ascher)
4. 15A NCAC 07B - Coastal Resources Commission (Wiggs)
5. 17 NCAC 04 - Department of Revenue (Wiggs)

VII. Commission Business

- Approval of amendment to 26 NCAC 05 .0209
 - Closed session, to consult with attorneys regarding CRC v. RRC and CJETS v. RRC
 - Next meeting: Thursday, January 29, 2026
-

Commission Review
Log of Permanent Rule Filings
October 21, 2025 through November 20, 2025

CRIMINAL JUSTICE EDUCATION AND TRAINING STANDARDS COMMISSION

The rules in Chapter 9 are from the Criminal Justice Education and Training Standards Commission. This Commission has primary responsibility for setting statewide education, training, employment, and retention standards for criminal justice personnel (not including sheriffs). The rules in Subchapter 9A cover the Commission organization and procedure (.0100) and enforcement of the rules (.0200).

Suspension: Denial: or Revocation of Certification
Amend*

12 NCAC 09A .0204

The rules in Chapter 9 are from the Criminal Justice Education and Training Standards Commission. This Commission has primary responsibility for setting statewide education, training, employment, and retention standards for criminal justice personnel (not including sheriffs). The rules in Subchapter 9B cover minimum standards for: employment (.0100); schools and training programs (.0200); criminal justice instructors (.0300); completion of training (.0400); school directors (.0500); and certification of post-secondary criminal justice education programs (.0600).

Completion of Basic Law Enforcement Training Course
Amend*

12 NCAC 09B .0405

The rules in Chapter 9 are from the Criminal Justice Education and Training Standards Commission. The rules in Subchapter 9E relate to the law enforcement officers' in-service training program.

Annual In-Service Firearms Qualification Specifications
Amend*

12 NCAC 09E .0106

ALCOHOLIC BEVERAGE CONTROL COMMISSION

The rules in Chapter 15 are from the Alcoholic Beverage Control Commission. The rules in Subchapter 15B concern retail beer, wine, mixed beverages, brownbagging, advertising, and special permits. The rules include definitions and permit application procedures (.0100); general rules affecting retailers and brownbagging permittees (.0200); malt beverages and the wine retailer/wholesaler relationship (.0300); additional requirements for brownbagging permittees (.0400); additional requirements for mixed beverages permittees (.0500); special requirements for convention centers, community theatres, sports clubs, and nonprofit and political organizations (.0600); special occasions permits (.0700); culinary permits (.0800); wine and beer tastings (.0900); advertising (.1000); and effect of administrative action, fines, and offers in compromise (.1100).

Advertising Of Malt Beverages And Wine By Industry Members
Amend*

14B NCAC 15B .1007

Advertising of Spirituous Liquors
Amend*

14B NCAC 15B .1008

The rules in Subchapter 15C concern industry members, retail/industry member relationships, ship chandlers, air carriers, and fuel alcohol including definitions and application procedures (.0100); product approvals, listing procedures and product lists (.0200); packaging and labeling of malt beverages and wine (.0300); standards of identity for wine containers (.0400); general provisions for industry members (.0500); sales and deliveries of malt beverages and wine (.0600); alcoholic beverages, retailer/industry member relationship and trade practices (.0700); ships chandler's permit (.0800); distillers and representatives (.0900); air carriers (.1000); fuel alcohol permits (.1100); administrative action by commission (.1200); and special event permits (.1300).

<u>Application Procedures</u>	14B	NCAC	15C	.0102
Readopt with Changes*				
<u>Wine Product Brand</u>	14B	NCAC	15C	.0104
Readopt with Changes*				
<u>Malt Beverage Product Approval: Listing in State</u>	14B	NCAC	15C	.0201
Readopt with Changes*				
<u>Wine Approvals; Listing In State</u>	14B	NCAC	15C	.0202
Readopt with Changes*				
<u>Spiritous Liquor Product Approvals</u>	14B	NCAC	15C	.0203
Readopt with Changes*				
<u>Spiritous Liquor Product Lists</u>	14B	NCAC	15C	.0204
Readopt with Changes*				
<u>Samples Required on Request</u>	14B	NCAC	15C	.0205
Readopt with Changes*				
<u>New Filing Required Upon Transfer of Brand</u>	14B	NCAC	15C	.0206
Readopt with Changes*				
<u>Packaging Requirements</u>	14B	NCAC	15C	.0301
Readopt with Changes*				
<u>Labels to be Submitted to Commission</u>	14B	NCAC	15C	.0302
Readopt with Changes*				
<u>Labels Contents: Malt Beverages</u>	14B	NCAC	15C	.0303
Readopt with Changes*				
<u>Label Contents: Wine</u>	14B	NCAC	15C	.0304
Readopt with Changes*				
<u>All Containers to Have Label</u>	14B	NCAC	15C	.0305
Readopt with Changes*				
<u>Label Alteration</u>	14B	NCAC	15C	.0306
Readopt with Changes*				
<u>Growlers</u>	14B	NCAC	15C	.0307
Readopt with Changes*				
<u>Growlers: Cleaning, Sanitizing, Filling and Sealing</u>	14B	NCAC	15C	.0308
Readopt with Changes*				

ENVIRONMENTAL MANAGEMENT COMMISSION

The rules in Subchapter 2H concern procedures for permits: approvals including point source discharges to the surface waters (.0100); waste not discharged to surface waters (.0200); coastal waste treatment disposal (.0400); water quality certification (.0500); laboratory certification (.0800); local pretreatment programs (.0900); stormwater management (.1000); biological laboratory certification (.1100); special orders (.1200); discharges to isolated wetlands and isolated waters (.1300); and discharges to federally non-jurisdictional wetlands and federally non-jurisdictional classified surface waters (.1400).

<u>Parameters for Which Certification May be Requested</u>	15A	NCAC	02H	.0804
Amend*				

MARINE FISHERIES COMMISSION

The rules in Subchapter 3I are general Marine Fisheries Commission rules.

<u>Definitions</u>	15A	NCAC	03I	.0101
Amend*				
<u>Recordkeeping Requirements</u>	15A	NCAC	03I	.0114
Amend*				
The rules in Subchapter 3O cover various licenses (.0100); leases and franchises (.0200); license appeal procedures (.0300); Standard Commercial Fishing License Eligibility Board (.0400); and licenses, leases and franchises (.0500).				
<u>Standards and Requirements for Shellfish Leases and Franc...</u>	15A	NCAC	03O	.0201
Amend*				
<u>Shellfish Lease and Franchise Production Reports</u>	15A	NCAC	03O	.0207
Amend*				
<u>Termination Procedures for Shellfish Leases and Franchises</u>	15A	NCAC	03O	.0208
Amend*				
<u>Standards and Requirements for Franchises</u>	15A	NCAC	03O	.0210
Amend*				
<u>Procedures and Requirements to Obtain Permits</u>	15A	NCAC	03O	.0501
Amend*				
<u>General Permit Conditions</u>	15A	NCAC	03O	.0502
Amend*				
<u>Permit Conditions; Specific</u>	15A	NCAC	03O	.0503
Amend*				

FUNERAL SERVICE, BOARD OF

The rules in Subchapter 34A concern board functions including general provisions (.0100); and fees and other payments (.0200).

<u>Agency Name and Address</u>	21	NCAC	34A	.0101
Amend*				
<u>Consumer Complaint Form</u>	21	NCAC	34A	.0123
Amend*				
<u>Filing of Documents</u>	21	NCAC	34A	.0127
Amend*				

The rules in Subchapter 34B are funeral service rules including rules relating to resident trainees (.0100); examinations (.0200); licensing (.0300); continuing education (.0400); out-of-state licensees (.0500); funeral establishments (.0600); preparation of dead bodies (.0700); and transportation of dead human bodies (.0800).

<u>Change in Employment</u>	21	NCAC	34B	.0104
Amend*				
<u>Work Reports and Checklists</u>	21	NCAC	34B	.0110
Amend*				
<u>Embalming, Funeral Directing and Funeral Service Training</u>	21	NCAC	34B	.0126
Amend*				
<u>Applications</u>	21	NCAC	34B	.0202
Amend*				
<u>Establishment and Approval of Courses</u>	21	NCAC	34B	.0401
Amend*				
<u>Accreditation of Computer-Based CE</u>	21	NCAC	34B	.0414

Amend*				
<u>Application for Licensure</u>	21	NCAC	34B	.0501
Repeal*				
<u>Courtesy Cards</u>	21	NCAC	34B	.0507
Amend*				
<u>Application Form for Courtesy Card</u>	21	NCAC	34B	.0508
Amend*				
<u>Courtesy Card Renewal Form</u>	21	NCAC	34B	.0510
Amend*				
	21	NCAC	34B	.0605
Amend*				
<u>Disclosure Statements</u>	21	NCAC	34B	.0613
Amend*				
<u>Funeral Establishment Inspection Form</u>	21	NCAC	34B	.0615
Amend*				
	21	NCAC	34B	.0703
Amend*				
<u>Registration of Embalming Facility Located Outside a Fune...</u>	21	NCAC	34B	.0706
Amend*				
The rules in Subchapter 34C concern crematories including general provisions (.0100); equipment and processing (.0200); and authorizations, reports, records (.0300).				
<u>Monthly Reports</u>	21	NCAC	34C	.0305
Repeal*				
The rules in Subchapter 34D are preneed funeral contract rules including general provisions (.0100); licensing (.0200); operations (.0300); and preneed recovery fund (.0400).				
<u>Transfer of Trust Funds</u>	21	NCAC	34D	.0304
Amend*				

RESPIRATORY CARE BOARD

The rules in Chapter 61 are from the Respiratory Care Board and concern organization and definitions (.0100); application for license (.0200); licensing (.0300); continuing education requirements for license holders (.0400); miscellaneous provisions (.0500); rulemaking and declaratory rulings (.0600); and administrative hearing procedures (.0700).

<u>Reinstatement of a Respiratory Care License</u>	21	NCAC	61	.0206
Adopt*				