

Burgos, Alexander N

Subject: FW: RFC for DOI March 2026
Attachments: Draft Changes to Perm Rule 11 NCAC 12 .0332 Text.docx

From: Benjamin, Alisha <alisha.benjamin@ncdoi.gov>
Sent: Thursday, March 12, 2026 12:27 PM
To: Ascher, Seth M <seth.ascher@oah.nc.gov>
Cc: Croom, Robert D <Robert.Croom@ncdoi.gov>; Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: RE: RFC for DOI March 2026

Good afternoon, Seth.

Thanks for reviewing our rule and providing your initial request for changes which I've included below for ease of responding. Please see our agency response and let me know if you have any additional questions or feedback for this rule.

In reviewing this Rule, the staff recommends the following changes be made:

For item (b), beginning on line 8, is the rule for certifications submitted 16 years ago still necessary? If so, why?

If item (b) is no longer necessary, you may also be able to modify item (c) and (e) to cover all certifications.

The Life and Health Division believes 12 .0332(b) is necessary as it includes the specific certification language insurers should use to certify that they have complied with the statutory requirements of 58-56-26(c). Similar language also appears on the agency's certification templates which we provide to insurers and make accessible on the agency website as referenced in 12 .0332(f). In lieu of entirely removing the certification language found in (b), certain changes have been made to eliminate date references and provide clear and concise certification language which is more applicable to all certification reporting periods for insurers.

I've attached a draft of the revised rule and included track changes for your review at this time. Happy to change the formatting style for the final revised rule submission, if necessary.

Thanks!

Alisha Benjamin
Assistant General Counsel



N.C. Department of Insurance
1201 Mail Service Center
Raleigh, NC 27699-1202
919.807.6654

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1 11 NCAC 12 .0332 is amended as published in 39:16 NCR 1098-1099 as follows:

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3 **11 NCAC 12 .0332 REVIEW/AUDIT OF THIRD PARTY ADMINISTRATORS**

4 (a) Definitions. As used in this rule:

5 (1) "Certification" means the certification required by G.S. 58-56-26(c).

6 (2) "Insurer" has the same meaning as in G.S. 58-56-2(4).

7 (3) "Third party administrator" or "TPA" has the same meaning as in G.S. 58-56-2(5).

8 (b) ~~For the certification submitted on July 1, 2010, the~~ The insurer shall submit a certification signed by an officer of
9 the insurer, ~~which identifies the name and federal tax identification number of the TPA that is the subject of the~~
10 ~~certification. The and the~~ certification shall contain the following language:

11 "I, (name and title of the officer of the insurer), am familiar with the requirements of G.S. 58-56-26(c), and hereby
12 certify that (insurance company full licensed name and federal tax identification number) performed a ~~review, an on-~~
13 ~~site audit, review, and an audit, or both~~ in accordance with G.S. 58-56-26(c) for every third party administrator
14 identified in or attached to this certification for the reporting calendar year ~~2009~~."

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

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

19 (1) An assessment of the TPA's business practices and procedures and evaluations of all of the
20 following:

- 21 (A) The TPA's compliance with provisions of the written agreement with the insurer;
- 22 (B) The TPA's compliance and adherence to the TPA's internal policies and procedures for
23 contract management, claims administration, and general administration, if applicable;
- 24 (C) The TPA's performance of claims adjudication and payment, if applicable;
- 25 (D) The TPA's performance of underwriting services, if applicable; and
- 26 (E) The TPA's performance of collecting premiums or other monies; and

27 (2) A written summary of the objectives and scope of the review or ~~on-site audit~~ and the results of the
28 review or ~~on-site audit~~, including a corrective action plan addressing any deficiencies found during
29 the review or ~~on-site audit~~.

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

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

36 (1) The insurer's name as it appears on the insurer's license or certificate of authority and the insurer's
37 federal tax identification number;

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

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

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

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

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

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22 *History Note: Authority G.S. 58-2-40; 58-56-26;*
23 *Eff. July 1, 2010;*
24 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, ~~2018~~.*
25 *2018;*
26 *Amended Eff. April 1, 2026*

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Burgos, Alexander N

From: Ascher, Seth M
Sent: Monday, March 2, 2026 3:02 PM
To: Benjamin, Alisha; Funderburk, Amy
Cc: Burgos, Alexander N
Subject: RFC for DOI March 2026
Attachments: Department of Insurance RFC March 26.docx

Good afternoon,

I'm the attorney who reviewed the Rules submitted by the Department of Insurance for the March 2026 RRC meeting. The RRC will formally review these Rules at its meeting on Thursday, March 26, 2026, at 10:00 a.m. The meeting will be a hybrid of in-person and WebEx attendance, and an invite should be sent to you as we get close to the meeting. If there are any other representatives from your agency who want to attend virtually, let me know prior to the meeting, and we will get invites out to them as well.

Attached is my initial Request for Changes Pursuant to G.S. 150B-21.10. Please submit your responses, the revised Rules, and forms to me via email, no later than 5 p.m. on March 13, 2026.

Please let me know if you have any questions of concerns.

Seth Ascher

Counsel to the North Carolina Rules Review Commission
Office of Administrative Hearings
(984) 236-1934

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