

NORTH CAROLINA REGISTER

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August 1, 2018

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Contact List for Rulemaking Questions or Concerns

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

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

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NORTH CAROLINA REGISTER
Publication Schedule for January 2018 – December 2018

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
32:13	01/02/18	12/06/17	01/17/18	03/05/18	03/20/18	04/19/18	05/01/18	09/29/18
32:14	01/16/18	12/19/17	01/31/18	03/19/18	03/20/18	04/19/18	05/01/18	10/13/18
32:15	02/01/18	01/10/18	02/16/18	04/02/18	04/20/18	05/17/18	06/01/18	10/29/18
32:16	02/15/18	01/25/18	03/02/18	04/16/18	04/20/18	05/17/18	06/01/18	11/12/18
32:17	03/01/18	02/08/18	03/16/18	04/30/18	05/21/18	06/21/18	07/01/18	11/26/18
32:18	03/15/18	02/22/18	03/30/18	05/14/18	05/21/18	06/21/18	07/01/18	12/10/18
32:19	04/02/18	03/09/18	04/17/18	06/01/18	06/20/18	07/19/18	08/01/18	12/28/18
32:20	04/16/18	03/23/18	05/01/18	06/15/18	06/20/18	07/19/18	08/01/18	01/11/19
32:21	05/01/18	04/10/18	05/16/18	07/02/18	07/20/18	08/16/18	09/01/18	01/26/19
32:22	05/15/18	04/24/18	05/30/18	07/16/18	07/20/18	08/16/18	09/01/18	02/09/19
32:23	06/01/18	05/10/18	06/16/18	07/31/18	08/20/18	09/20/18	10/01/18	02/26/19
32:24	06/15/18	05/24/18	06/30/18	08/14/18	08/20/18	09/20/18	10/01/18	03/12/19
33:01	07/02/18	06/11/18	07/17/18	08/31/18	09/20/18	10/18/18	11/01/18	03/29/19
33:02	07/16/18	06/22/18	07/31/18	09/14/18	09/20/18	10/18/18	11/01/18	04/12/19
33:03	08/01/18	07/11/18	08/16/18	10/01/18	10/22/18	11/15/18	12/01/18	04/28/19
33:04	08/15/18	07/25/18	08/30/18	10/15/18	10/22/18	11/15/18	12/01/18	05/12/19
33:05	09/04/18	08/13/18	09/19/18	11/05/18	11/20/18	12/13/18	01/01/19	06/01/19
33:06	09/17/18	08/24/18	10/02/18	11/16/18	11/20/18	12/13/18	01/01/19	06/14/19
33:07	10/01/18	09/10/18	10/16/18	11/30/18	12/20/18	01/17/19	02/01/19	06/28/19
33:08	10/15/18	09/24/18	10/30/18	12/14/18	12/20/18	01/17/19	02/01/19	07/12/19
33:09	11/01/18	10/11/18	11/16/18	12/31/18	01/22/19	02/21/19	03/01/19	07/29/19
33:10	11/15/18	10/24/18	11/30/18	01/14/19	01/22/19	02/21/19	03/01/19	08/12/19
33:11	12/03/18	11/07/18	12/18/18	02/01/19	02/20/19	03/21/19	04/01/19	08/30/19
33:12	12/17/18	11/26/18	01/01/19	02/15/19	02/20/19	03/21/19	04/01/19	09/13/19

This document is prepared by the Office of Administrative Hearings as a public service and is not to be deemed binding or controlling.

EXPLANATION OF THE PUBLICATION SCHEDULE

This Publication Schedule is prepared by the Office of Administrative Hearings as a public service and the computation of time periods are not to be deemed binding or controlling. Time is computed according to 26 NCAC 2C .0302 and the Rules of Civil Procedure, Rule 6.

GENERAL

The North Carolina Register shall be published twice a month and contains the following information submitted for publication by a state agency:

- (1) temporary rules;
- (2) text of proposed rules;
- (3) text of permanent rules approved by the Rules Review Commission;
- (4) emergency rules
- (5) Executive Orders of the Governor;
- (6) final decision letters from the U.S. Attorney General concerning changes in laws affecting voting in a jurisdiction subject of Section 5 of the Voting Rights Act of 1965, as required by G.S. 120-30.9H; and
- (7) other information the Codifier of Rules determines to be helpful to the public.

COMPUTING TIME: In computing time in the schedule, the day of publication of the North Carolina Register is not included. The last day of the period so computed is included, unless it is a Saturday, Sunday, or State holiday, in which event the period runs until the preceding day which is not a Saturday, Sunday, or State holiday.

FILING DEADLINES

ISSUE DATE: The Register is published on the first and fifteen of each month if the first or fifteenth of the month is not a Saturday, Sunday, or State holiday for employees mandated by the State Personnel Commission. If the first or fifteenth of any month is a Saturday, Sunday, or a holiday for State employees, the North Carolina Register issue for that day will be published on the day of that month after the first or fifteenth that is not a Saturday, Sunday, or holiday for State employees.

LAST DAY FOR FILING: The last day for filing for any issue is 15 days before the issue date excluding Saturdays, Sundays, and holidays for State employees.

NOTICE OF TEXT

EARLIEST DATE FOR PUBLIC HEARING: The hearing date shall be at least 15 days 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 or until the date of any public hearings held on the proposed rule, whichever is longer.

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



State of North Carolina

ROY COOPER

GOVERNOR

June 26, 2018

EXECUTIVE ORDER NO. 46

NOTICE OF TERMINATION OF EXECUTIVE ORDER NO. 41, EXECUTIVE ORDER NO. 44
AND EXECUTIVE ORDER NO. 45

WHEREAS, Executive Order No. 41, *Declaration of a State of Emergency by the Governor of North Carolina*, issued on April 20, 2018, declared a state of emergency in Guilford and Rockingham counties of North Carolina due to the impacts from a tornado; and

WHEREAS, Executive Order No. 44 as amended, *Declaration of a State of Emergency by the Governor of North Carolina*, issued on May 30, 2018, declared a state of emergency in the following North Carolina counties: Alexander, Alleghany, Ashe, Avery, Burke, Buncombe, Cabarrus, Caldwell, Catawba, Cherokee, Clay, Cleveland, Gaston, Graham, Haywood, Henderson, Iredell, Lincoln, Jackson, Macon, Madison, McDowell, Mecklenburg, Mitchell, Polk, Rowan, Rutherford, Stanly, Swain, Transylvania, Union, Watauga, Wilkes and Yancey due to the impacts from the remnants from Subtropical Storm Alberto; and

WHEREAS, Executive Order No. 45 as amended, *Temporary Suspension of Motor Vehicle Regulations to Ensure Restoration of Utility Services and the Transportation of Essentials*, issued on May 30, 2018, waived the maximum hours of service for drivers transporting supplies and equipment for utility restoration and essentials in commerce, and, with the concurrence of the Council of State, temporarily suspended certain restrictions on vehicles used for utility restoration and carrying essentials on the interstate and intrastate highways due to the impacts from the remnants from Subtropical Storm Alberto.

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

Section 1.

Pursuant to N.C. Gen. Stat. § 166A-19.20(c), the state of emergencies in Executive Order No. 41 and Executive Order No. 44 and the transportation waivers in Executive Order 45 are hereby terminated immediately.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this 26th day of June in the year of our Lord two thousand and eighteen.


Roy Cooper
Governor

ATTEST:


Elaine F. Marshall
Secretary of State





State of North Carolina

ROY COOPER

GOVERNOR

June 29, 2018

EXECUTIVE ORDER NO. 47

ESTABLISHING THE FOOD SAFETY AND DEFENSE TASK FORCE

WHEREAS, the Food Safety and Defense Task Force ("Task Force"), comprised of state and local government officers and staff, academic professionals, and agricultural industry stakeholders, was first established on September 12, 2003 to identify, evaluate, and address vulnerabilities in North Carolina's food-supply system and agricultural industry; and

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

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

WHEREAS, the United States Food and Drug Administration ("FDA") has extensively reviewed the Task Force's response efforts during the 2007 recall, which have since become a national model, and been adopted by several states and federal agencies; and

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

WHEREAS, the Task Force will endorse the 2017 FDA Food Code to ensure the State's retail food safety inspection process remains current; and

WHEREAS, the Task Force is funded through a \$10,000 a year grant from the FDA ("the Grant") that must be renewed every five years, with the current project period running from September 9, 2015 through August 31, 2020.

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. Establishment

The Food Safety and Defense Task Force, which was terminated by the terms of Exec. Order No. 92, 30 N.C. Reg. 2133-2134 (April 15, 2016), *Reestablishing the Food Safety and Defense Task Force*, issued on March 15, 2016, is hereby reinstated.

Section 2. Purpose

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

Section 3. Membership

- a. The Governor shall appoint members to the Task Force as follows:
 1. The Secretary of the North Carolina Department of Environmental Quality ("DEQ"), or designee;
 2. The Secretary of DHHS, or designee;
 3. The Secretary of the North Carolina Department of Public Safety, or designee;
 4. Representatives from the University of North Carolina System; and
 5. Representatives from other government agencies, private industry, and other public members associated with the State's food-supply system or agricultural industry (collectively referred to as "Appointed Members").
- b. Appointed Members shall serve at the Governor's pleasure.
- c. The Secretary of DHHS and the Secretary of DEQ, or their respective designees, shall serve as co-chairs of the Task Force. Vacancies created by Appointed Members shall be filled by the Governor.
- d. The North Carolina Commissioner of Agriculture or his designee is formally invited to serve as a member and co-chair on the Task Force.

Section 4. Meetings

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

Section 5. Committees

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

Section 6. Duties

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

- a. Conduct focused studies on the vulnerability of the State's food system and make recommendations that would, if implemented, accomplish or address the following:
 1. Improve the safety and defense of the food system by, among other things, reducing the potential threat and impact of terrorism on the food system; and
 2. Improve food safety and defense mitigation and response plans; and
 3. Implement and coordinate the training for key stakeholders in the State's food-supply system that incorporates the findings from these studies.
- b. Recommend legislation and policy aimed at improving the ability of state departments and agencies to protect the State's food supply and agricultural industry base, including legislation that would protect sensitive and proprietary information pertaining to the State's food-supply system, safety and defense vulnerability data, and defense plans that, if compromised, would increase the State's food-supply system's exposure to criminal or terrorist acts.
- c. Recommend necessary adjustments to improve the ability and capacity of state departments and agencies to protect the State's food-supply system and agricultural industry.
- d. Prepare an annual report to the Governor no later than December 20th each year that includes recommendations or proposals for changes in laws, rules, policies, and programs that the Task Force determines are appropriate to enhance food safety and defense in the State.

Section 7. Miscellaneous

- a. The Task Force's expenditures, if any, shall be funded exclusively by the Grant, and shall comply with state law and the rules and policies of the Office of State Budget and Management.

- b. The Task Force shall make reasonable efforts to ensure its work product is shared and disseminated in a manner that does not reveal any more information about vulnerabilities in the State's food system and agricultural industry than is absolutely necessary.
- c. Notwithstanding Section 7.b., the Task Force does not assume nor does this Executive Order impose any legally enforceable duties on the Task Force in carrying out its duties.
- d. DHHS shall provide administrative and staff support services to the Task Force.

Section 8. Effect and Duration


This Executive Order shall be effective immediately. It shall remain in effect until August 21, 2020, pursuant to N.C. Gen. Stat. § 147-16.2, or until rescinded, whichever occurs first. All other executive orders or portions of executive orders inconsistent herewith are hereby rescinded.

IN WITNESS WHEREOF, I have hereunto signed my named and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this the 29th day of June in the year of our Lord two thousand and eighteen.



Roy Cooper
Governor

ATTEST:



Rodney S. Maddox
Chief Deputy Secretary of State



Note from the Codifier: The notices published in this Section of the NC Register include the text of proposed rules. The agency must accept comments on the proposed rule(s) for at least 60 days from the publication date, or until the public hearing, or a later date if specified in the notice by the agency. If the agency adopts a rule that differs substantially from a prior published notice, the agency must publish the text of the proposed different rule and accept comment on the proposed different rule for 60 days. Statutory reference: G.S. 150B-21.2.

TITLE 10A – DEPARTMENT OF HEALTH AND HUMAN SERVICES

Notice is hereby given in accordance with G.S. 150B-21.2 that the Department of Health and Human Services/Director, DHSR intends to amend the rules cited as 10A NCAC 14C .2101 and .2103.

Link to agency website pursuant to G.S. 150B-19.1(c):
<http://www2.ncdhhs.gov/dhsr/ruleactions.html>

Proposed Effective Date: December 1, 2018

Public Hearing:

Date: September 27, 2018

Time: 10:00 a.m.

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

Reason for Proposed Action: Several subject matters are addressed in the State Medical Facilities Plan (SMFP). The operating room need methodology was changed in the 2018 SMFP that was signed by the governor on December 11, 2017 and became effective January 1, 2018. Temporary rules became effective February 1, 2018 to implement the SMFP. Permanent amendments are now proposed to existing Certificate of Need rules to complement or be made consistent with the 2018 SMFP. The specific subject area being addressed by these proposed rule changes are the criteria and standards for Surgical Services and Operating Rooms. The changes include clarification and alphabetization of the definitions, deletion of non-applicable terms used in the rules of this Section, and addition of definitions to reference the terminology in the SMFP. The performance standards have been revised to reference the Operating Room Need Methodology in the SMFP for applicants proposing to increase the number of operating rooms in a service area.

Comments may be submitted to: Nadine Pfeiffer, 809 Ruggles Drive, 2701 Mail Service Center, Raleigh, NC 27699-2701; email DHSR.RulesCoordinator@dhhs.nc.gov

Comment period ends: October 1, 2018

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 written objections to the Rules Review Commission after the adoption of the Rule. 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 those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-431-3000.

Fiscal impact (check all that apply).

- ☒ **State funds affected**
- ☐ **Environmental permitting of DOT affected**
- ☐ **Analysis submitted to Board of Transportation**
- ☒ **Local funds affected**
- ☐ **Substantial economic impact (≥\$1,000,000)**
- ☒ **Approved by OSBM**
- ☐ **No fiscal note required by G.S. 150B-21.4**

CHAPTER 14 - DIRECTOR, DIVISION OF HEALTH SERVICE REGULATION

SUBCHAPTER 14C – CERTIFICATE OF NEED REGULATIONS

SECTION .2100 – CRITERIA AND STANDARDS FOR SURGICAL SERVICES AND OPERATING ROOMS

10A NCAC 14C .2101 DEFINITIONS

The following definitions apply to all rules in this Section:

- (1) ~~"Ambulatory surgical facility" means a facility as defined in G.S. 131E 176(1b).~~ "Approved operating rooms" means those operating rooms that were approved for a certificate of need by the Healthcare Planning and Certificate of Need Section (Agency) prior to the date on which the applicant's proposed project was submitted to the Agency, but that have not been licensed.
- (2) ~~"Operating room" means a room as defined in G.S. 131E 176(18c), which includes an inpatient operating room, an outpatient or ambulatory surgical operating room, or a shared operating room.~~ "Dedicated C-section operating room" means an operating room as defined in Chapter 6 in the 2018 State Medical Facilities Plan. For purposes of this Section, Chapter 6 in the 2018 State Medical Facilities Plan is hereby incorporated by reference including subsequent amendments and editions. This document is available at no cost at <https://www.ncdhhs.gov/dhsr/ncsmfp/index.html>.
- (3) ~~"Ambulatory surgical program" means a program as defined in G.S. 131E 176(1e).~~

- "Existing operating rooms" means those operating rooms in ambulatory surgical facilities and hospitals that were reported in the Ambulatory Surgical Facility License Renewal Application Form or in the Hospital License Renewal Application Form submitted to the Acute and Home Care Licensure and Certification Section of the Division of Health Service Regulation, and that were licensed prior to the beginning of the review period.
- (4) ~~"Dedicated cesarean section operating room" means an operating room as defined in the applicable State Medical Facilities Plan. "Health System" shall have the same meaning as defined in Chapter 6 in the 2018 State Medical Facilities Plan.~~
- (5) ~~"Existing operating rooms" means those operating rooms in ambulatory surgical facilities and hospitals which were reported in the License Application for Ambulatory Surgical Facilities and Programs and in Part III of Hospital Licensure Renewal Application Form submitted to the Acute and Home Care Licensure and Certification Section of the Division of Health Service Regulation and which were licensed and certified prior to the beginning of the review period. "Operating room" means a room as defined in G.S. 131E-176(18c).~~
- (6) ~~"Approved operating rooms" means those operating rooms that were approved for a certificate of need by the Certificate of Need Section prior to the date on which the applicant's proposed project was submitted to the Agency but that have not been licensed. "Operating Room Need Methodology" means the Methodology for Projecting Operating Room Need in Chapter 6 in the 2018 State Medical Facilities Plan.~~
- (7) ~~"Multispecialty ambulatory surgical program" means a program as defined in G.S. 131E-176(15a). "Service area" means the Operating Room Service Area as defined in Chapter 6 in the 2018 State Medical Facilities Plan.~~
- (8) ~~"Outpatient or ambulatory surgical operating room" means an operating room used solely for the performance of surgical procedures which require local, regional or general anesthesia and a period of post operative observation of less than 24 hours.~~
- (9) ~~"Related entity" means the parent company of the applicant, a subsidiary company of the applicant (i.e., the applicant owns 50 percent or more of another company), a joint venture in which the applicant is a member, or a company that shares common ownership with the applicant (i.e., the applicant and another company are owned by some of the same persons).~~
- (10) ~~"Service area" means the Operating Room Service Area as defined in the applicable State Medical Facilities Plan.~~
- (11) ~~"Shared operating room" means an operating room that is used for the performance of both ambulatory and inpatient surgical procedures.~~
- (12) ~~"Specialty area" means an area of medical practice in which there is an approved medical specialty certificate issued by a member board of the American Board of Medical Specialties and includes the following: gynecology, otolaryngology, plastic surgery, general surgery, ophthalmology, urology, orthopedics, and oral surgery.~~
- (13) ~~"Specialty ambulatory surgical program" means a program as defined in G.S. 131E-176(24c).~~
- (14) ~~"Surgical case" means an individual who receives one or more surgical procedures in an operating room during a single operative encounter.~~

Authority G.S. 131E-177(1); 131E-183(b).

10A NCAC 14C .2103 PERFORMANCE STANDARDS

(a) ~~In projecting utilization, the operating rooms shall be considered to be available for use five days per week and 52 weeks a year. An applicant proposing to increase the number of operating rooms (excluding dedicated C-section operating rooms) in a service area shall demonstrate the need for the number of proposed operating rooms in addition to the existing and approved operating rooms in the applicant's health system in the applicant's third full fiscal year following completion of the proposed project based on the Operating Room Need Methodology set forth in the 2018 State Medical Facilities Plan. The applicant is not required to use the population growth factor.~~

(b) ~~A proposal to establish a new ambulatory surgical facility, to establish a new campus of an existing facility, to establish a new hospital, to increase the number of operating rooms in an existing facility (excluding dedicated C section operating rooms), to convert a specialty ambulatory surgical program to a multispecialty ambulatory surgical program or to add a specialty to a specialty ambulatory surgical program shall:~~

- (1) ~~demonstrate the need for the number of proposed operating rooms in the facility which is proposed to be developed or expanded in the third operating year of the project based on the following formula: {[(Number of facility's projected inpatient cases, excluding trauma cases reported by Level I or II trauma centers, cases reported by designated burn intensive care units and cases performed in dedicated open heart and C section rooms, times 3.0 hours) plus (Number of facility's projected outpatient cases times 1.5 hours)] divided by 1872 hours} minus the facility's total number of existing and approved operating rooms and operating rooms proposed in another pending application, excluding one operating room for~~

Level I or II trauma centers, one operating room for facilities with designated burn intensive care units, and all dedicated open heart and C-section operating rooms or demonstrate conformance of the proposed project to Policy AC 3 in the State Medical Facilities Plan titled "Exemption From Plan Provisions for Certain Academic Medical Center Teaching Hospital Projects;" and

(2) The number of rooms needed is determined as follows:

(A) in a service area which has more than 10 operating rooms, if the difference is a positive number greater than or equal to 0.5, then the need is the next highest whole number for fractions of 0.5 or greater and the next lowest whole number for fractions less than 0.5; and if the difference is a negative number or a positive number less than 0.5, then the need is zero;

(B) in a service area which has 6 to 10 operating rooms, if the difference is a positive number greater than or equal to 0.3, then the need is the next highest whole number for fractions of 0.3 or greater and the next lowest whole number for fractions less than 0.3, and if the difference is a negative number or a positive number less than 0.3, then the need is zero; and

(C) in a service area which has five or fewer operating rooms, if the difference is a positive number greater than or equal to 0.2, then the need is the next highest whole number for fractions of 0.2 or greater and the next lowest whole number for fractions less than 0.2; and if the difference is a negative number or a positive number less than 0.2, then the need is zero.

(e) A proposal to increase the number of operating rooms (excluding dedicated C section operating rooms) in a service area shall:

(1) demonstrate the need for the number of proposed operating rooms in addition to the rooms in all of the licensed facilities identified in response to 10A NCAC 14C .2102(b)(2) in the third operating year of the proposed project based on the following formula: $\{[(\text{Number of projected inpatient cases for all the applicant's or related entities' facilities, excluding trauma cases reported by Level I or II trauma centers, cases reported by designated burn intensive care units and cases performed in dedicated open heart and C section rooms, times 3.0 hours}) + (\text{Number of projected outpatient cases for all the applicant's or related entities' facilities times 1.5 hours})] \text{ divided by } 1872$

hours} minus the total number of existing and approved operating rooms and operating rooms proposed in another pending application, excluding one operating room for Level I or II trauma centers, one operating room for facilities with designated burn intensive care units, and all dedicated open heart and C-Section operating rooms in all of the applicant's or related entities' licensed facilities in the service area; and

(2) The number of rooms needed is determined as follows:

(A) in a service area which has more than 10 operating rooms, if the difference is a positive number greater than or equal to 0.5, then the need is the next highest whole number for fractions of 0.5 or greater and the next lowest whole number for fractions less than 0.5; and if the difference is a negative number or a positive number less than 0.5, then the need is zero;

(B) in a service area which has 6 to 10 operating rooms, if the difference is a positive number greater than or equal to 0.3, then the need is the next highest whole number for fractions of 0.3 or greater and the next lowest whole number for fractions less than 0.3, and if the difference is a negative number or a positive number less than 0.3, then the need is zero; and

(C) in a service area which has five or fewer operating rooms, if the difference is a positive number greater than or equal to 0.2, then the need is the next highest whole number for fractions of 0.2 or greater and the next lowest whole number for fractions less than 0.2; and if the difference is a negative number or a positive number less than 0.2, then the need is zero.

(d) An applicant that has one or more existing or approved dedicated C section operating rooms and is proposing to develop an additional dedicated C section operating room in the same facility shall demonstrate that an average of at least 365 C-sections per room were performed in the facility's existing dedicated C section operating rooms in the previous 12 months and are projected to be performed in the facility's existing, approved and proposed dedicated C section rooms during the third year of operation following completion of the project.

(e) An applicant proposing to convert a specialty ambulatory surgical program to a multispecialty ambulatory surgical program or to add a specialty to a specialty ambulatory surgical program shall:

(1) provide documentation to show that each existing ambulatory surgery program in the service area that performs ambulatory surgery in the same specialty area as proposed in the

application is currently utilized an average of at least 1,872 hours per operating room per year, excluding dedicated open heart and C Section operating rooms. The hours utilized per operating room shall be calculated as follows: ~~{(Number of projected inpatient cases, excluding open heart and C sections performed in dedicated rooms, times 3.0 hours) plus (Number of projected outpatient cases times 1.5 hours)}~~ divided by the number of operating rooms, excluding dedicated open heart and C Section operating rooms; and demonstrate the need in the third operating year of the project based on the following formula: ~~{(Total number of projected outpatient cases for all ambulatory surgery programs in the service area times 1.5 hours) divided by 1872 hours} minus the total number of existing, approved and proposed outpatient or ambulatory surgical operating rooms and shared operating rooms in the service area. The need is demonstrated if the difference is a positive number greater than or equal to one, after the number is rounded to the next highest number for fractions of 0.50 or greater.~~

(2)

(b) The applicant shall document the assumptions and provide data supporting the methodology used for each projection in this Rule.

Authority G.S. 131E-177; 131E-183(b).

TITLE 14B – DEPARTMENT OF PUBLIC SAFETY

Notice is hereby given in accordance with G.S. 150B-21.2 that the Alcoholic Beverage Control Commission intends to adopt the rules cited as 14B NCAC 15A .2201-.2205.

Link to agency website pursuant to G.S. 150B-19.1(c):
www.abc.nc.gov

Proposed Effective Date: December 1, 2018

Public Hearing:

Date: October 10, 2018

Time: 10:00 a.m.

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

Reason for Proposed Action: To adopt permanent rules to replace the temporary rules that became effective February 23, 2018 regulating the sale of certain alcoholic beverages at auction as a result of amendments to the law and the enactment of G.S. 18B-1002.1 by the General Assembly in S.L. 2017-87, Section 3.

Comments may be submitted to: Walker Reagan, 400 East Tryon Road, Raleigh, NC 27610, phone (919)779-8367, fax (919)661-6165, email walker.reagan@abc.nc.gov

Comment period ends: October 10, 2018 at 10:00 a.m.

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 written objections to the Rules Review Commission after the adoption of the Rule. 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 those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-431-3000.

Fiscal impact (check all that apply).

- ☐ State funds affected
- ☐ Environmental permitting of DOT affected
- ☐ Analysis submitted to Board of Transportation
- ☐ Local funds affected
- ☐ Substantial economic impact (≥\$1,000,000)
- ☐ Approved by OSBM
- ☒ No fiscal note required by G.S. 150B-21.4

CHAPTER 15 - ALCOHOLIC BEVERAGE CONTROL COMMISSION

SUBCHAPTER 15A - ORGANIZATIONAL RULES: POLICIES AND PROCEDURES

SECTION .2200 – SPECIAL ONE-TIME PERMITS

14B NCAC 15A .2201 DEFINITIONS

The following definitions apply to this Section:

- (1) "Collector" means a person, other than an industry member, engaged in the collection of one or more wines, decorative decanters of spirituous liquor, or antique spirituous liquors.
- (2) "Decorative decanters of spirituous liquor" means the manufacturer's original sealed decanters, limited in quantities as a specialized limited run or as a limited edition, filled with spirituous liquor by a person issued a permit pursuant to state or federal law.
- (3) "Private sale" means a sale between two collectors, neither of who are required to hold permits pursuant to Chapter 18B of the General Statutes, except for permits issued pursuant to G.S. 18B-1002(a)(4).

Authority G.S. 18B-100; 18B-207; 18B-1002.

14B NCAC 15A .2202 COLLECTOR TRANSPORT OR SALE PERMITS

To qualify for a permit issued pursuant to G.S. 18B-1002(a)(4), in addition to the applicable information required pursuant to G.S. 18B-900, a collector shall submit an application to the Commission that requires the following information:

- (1) the basis for qualification as a collector;
- (2) whether the application is for the transportation or sale of wine or spirituous liquors;
- (3) a list of the specific wine or spirituous liquors being transported, possessed, or sold, including the name, brand, quantity, and volume of each bottle or decanter;
- (4) pictures of the containers of spirituous liquors to be transported, possessed, or sold in sufficient clarity for the content of the labels to be legible;
- (5) if the application is for a sale, the details of the method of sale including whether the sale will be as a special order pursuant to 14B NCAC 15A .1403, by auction, or by private sale, including the name of the buyer if by special order or private sale, or the name of the auctioneer if by auction; and
- (6) certification under oath to the conditions for permits pursuant to G.S. 18B-900.

Authority G.S. 18B-100; 18B-207; 18B-900; 18B-1002.

14B NCAC 15A .2203 PERMISSIBLE SALES UNDER COLLECTOR TRANSPORT OR SALE PERMIT

(a) Sales of wine or spirituous liquor by the holder of a permit issued pursuant to Rule .2202 of this Section shall be subject to the following conditions:

- (1) sales shall only be made to persons at least 21 years of age;
- (2) sales shall only be made as a special order pursuant to 14B NCAC 15A .1403, by auction, or by private sale;
- (3) sales shall be conducted subject to the dates, time, place, and manner specified in the permit;
- (4) no sales shall be made to a person who is intoxicated as defined in 14B NCAC 15B .0101(2); and
- (5) the quantity of wine or spirituous liquor sold to a single buyer shall not be in excess of the limits set forth in G.S. 18B-303, unless the buyer of the wine or spirituous liquor has a valid permit issued pursuant to G.S. 18B-1002(a)(4).

(b) The wine or spirituous liquor sold pursuant to a permit issued pursuant to this Rule shall remain in the possession of the collector until transferred to the buyer.

(c) A permit issued pursuant to G.S. 18B-1002(a)(4) is not required for sales of wine or spirituous liquors by auction pursuant to G.S. 18B-1002.1.

Authority G.S. 18B-100; 18B-207; 18B-1002.

14B NCAC 15A .2204 SPECIAL AUCTION PERMITS

(a) To qualify for a permit issued pursuant to G.S. 18B-1002.1, in addition to the applicable information required pursuant to G.S. 18B-900, an auction firm or auctioneer licensed pursuant to Chapter 85B of the General Statutes shall submit an application to the Commission that requires the following information:

- (1) a copy of the applicable active license issued by the North Carolina Auctioneers Commission;
- (2) the details of the date, time, duration, place, and manner of the auction;
- (3) a list of the specific wine or spirituous liquors which may be subject to auction, including the name, brand, quantity, and volume of each bottle or decanter; and
- (4) pictures of the containers of spirituous liquors to be sold in sufficient clarity for the content of the labels to be legible.

(b) No permit is required pursuant to G.S. 18B-1002.1 for sale at auction of alcoholic beverages pursuant to a permit issued pursuant to G.S. 18B-1002(a)(1), (2) or (3), or a permit issued pursuant to G.S. 18B-1002(a)(4) when the auction is conducted on the collector's premises and the alcoholic beverages remain in the possession of the collector until transferred to the buyer.

Authority G.S. 18B-100; 18B-207; 18B-900; 18B-1002.1.

14B NCAC 15A .2205 CONDITIONS OF SALE UNDER SPECIAL AUCTION PERMITS

Sales at auction of wine or spirituous liquor by the holder of a permit issued pursuant to Rule .2204 of this Section shall be subject to the following conditions:

- (1) the auctioneer shall be in physical possession of the wine or spirituous liquor subject to sale at auction;
- (2) sales shall only be made to persons at least 21 years of age;
- (3) sales shall be conducted subject to the date, time, place, and manner specified in the permit;
- (4) no sales shall be made to a person who is intoxicated as defined in 14B NCAC 15B .0101(2);
- (5) delivery of possession of a quantity of wine or spirituous liquor sold pursuant to this Rule to a single buyer in excess of the limits set forth in G.S. 18B-303 shall not be permitted unless the buyer at auction of the wine or spirituous liquor has a valid permit issued pursuant to G.S. 18B-1002(a)(4) or otherwise complies with the provisions of G.S. 18B-303;
- (6) records of sales maintained in accordance with G.S. 85B-7(d) of an auction conducted pursuant to Rule .2204 of this Section shall be open to inspection by the Commission and law enforcement agents in accordance with G.S. 18B-502; and
- (7) purchases by the holder of a permit issued pursuant to Rule .2204 of this Section who bids on and purchases at auction wine or spirituous liquor shall be subject to the conditions.

limitations, and requirements of Items (2), (4), and (5) of this Rule.

Authority G.S. 18B-100; 18B-207; 18B-303; 18B-502; 18B-1002; 18B-1002.1.

TITLE 15A – DEPARTMENT OF ENVIRONMENTAL QUALITY

Notice is hereby given in accordance with G.S. 150B-21.2 and G.S. 150B-21.3A(c)(2)g. that the Marine Fisheries Commission intends to readopt with substantive changes the rules cited as 15A NCAC 03I .0120, 03J .0102, .0108, .0203, .0204, .0206, .0207, .0303, .0304, .0306; 03K .0402-.0405, .0501, .0502, .0504, .0507, .0508; 03L .0208; 03M .0101-.0103, .0501, .0502, .0506, .0507, .0510, .0513, .0515, .0517, .0518, .0520; 03O .0106, .0112, .0501, .0503; 03R .0112 and readopt without substantive changes the rules cited as 15A NCAC 03J .0209; 03K .0503; 03M .0521.

Link to agency website pursuant to G.S. 150B-19.1(c):
<http://portal.ncdenr.org/web/mf/mfc-proposed-rules-links>

Proposed Effective Date: April 1, 2019

Public Hearing:

Date: Wednesday, August 22, 2018

Time: 6:00 p.m.

Location: Division of Marine Fisheries, 5285 Highway 70 West, Morehead City, NC 28557

Reason for Proposed Action:

The agency proposes 41 rules for readoption in accordance with G.S. 150B-21.3A for the Periodic Review and Expiration of Existing Rules. This is the first of four packages of rules in 15A NCAC 03 for readoption over a four-year period. Proposed text shows conforming and minor technical changes to the rules. Additional changes are proposed to 15A NCAC 03O .0501 and .0503 to alphabetize permits and delete two obsolete permits (Albemarle Sound Management Area for River Herring Dealer Permit; Permit to Waive the Requirement to use Turtle Excluder Devices in the Atlantic Ocean). Also, additional changes are proposed to 15A NCAC 03O .0112 to comply with G.S. 113-174.3 as amended by Session Law 2013-360. Conforming changes include eliminating references to the previously-repealed For-Hire Permit and a prior blanket license and replacing them with references to the current Blanket For-Hire Captain's Coastal Recreational Fishing License (CRFL), Blanket For-Hire Vessel CRFL, and Non-Blanket For-Hire Vessel License, as provided in statute. The proposed amendments also clarify requirements for for-hire licenses. No changes are proposed to 15A NCAC 03J .0209, 03K .0503, or 03M .0521; however, the agency opted to publish the text of all rules proposed for readoption to minimize confusion and increase transparency for regulated stakeholders.

Comments may be submitted to: Catherine Blum, P.O. Box 769, Morehead City, NC 28557; phone (252)808-8014; email Catherine.blum@ncdenr.gov

Comment period ends: October 1, 2018

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 written objections to the Rules Review Commission after the adoption of the Rule. 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 those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-431-3000.

Fiscal impact (check all that apply).

- ☐ State funds affected
- ☐ Environmental permitting of DOT affected
- ☐ Analysis submitted to Board of Transportation
- ☐ Local funds affected
- ☐ Substantial economic impact (≥\$1,000,000)
- ☐ Approved by OSBM
- ☐ No fiscal note required by G.S. 150B-21.4
- ☒ No fiscal note required by G.S. 150B-21.3A(d)(2)

CHAPTER 03 - MARINE FISHERIES

SUBCHAPTER 03I – GENERAL RULES

SECTION .0100 – GENERAL RULES

15A NCAC 03I .0120 POSSESSION OR TRANSPORTATION LIMITS

(a) It is unlawful to possess any species of fish ~~which~~ that is subject to ~~size~~ season, size, or harvest restrictions, while ~~actively~~ engaged in a fishing operation, unless all fish taken are in compliance with the restrictions for the waterbody and area being fished. If State season, size, or harvest restrictions that implement or comply with a fishery management plan adopted by the Atlantic States Marine Fisheries Commission, in accordance with G.S. 113-252, or adopted by the United States Secretary of Commerce pursuant to the Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. 1801, et seq. as amended, differ from regulations adopted by these entities, or if there are no federal regulations, the State restrictions shall apply. Nothing provided here is intended to supersede or interrupt the process to address State restrictions that do not implement or comply with a fishery management plan as described in this Paragraph. This process is found in the N.C. Fishery Management Plan for Interjurisdictional Fisheries available at <http://portal.ncdenr.org/web/mf/nc-fisheries-management>.

(b) It is unlawful to import into the ~~state~~ State species of fish native to North Carolina for sale in North Carolina that do not meet ~~established~~ size limits, limits established by rule or

proclamation, except as provided in 15A NCAC 03K .0202(e), .0202, ~~03K .0207~~, ~~03K~~ and .0305, and 03M .0503.

Authority G.S. 113-134; 113-170; 113-170.4; 113-170.5; 113-182; 113-182.1; 113-252; 143B-289.52.

SUBCHAPTER 03J - NETS, POTS, DREDGES, AND OTHER FISHING DEVICES

SECTION .0100 - NET RULES, GENERAL

15A NCAC 03J .0102 NETS OR NET STAKES

It is unlawful to use nets or net stakes:

- (1) ~~Within~~ within 150 yards of any railroad or highway bridge crossing the Northeast Cape Fear River, New River, White Oak River, Trent River, Neuse River, Pamlico River, Roanoke River, and Alligator ~~River~~; River.
- (2) ~~Within~~ within 300 yards of any highway bridge crossing Albemarle Sound, Chowan River, Croatan Sound, Currituck ~~Sound~~ Sound, and Roanoke ~~Sound~~; Sound.
- (3) ~~If~~ if such net stakes are of metallic material.

Authority G.S. 113-134; 113-182; 143B-289.52.

15A NCAC 03J .0108 NETS PULLED BY MORE THAN ONE BOAT VESSEL

It is unlawful to pull or tow a net with more than one ~~boat~~ vessel, except in ~~long-haul fishing~~ long haul operations.

Authority G.S. 113-134; 113-182; 143B-289.52.

SECTION .0200 - NET RULES, SPECIFIC AREAS

15A NCAC 03J .0203 CHOWAN RIVER AND ITS TRIBUTARIES

(a) In the Chowan River and its ~~tributaries~~; tributaries, it is unlawful to:

- (1) ~~It is unlawful to~~ anchor the lead line of any net closer than 50 feet from ~~shore~~ shore, except in the Meherrin River.
- (2) ~~It is unlawful to use pound nets in any tributary creek or within 150 yards of the mouth of any such tributary creek of the Chowan River.~~
- ~~(3)~~(2) ~~It is unlawful to~~ set a pound net within 200 yards parallel to any other pound net in the Chowan River.
- (4) ~~It is unlawful to use a seine within 1,000 yards of the mouth of any creek tributary to the Chowan River.~~
- ~~(5)~~(3) ~~It is unlawful to~~ set a trotline within 100 yards of a pound net from February 1 through May 31.

(b) It is unlawful to set a pound net in any tributary of the Chowan River or within 150 yards of the mouth of any tributary of the Chowan River.

(c) It is unlawful to use a seine within 1,000 yards of the mouth of any tributary of the Chowan River.

Authority G.S. 113-134; 113-182; 143B-289.52.

15A NCAC 03J .0204 CURRITUCK SOUND AND ITS TRIBUTARIES

In Currituck Sound and its ~~tributaries~~; tributaries, it is unlawful to use a seine:

- (1) ~~It is unlawful to use any net or seine with more than one power boat, in long haul operations.~~
- (2) ~~It is unlawful to use any seine or haul net which that~~ is more than 900 yards in length or ~~which that~~ has a mesh length of less than three inches.

Authority G.S. 113-134; 113-182; 143B-289.52.

15A NCAC 03J .0206 SOUTHPORT BOAT HARBOR

It is unlawful to use any commercial fishing gear in the Southport Boat Harbor, Brunswick County, north of a line beginning at a point on the west side of the mouth of the harbor ~~33°54.9656'N—78°01.4477'W~~ 33° 54.9656' N – 78° 01.4477' W running easterly to a point on the east side of the mouth of the harbor ~~33°54.9656'N—78°01.3797'W~~; 33° 54.9656' N – 78° 01.3797' W.

Authority G.S. 113-134; 113-182; 143B-289.52.

15A NCAC 03J .0207 ~~DUKE ENERGY PROGRESS~~ BRUNSWICK NUCLEAR PLANT INTAKE CANAL

It is unlawful to use any commercial fishing equipment in ~~the Duke Energy Progress Brunswick Nuclear Plant Intake Canal~~ a nuclear plant intake canal between the fish diversion screen and the ~~Duke Energy Progress Brunswick Nuclear Plant~~; nuclear plant.

Authority G.S. 113-134; 113-182; 143B-289.52.

15A NCAC 03J .0209 ALBEMARLE SOUND/CHOWAN SOUND AND CHOWAN RIVER RIVER HERRING MANAGEMENT AREAS (NECESSARY WITHOUT SUBSTANTIVE PUBLIC INTEREST)

It is unlawful to use drift gill nets with a mesh length less than three inches from January 1 through May 15 in the Albemarle Sound and Chowan River river herring management areas defined in 15A NCAC 03R .0202.

Authority G.S. 113-134; 113-182; 143B-289.52.

SECTION .0300 - POTS, DREDGES, AND OTHER FISHING DEVICES

15A NCAC 03J .0303 DREDGES AND MECHANICAL METHODS PROHIBITED

- (a) It is unlawful to use any dredge weighing more than 100 ~~pounds~~ pounds, except in the Atlantic Ocean.
- (b) It is unlawful to use more than one dredge per vessel to take oysters or crabs or to use any dredges or mechanical methods between sunset and sunrise.
- (c) It is unlawful to possess oysters aboard a vessel with a dredge weighing more than 100 pounds on board.

Authority G.S. 113-134; 113-182; 143B-289.52.

**15A NCAC 03J .0304 ELECTRICAL FISHING DEVICE
IN CAPE FEAR RIVER**

It is unlawful to take catfish by the use of a hand-operated device generating pulsating electrical current in the Cape Fear River ~~except except:~~

- (1) from 800 feet downstream of Lock and Dam No. 1 in Bladen County to where the Black River joins the Cape Fear River; and
- (2) from July 1 through ~~the last day of February.~~ March 1.

Authority G.S. 113-134; 113-182; 143B-289.52.

15A NCAC 03J .0306 ~~HOOK AND LINE~~ HOOK AND LINE

It is unlawful to use any hook larger than 4/0 from July 1 through September 30 in the ~~internal coastal fishing waters~~ Internal Coastal Waters of Pamlico Sound and its tributaries south of the Albemarle Sound Management Area as defined in 15A NCAC 03R .0201 and north of a line beginning at a point 34° 59.7942' N - 76° 14.6514' W on Camp Point; running easterly to a point 34° 58.7853' N - 76° 09.8922' W on Core Banks while using natural bait from 7:00 p.m. to 7:00 a.m. unless the terminal tackle consists of:

- (1) ~~A circle hook~~ a "circle hook", defined for the purpose of this Rule as a hook with the point of the hook directed perpendicularly back toward the ~~shank, shank~~ and with the barb either compressed or removed; and
- (2) A a fixed sinker not less than two ounces in weight, secured not more than six inches from the fixed weight to the circle hook.

Authority G.S. 113-134; 113-182; 113-201; 143B-289.52.

SUBCHAPTER 03K - OYSTERS, CLAMS, ~~SCALLOPS~~ SCALLOPS, AND MUSSELS

SECTION .0400 - RANGIA CLAMS

15A NCAC 03K .0402 ~~SEASON, SIZE AND HARVEST LIMITS~~

Size and harvest limits applicable to hard clams in ~~15A NCAC 03K Rule .0301 of this Subchapter~~ do not apply to Rangia clams.

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

15A NCAC 03K .0403 DISPOSITION OF MEATS

It is unlawful to dispose of meats from Rangia clams taken ~~in from~~ prohibited (polluted) waters ~~for by a method that will result in~~ human consumption or ~~by a method that will~~ create risk of human consumption.

Authority G.S. 113-134; 113-182; 113-201; 113-202; 143B-298.52.

15A NCAC 03K .0404 ~~DREDGES/MECHANICAL DREDGES AND MECHANICAL METHODS~~ PROHIBITED AND OPEN SEASON

It is unlawful to use mechanical methods for oystering or clamming to take Rangia clams or their shells:

- (1) within 100 feet of any pier;
- (2) within any established bed of submerged aquatic vegetation as defined in 15A NCAC 03I .0101 or salt water cordgrass (Spartina alterniflora) that may exist together or separately;
- (3) in areas designated in 15A NCAC 03R .0108, except on shellfish leases and franchises with a Permit to Use Mechanical Methods for ~~Oysters and Clams~~ Shellfish on Shellfish Leases and Franchises.
- (4) in areas designated in ~~15A NCAC 03K .0204(3) and 03R .0403; Rule .0204 of this Subchapter~~ and 15A NCAC 03R .0103 and
- (5) except in areas and at times specified by proclamation as authorized by ~~15A NCAC 03K .0201 and 03K .0302. Rules .0201 and .0302 of this Subchapter.~~

Authority G.S. 113-134; 113-182; 113-201; 143B-289.52.

15A NCAC 03K .0405 OYSTERS, MUSSELS, HARD CLAMS CLAMS, OR MUSSELS PROHIBITED

~~While taking Rangia clams or their shells from a prohibited (polluted) area it is unlawful to possess any other shellfish, oysters, hard clams, or mussels while taking Rangia clams or their shells from a prohibited (polluted) area.~~

Authority G.S. 113-134; 113-182; 113-201; 143B-289.52.

SECTION .0500 - SCALLOPS

15A NCAC 03K .0501 BAY SCALLOP HARVEST MANAGEMENT

The Fisheries Director may, by proclamation, impose any or all of the following restrictions ~~for commercial or recreational on the taking of bay scallop harvest scallops~~ from public bottom:

- (1) specify time;
- (2) specify area;
- (3) specify means and methods;
- (4) specify open seasons for the taking of bay scallops during the period beginning the last Monday in January and ending the last Friday in May;
- (5) specify size; and
- (6) specify quantity, but shall not exceed possession of more than 15 standard U.S. bushels per person per day or a total of 30 standard U.S. bushels in any combined commercial fishing operation per day.

Authority G.S. 113-134; 113-182; 113-201; 113-221.1; 143B-289.52.

15A NCAC 03K .0502 TAKING BAY SCALLOPS AT NIGHT AND ON WEEKENDS

(a) It is unlawful to take bay scallops between sunset and sunrise, or on Saturdays or Sundays, except as provided in ~~15A NCAC 03K .0405~~ Rule .0105 of this Subchapter.

(b) Bay scallops taken on Saturdays or Sundays from shellfish leases or franchises in accordance with G.S. 113-208 are exempt from this Rule.

Authority G.S. 113-134; 113-182; 143B-289.52.

15A NCAC 03K .0503 ~~PROHIBITED~~ BAY SCALLOP DREDGE PROHIBITED (NECESSARY WITHOUT SUBSTANTIVE PUBLIC INTEREST)

It is unlawful to take bay scallops with dredges weighing more than 50 pounds or equipped with teeth. Any other instrument or device designed to drag the bottom to aid in the taking of bay scallops is also prohibited.

Authority G.S. 113-134; 113-182; 143B-289.52.

15A NCAC 03K .0504 CALICO SCALLOP SEASON HARVEST MANAGEMENT

(a) It is unlawful to land or possess aboard a vessel calico scallops ~~except~~ except, at such times as designated by the Fisheries Director by proclamation.

(b) The Fisheries Director may, by proclamation, impose any or all of the following restrictions on the taking of calico scallops:

- (1) specify time;
- (2) specify area;
- (3) specify means and methods;
- (4) specify season;
- (5) specify size; and
- (6) specify quantity.

Authority G.S. 113-134; 113-182; ~~113-221~~; 113-221.1; 143B-289.52.

15A NCAC 03K .0507 MARKETING SCALLOPS TAKEN FROM SHELLFISH LEASES OR FRANCHISES

(a) It is unlawful to sell, purchase, or possess scallops during the closed season without the lease or franchise holder delivering to the purchaser or other recipient a certification, on a form provided by the ~~Division~~, Division of Marine Fisheries, that the scallops were taken from a valid shellfish lease or franchise. Certification forms shall be furnished by the Division to lease and franchise holders upon request.

(b) It is unlawful for lease or franchise holders or their designees to take or possess scallops from public bottom while possessing aboard a vessel scallops taken from shellfish leases or franchises.

Authority G.S. 113-134; 113-182; 113-201; 143B-289.52.

15A NCAC 03K .0508 SCALLOP SEASON AND AQUACULTURE HARVEST LIMIT EXEMPTIONS

The following exemptions and restrictions shall apply to the possession, sale, purchase, or transport of scallops produced in an aquaculture operation:

- (1) Possession and sale of scallops by a scallop aquaculture operation shall be exempt from restrictions set forth in ~~15A NCAC 03K Rules .0501, .0504, and .0505~~ .0505 of this Section.
- (2) Purchase and possession of scallops from a scallop aquaculture operation shall be exempt from restrictions set forth in ~~15A NCAC 03K Rules .0501, .0504, and .0505~~ .0505 of this Section.
- (3) It is unlawful for a person to possess, sell, purchase, or transport scallops described in Sub-Items (1) and (2) of this Rule unless in compliance with all conditions of the Aquaculture Operation ~~Permit, as set forth in 15A NCAC 03O .0501 and .0503~~ Permit set forth in 15A NCAC 03O .0500.

Authority G.S. 113-134; 113-182; 113-201; 143B-289.52.

SUBCHAPTER 03L – SHRIMPS, CRAB, AND LOBSTER

SECTION .0200 – CRABS

15A NCAC 03L .0208 STONE CRABS ~~(MENIPPE MERCENARIA)~~

It is unlawful to:

- ~~(1) Possess stone crab bodies, or fail to immediately return stone crab bodies to the waters from which taken;~~
- ~~(2) Remove, take or possess any claw(s) from June 15 through August 15;~~
- ~~(3) Remove, take or possess any claw(s) from egg-bearing stone crabs;~~
- ~~(4) Use any device to take stone crabs that can puncture, crush, or injure the crab body, such as gigs, spears, grabs, hooks, or similar devices; and~~
- ~~(5) Remove, take or possess stone crab claw(s) which have a propodus (forearm) less than two and three quarter inches in length, measured by a straight line from the elbow to the tip of the lower immovable finger. The propodus (forearm) is defined as the largest section of the claw assembly that has both a movable and immovable finger and is located farthest from the body of the crab.~~

(a) It is unlawful to possess stone crab bodies or fail to immediately return stone crab bodies to the waters from which taken.

(b) It is unlawful to remove, take, or possess any stone crab claw(s) from June 15 through August 15.

(c) It is unlawful to remove, take, or possess any claw(s) from egg-bearing stone crabs.

(d) It is unlawful to use any device to take stone crabs that can puncture, crush, or injure the crab body, such as gigs, spears, grabs, hooks, or similar devices.

(e) It is unlawful to remove, take, or possess stone crab claw(s) that have a propodus (forearm) less than 2 and ¾ inches in length, measured by a straight line from the elbow to the tip of the lower

immovable finger. For the purpose of this Rule, "propodus" is defined as the largest section of the claw assembly that has both a movable and immovable finger and is located farthest from the body of the crab.

Authority G.S. 113-134; 113-182; 143B-289.52.

SUBCHAPTER 03M - FINFISH

SECTION .0100 – FINFISH, GENERAL

15A NCAC 03M .0101 MUTILATED FINFISH

It is unlawful to possess aboard a vessel or while engaged in fishing any species of finfish that is subject to a size or harvest restriction without having head and tail attached, except:

- (1) mullet when used for bait;
- (2) hickory shad when used for ~~bait~~ bait, provided that not more than two hickory shad per vessel or fishing operation may be cut for bait at any one time; and
- (3) tuna possessed in a commercial fishing operation as provided in ~~45A NCAC 03M .0520~~ Rule .0520 of this Subchapter.

Authority G.S. 113-134; 113-182; 143B-289.52.

15A NCAC 03M .0102 UNMARKETABLE FINFISH

~~(a) It is unlawful to land finfish if in violation of minimum size or possession limits established by rule or proclamation.~~

~~(b)(a)~~ (a) It is unlawful to land finfish finfish, taken in connection with a commercial fishing operations which operation, that are unmarketable as individual finfish by reason of size, except a quantity not exceeding 5,000 pounds per vessel per day may be sold to a dealer that is licensed under G.S. 113-169.3(f)(6), ~~(7)~~ and ~~(7)~~, or (8).

~~(c)(b)~~ (b) ~~Menhaden, Atlantic menhaden,~~ Atlantic thread herring, gizzard shad, and pinfish are exempt from this Rule.

Authority G.S. 113-134; 113-182; 113-185; 143B-289.52.

15A NCAC 03M .0103 MINIMUM SIZE LIMITS

It is unlawful to possess, sell, or purchase finfish under four inches in length except:

- (1) bait in the crab pot fishery in North Carolina with the following provision: such crab pot bait shall not be transported west of U.S. Interstate 95 and when transported, shall be accompanied by documentation showing the name and address of the shipper, the name and address of the consignee, and the total weight of the shipment;
- (2) bait in the finfish fishery with the following provisions:
 - (a) ~~It~~ it is unlawful to possess more than 200 pounds of live finfish or 100 pounds of dead finfish; and
 - (b) ~~Such~~ such finfish bait may not be transported outside ~~the State~~ of North Carolina;

- (3) live finfish in aquaria, provided the finfish are not subject to other minimum size limits under the authority of Marine Fisheries Commission ~~Rule; rules;~~ and
- (4) ~~menhaden, herring,~~ Atlantic menhaden, Atlantic thread herring, gizzard shad, and pinfish.

Bait dealers who possess a valid finfish dealer license from the Division of Marine Fisheries are exempt from Sub-Items (2)(a) and (b) of this Rule. Tolerance of not more than five percent by number of species shall be allowed.

Authority G.S. 113-134; 113-182; 113-185; 143B-289.52.

SECTION .0500 – OTHER FINFISH

15A NCAC 03M .0501 RED DRUM

(a) It is unlawful to remove red drum from any type of net with the aid of any boat hook, gaff, spear, gig, or similar device.

(b) It is unlawful to take or possess red drum taken by any boat hook, gaff, spear, gig, or similar device.

(c) It is unlawful to possess red drum less than 18 inches total length or greater than 27 inches total length.

(d) It is unlawful to possess more than one red drum per person per day taken by ~~hook and line~~ hook and line or for recreational purposes.

(e) ~~The annual~~ Annual commercial harvest limit ~~(September 1 through August 31)~~ for red drum drum is 250,000 pounds. The ~~annual commercial harvest limit is allotted in two periods: September 1 through April 30 at 150,000 pounds, and May 1 through August 31 at 100,000 pounds plus any remainder from the first period allotment. Any annual commercial harvest limit that is exceeded one year will result in the poundage overage being deducted from the subsequent year's commercial harvest limit and the Fisheries Director shall adjust the period allotments accordingly. If the harvest limit is projected to be taken in any period, the Fisheries Director shall, by proclamation, prohibit possession of red drum taken in a commercial fishing operation for the remainder of that period.~~

- (1) The annual commercial harvest limit for red drum is 250,000 pounds.
- (2) The annual commercial harvest limit for red drum is calculated from September 1 through August 31 and is allotted in two periods:
 - (A) September 1 through April 30 at 150,000 pounds; and
 - (B) May 1 through August 31 at 100,000 pounds plus any remainder from the first period allotment.
- (3) If the harvest limit is projected to be taken in any period, the Fisheries Director shall, by proclamation, prohibit possession of red drum taken in a commercial fishing operation for the remainder of that period.
- (4) Any commercial harvest limit that is exceeded one year shall result in the poundage overage being deducted from the subsequent year's commercial harvest limit and the Fisheries Director shall, by proclamation, adjust the

period allotments as described in this Paragraph.

Authority G.S. 113-134; 113-182; ~~113-221~~; 113-221.1; 143B-289.52.

15A NCAC 03M .0502 MULLET

~~(a) The Fisheries Director may, by proclamation, impose any or all of the following restrictions on the taking of mullet:~~

- ~~(1) Specify season;~~
- ~~(2) Specify areas;~~
- ~~(3) Specify quantity;~~
- ~~(4) Specify means/methods;~~
- ~~(5) Specify size.~~

~~(b)(a) It is unlawful to possess more than 200 mullet per person per day for recreational purposes.~~

~~(b) The Fisheries Director may, by proclamation, impose any or all of the following restrictions on the taking of mullet:~~

- ~~(1) specify time;~~
- ~~(2) specify area;~~
- ~~(3) specify means and methods;~~
- ~~(4) specify season;~~
- ~~(5) specify size; and~~
- ~~(6) specify quantity, except as provided in Paragraph (a) of this Rule.~~

Authority G.S. 113-134; 113-182; ~~113-221~~; 113-221.1; 143B-289.52.

15A NCAC 03M .0506 SNAPPER-GROUPER SNAPPER GROUPER COMPLEX

(a) In the Atlantic Ocean, it is unlawful for an individual fishing under a Recreational Commercial Gear License with seines, shrimp trawls, pots, ~~trotlines~~ trotlines, or gill nets to take any species of the ~~Snapper Grouper~~ snapper grouper complex.

(b) The species of the ~~snapper grouper~~ snapper grouper complex listed in the South Atlantic Fishery Management Council Fishery Management Plan for the ~~Snapper Grouper~~ Snapper Grouper Fishery of the South Atlantic Region are hereby incorporated by ~~reference and copies~~ reference. Copies of the plan are available ~~via the Federal Register posted on the Internet at www.safmc.net~~ and at the Division of Marine Fisheries, 3441 Arendell Street, P.O. Box 769, Morehead City, North Carolina ~~28557~~ 28557, at no cost.

Authority G.S. 113-134; 113-182; ~~113-221~~; 143B-289.52.

15A NCAC 03M .0507 BILLFISH

(a) It is unlawful to take blue marlin, white marlin, roundscale spearfish, or sailfish, except by hook and line or for recreational purposes.

~~(a)(b) Marlin: Taken for recreational purposes or by hook and line: For blue marlin, white marlin, and roundscale spearfish, it is unlawful to:~~

- ~~(1) It is unlawful to possess blue marlin less than 99 inches in length from the lower jaw to the fork in the tail.~~

~~(2) It is unlawful to possess white marlin or roundscale spearfish less than 66 inches in length from the lower jaw to the fork in the tail.~~

~~(3) It is unlawful to possess more than one blue marlin, or white marlin, marlin, or roundscale spearfish in the aggregate per vessel per trip.~~

~~(4) It is unlawful to sell or offer for sale blue marlin, or white marlin, marlin, or roundscale spearfish.~~

~~(b)(c) Sailfish: Taken for recreational purposes or by hook and line: For sailfish, it is unlawful to:~~

~~(1) It is unlawful to possess sailfish less than 63 inches in length from the lower jaw to the fork in the tail.~~

~~(2) It is unlawful to possess more than one sailfish per person per day.~~

~~(3) It is unlawful to sell or offer for sale sailfish.~~

Authority G.S. 113-134; 113-182; 143B-289.52.

15A NCAC 03M .0510 AMERICAN EEL

It is unlawful to:

~~(1) Possess, sell or take American eels less than nine inches in length;~~

~~(2) Possess more than 25 American eels per person per day for recreational purposes, except the master and each mate of for hire vessels that hold a valid for hire license may possess 50 eels each per day; and~~

~~(3) Possess American eels from September 1 through December 31 except when taken by baited pots.~~

(a) It is unlawful to possess, sell, or take American eels less than nine inches in length.

(b) It is unlawful to possess more than 25 American eels per person per day for recreational purposes, except the master and each mate of for-hire vessels that hold a valid for-hire license may possess 50 eels each per day.

(c) It is unlawful to possess American eels from September 1 through December 31, except when taken by baited pots.

Authority G.S. 113-134; 113-182; 143B-289.52.

15A NCAC 03M .0513 RIVER HERRING

It is unlawful to take or possess river herring from North Carolina Coastal Fishing Waters. Possession of river herring from sources other than North Carolina Coastal Fishing Waters shall be limited to fish less than or equal to six inches total length when aboard a vessel or while engaged in fishing.

Authority G.S. 113-134; 113-182; ~~113-221~~; 143B-289.52.

15A NCAC 03M .0515 DOLPHIN

(a) It is unlawful to possess for recreational purposes:

(1) more than 10 dolphin per person per day taken by hook and line for recreational purposes, line,

(2) more than 60 dolphin per vessel per day regardless of the number of individuals on board, except headboat vessels with a valid U.S.

Coast Guard Certificate of Inspection may possess 10 dolphin per paying customer.

~~(b) It is unlawful to possess more than 60 dolphin per day per vessel regardless of the number of people on board, except headboat vessels with a valid U.S. Coast Guard Certificate of Inspection may possess 10 dolphin per paying customer.~~

~~(c)(b) It is unlawful to take or possess in a commercial fishing operation without a valid federal Atlantic Dolphin/Wahoo Commercial vessel permit:~~

- ~~(1) to take or possess more than 10 dolphin per person per day, or day.~~
- ~~(2) to sell dolphin, dolphin without a valid Federal Commercial Dolphin/Wahoo vessel permit and either a Standard Commercial Fishing License, a Retired Standard Commercial Fishing License, or a Land or Sell License.~~

Authority G.S. 113-134; 113-182; 143B-289.52.

15A NCAC 03M .0517 WAHOO

(a) It is unlawful to possess for recreational purposes more than two wahoo per person per day taken by hook and ~~line for recreational purposes. line.~~

(b) It is unlawful in a commercial fishing operation:

- (1) without a valid federal Atlantic Dolphin/Wahoo Commercial vessel permit:
 - (A) to take or possess more than two wahoo per person per day, ~~or day.~~
 - (B) to sell wahoo, wahoo without a Federal Commercial Dolphin/Wahoo permit and either a Standard Commercial Fishing License, Retired Standard Commercial Fishing License, or a Land or Sell License.

- (2) to possess aboard a vessel or land more than 500 pounds of wahoo per trip.

~~(c) It is unlawful to possess aboard or land more than 500 pounds of wahoo per trip in a commercial fishing operation.~~

Authority G.S. 113-134; 113-182; 143B-289.52.

15A NCAC 03M .0518 KINGFISH KINGFISHES (SEA MULLET)

The Fisheries Director may, by proclamation, impose any or all of the following restrictions on the taking of kingfishes:

- ~~(1) Specify season;~~
- ~~(2) Specify areas;~~
- ~~(3) Specify quantity;~~
- ~~(4) Specify means and methods;~~
- ~~(5) Specify size.~~
- (1) specify time;
- (2) specify area;
- (3) specify means and methods;
- (4) specify season;
- (5) specify size; and
- (6) specify quantity.

Authority G.S. 113-134; 113-182; ~~113-221; 143B-289.4~~ 113-221.1; 143B-289.52.

15A NCAC 03M .0520 TUNA

(a) It is unlawful to possess for recreational purposes:

- (1) yellowfin tuna less than 27 inches curved fork length.
- (2) bigeye tuna less than 27 inches curved fork length.
- (3) more than three yellowfin tuna per person per day.

~~(a)(b)~~ It is unlawful to possess in a commercial fishing operation:

- (1) ~~Yellowfin~~ yellowfin tuna less than 27 inches curved fork length or 27 inches from the fork of the tail to the forward edge of the cut of beheaded tuna.
- (2) ~~Bigeye~~ bigeye tuna less than 27 inches curved fork length or 27 inches from the fork of the tail to the forward edge of the cut of beheaded tuna.
- (3) ~~Bluefin~~ Atlantic bluefin tuna less than 73 inches curved fork length or 54 inches pectoral fin curved fork length.

~~(b)(4)~~ It is ~~unlawful to possess in a commercial fishing operation tunas~~ tuna subject to a size or harvest restriction without having ~~tails~~ the tail attached.

~~(c) It is unlawful to possess for recreational purposes:~~

- ~~(1) Yellowfin tuna less than 27 inches curved fork length.~~
- ~~(2) Bigeye tuna less than 27 inches curved fork length.~~
- ~~(3) More than three yellowfin tuna per person per day.~~

Authority G.S. 113-134; 113-182; 143B-289.52.

15A NCAC 03M .0521 SHEEPSHEAD (NECESSARY WITHOUT SUBSTANTIVE PUBLIC INTEREST)

The Fisheries Director may, by proclamation, impose any or all of the following restrictions on the taking of sheepshead:

- (1) specify time;
- (2) specify area;
- (3) specify means and methods;
- (4) specify season;
- (5) specify size; and
- (6) specify quantity.

Authority G.S. 113-134; 113-182; 113-221.1; 143B-289.52.

SUBCHAPTER 030 - LICENSES, LEASES, ~~FRANCHISES~~ FRANCHISES, AND PERMITS

SECTION .0100 - LICENSES

15A NCAC 030 .0106 DISPLAY OF LICENSES AND REGISTRATIONS

(a) It is unlawful:

- (1) ~~For~~ for any person to use a vessel required to be registered under the provisions of G.S. 113-168.6 in a commercial fishing operation without a current ~~commercial fishing vessel registration~~ Commercial Fishing Vessel

Registration decal mounted on an exterior surface so as to be plainly visible when viewed from the port side; and

- (2) ~~To to display any commercial fishing vessel registration~~ Commercial Fishing Vessel Registration decal not issued for the vessel displaying it.

(b) It is unlawful to fail to display ~~any fish dealer's licenses~~ a Fish Dealer License required by G.S. ~~113-169.3~~, 113-169.3 or ~~ocean fishing pier license~~ Ocean Fishing Pier License required by G.S. 113-169.4 in prominent public view in each location subject to licensing.

(c) It is unlawful ~~for any person licensed under G.S. 113-174.3~~ to fail to display a current ~~For Hire License~~ for-hire vessel decal on the exterior surface of the vessel so as to be visible when viewed from the port side while engaged in for-hire recreational fishing.

Authority G.S. 113-134; 113-168.6; 113-169.3; 113-169.4; 113-174.1; 113-182; 143B-289.52.

15A NCAC 030 .0112 ~~FOR HIRE COASTAL RECREATIONAL FISHING FOR-HIRE LICENSE~~ REQUIREMENTS

~~(a) It is unlawful to operate a For Hire Vessel unless the vessel operator possesses either the For Hire Blanket Coastal Recreational Fishing License (CRFL) for the vessel or a Division of Marine Fisheries For Hire Fishing Permit for the vessel as provided in 15A NCAC 030 .0503(k).~~

(a) The license requirements for the operator of a vessel engaged in a for-hire operation are set forth in G.S. 113-174.3. Either the vessel owner or the for-hire vessel operator may seek to obtain the applicable for-hire vessel license. Only the vessel owner can seek to obtain the applicable registration and endorsement as set forth in G.S. 113-168.6. For the purposes of this rule, "for-hire vessel operator" includes the holder of a Blanket For-Hire Captain's Coastal Recreational Fishing License, Blanket For-Hire Vessel Coastal Recreational Fishing License, or Non-Blanket For-Hire Vessel License, as set forth in G.S. 113-174.3.

(b) It is unlawful for a ~~For Hire Vessel~~ for-hire vessel operator to operate ~~under the For Hire Blanket CRFL~~ without:

- (1) ~~Holding~~ holding the USCG United States Coast Guard certification required in ~~15A NCAC 030 .0101(a)(13); Rule .0101(a) of this Section;~~
- (2) ~~Having the For Hire Blanket CRFL for the vessel or copy thereof~~ having a copy of the for-hire license in possession and ready at hand for inspection; and
- (3) ~~Having~~ having current picture identification in possession and ready at hand for inspection.

(c) It is unlawful for ~~the holder of the For Hire Blanket CRFL~~ a for-hire vessel operator to fail to participate in and provide accurate information as requested by the Division of Marine Fisheries for biological sampling in accordance with 15A NCAC 031.0113 and for survey programs; ~~programs administered by the Division of Marine Fisheries.~~

(d) It is unlawful to fail to display ~~a current For Hire Blanket CRFL decal mounted on an exterior surface of the vessel so as to be visible when viewed from the port side while engaged in for-hire recreational fishing.~~ Requirements for display of licenses and

registrations for a vessel engaged in for-hire recreational fishing are set forth in Rule .0106 of this Section.

Authority G.S. 113-134; 113-168.6; 113-174.1; 113-174.3; 143B-289.52.

SECTION .0500 - PERMITS

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

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

- (1) the full name, physical address, mailing address, date of birth, and signature of the applicant on the application and, if the applicant is not appearing before a license agent or the designated Division of Marine Fisheries contact, the applicant's signature on the application shall be notarized;
- (2) a current picture identification of applicant, responsible party, or person holding a power of attorney. ~~Acceptable attorney, acceptable~~ forms of which include ~~picture identification are~~ driver's license, North Carolina Identification card issued by the North Carolina Division of Motor Vehicles, military identification card, resident alien card (green card), or passport, or if applying by mail, a copy thereof;
- (3) for permits that require a list of designees, the full names and dates of birth of designees of the applicant who will be acting under the requested permit;
- (4) certification that the applicant and his designees do not have four or more marine or estuarine resource convictions during the previous three years;
- (5) for permit applications from business entities:
 - (A) the business name;
 - (B) the type of business entity: corporation, "educational institution" as defined in 15A NCAC 031 .0101, limited liability company (LLC), partnership, or sole proprietorship;
 - (C) the name, address, and phone number of responsible party and other identifying information required by this Subchapter or rules related to a specific permit;
 - (D) for a corporation applying for a permit in a corporate name, the current articles of incorporation and a current list of corporate officers;
 - (E) for a partnership that is established by a written partnership agreement, a current copy of such agreement shall be provided when applying for a permit; and

- (F) for business entities other than corporations, copies of current assumed name statements if filed with the Register of Deeds office for the corresponding county and copies of current business privilege tax certificates, if applicable; and
- (6) additional information as required for specific permits.
- ~~(b) A permittee shall hold a valid Standard or Retired Standard Commercial Fishing License in order to hold a:~~
- ~~(1) Pound Net Permit;~~
 - ~~(2) Permit to Waive the Requirement to Use Turtle Excluder Devices in the Atlantic Ocean;~~
 - ~~(3) Atlantic Ocean Striped Bass Commercial Gear Permit; or~~
 - ~~(4) Permit for Weekend Trawling for Live Shrimp.~~
 - ~~(A) An individual who is assigned a Standard Commercial Fishing License is the individual required to hold a Permit for Weekend Trawling for Live Shrimp.~~
 - ~~(B) The master designated on the single vessel corporation Standard Commercial Fishing License is the individual required to hold the Permit for Weekend Trawling for Live Shrimp.~~
- (b) A permittee shall hold a valid:
- (1) Standard or Retired Standard Commercial Fishing License in order to hold:
 - (A) an Atlantic Ocean Striped Bass Commercial Gear Permit;
 - (B) a Permit for Weekend Trawling for Live Shrimp; or
 - (C) a Pound Net Set Permit.
 - The master designated on the single vessel corporation Standard Commercial Fishing License is the individual required to hold the Permit for Weekend Trawling for Live Shrimp.
 - (2) Fish Dealer License in the proper category in order to hold dealer permits for monitoring fisheries under a quota or allocation for that category.
- (c) An individual who is assigned a valid Standard Commercial Fishing License with applicable endorsements is eligible to hold any permit that requires a Standard Commercial Fishing License except a Pound Net Set Permit.
- ~~(e)(d)~~ If mechanical methods to take shellfish are used, a permittee and his designees shall hold a valid Standard or Retired Standard Commercial Fishing License with a Shellfish Endorsement in order for a permittee to hold a:
- ~~(1) Permit to Transplant Prohibited (Polluted) Shellfish;~~
 - ~~(2) Permit to Transplant Oysters from Seed Oyster Management Areas;~~
 - ~~(3) Permit to Use Mechanical Methods for Shellfish on Shellfish Leases or Franchises, except as provided in G.S. 113-169.2;~~
- ~~(4) Permit to Harvest Rangia Clams from Prohibited (Polluted) Areas; or~~
 - ~~(5) Depuration Permit.~~
- (1) Depuration Permit;
 - (2) Permit to Harvest Rangia Clams from Prohibited (Polluted) Areas;
 - (3) Permit to Transplant Oysters from Seed Oyster Management Areas;
 - (4) Permit to Transplant Prohibited (Polluted) Shellfish; or
 - (5) Permit to Use Mechanical Methods for Shellfish on Shellfish Leases or Franchises, except as provided in G.S. 113-169.2.
- ~~(d)(e)~~ If mechanical methods to take shellfish are not used, a permittee and his designees shall hold a valid Standard or Retired Standard Commercial Fishing License with a Shellfish Endorsement or a Shellfish License in order for a permittee to hold a:
- ~~(1) Permit to Transplant Prohibited (Polluted) Shellfish;~~
 - ~~(2) Permit to Transplant Oysters from Seed Oyster Management Areas;~~
 - ~~(3) Permit to Harvest Rangia Clams from Prohibited (Polluted) Areas; or~~
 - ~~(4) Depuration Permit.~~
- (1) Depuration Permit;
 - (2) Permit to Harvest Rangia Clams from Prohibited (Polluted) Areas;
 - (3) Permit to Transplant Oysters from Seed Oyster Management Areas; or
 - (4) Permit to Transplant Prohibited (Polluted) Shellfish.
- ~~(e) A permittee shall hold a valid:~~
- ~~(1) Fish Dealer License in the proper category in order to hold Dealer Permits for Monitoring Fisheries Under a Quota/Allocation for that category; and~~
 - ~~(2) Standard Commercial Fishing License with a Shellfish Endorsement, Retired Standard Commercial Fishing License with a Shellfish Endorsement, or a Shellfish License in order to harvest clams or oysters for depuration.~~
- (f) Aquaculture Operations/Collection Permits: Aquaculture Operation Permit and Aquaculture Collection Permit:
- (1) A permittee shall hold a valid Aquaculture Operation Permit issued by the Fisheries Director to hold an Aquaculture Collection Permit.
 - (2) The permittee or designees shall hold appropriate licenses from the Division of Marine Fisheries for the species harvested and the gear used under the Aquaculture Collection Permit.
- (g) Atlantic Ocean Striped Bass Commercial Gear Permit:
- (1) An applicant for an Atlantic Ocean Striped Bass Commercial Gear Permit shall declare one of the following types of gear for an initial permit and at intervals of three consecutive license years thereafter:

- (A) a gill net;
- (B) a trawl net; or
- (C) a beach seine.

For the purpose of this Rule, a "beach seine" is defined as a swipe net constructed of multi-filament or multi-fiber webbing fished from the ocean beach that is deployed from a vessel launched from the ocean beach where the fishing operation takes place. Gear declarations shall be binding on the permittee for three consecutive license years without regard to subsequent annual permit issuance.

- (2) A person is not eligible for more than one Atlantic Ocean Striped Bass Commercial Gear Permit regardless of the number of Standard Commercial Fishing Licenses, Retired Standard Commercial Fishing Licenses, or assignments held by the person.

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

(i) A permit shall be issued only after the application has been deemed complete by the Division of Marine Fisheries and the applicant certifies to abide by the permit general and specific conditions established under 15A NCAC 03J .0501, .0505, 03K .0103, .0104, .0107, .0111, .0401, ~~03O~~ and Rules .0502, .0502 and .0503, .0503 of this Section, as applicable to the requested permit.

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

- (1) potential threats to public health or marine and estuarine resources regulated by the Marine Fisheries Commission;
- (2) the applicant's demonstration of a valid justification for the permit and a showing of responsibility; and
- (3) the applicant's history of fisheries violations evidenced by eight or more violations in 10 years.

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

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

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

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

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

(p) Permit applications are available at all Division of Marine Fisheries offices. ~~Offices.~~

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

15A NCAC 03O .0503 PERMIT CONDITIONS; SPECIFIC

~~(a) Horseshoe Crab Biomedical Use Permit:~~

~~(1) It is unlawful to use horseshoe crabs for biomedical purposes without first obtaining a permit.~~

~~(2) It is unlawful for persons who have been issued a Horseshoe Crab Biomedical Use Permit to fail to submit an annual report on the use of horseshoe crabs to the Division of Marine Fisheries due on February 1 of each year. Such reports shall be filed on forms provided by the Division and shall include a monthly account of the number of crabs harvested, statement of percent mortality up to the point of release, harvest method, number or percent of males and females, and disposition of bled crabs prior to release.~~

~~(3) It is unlawful for persons who have been issued a Horseshoe Crab Biomedical Use Permit to fail to comply with the Atlantic States Marine Fisheries Commission Interstate Fishery Management Plan for Horseshoe Crab. The Atlantic States Marine Fisheries Commission Interstate Fishery Management Plan for Horseshoe Crab is incorporated by reference including subsequent amendments and editions. Copies of this plan are available via the Internet from the Atlantic States Marine Fisheries Commission at <http://www.asmfcr.org/fisheries-management/program-overview> and at the Division of Marine Fisheries, 3441 Arendell Street, P.O. Box 769, Morehead City, NC 28557 at no cost.~~

~~(b) Dealers Permits for Monitoring Fisheries under a Quota/Allocation:~~

~~(1) During the commercial season opened by proclamation or rule for the fishery for which a Dealers Permit for Monitoring Fisheries under a Quota/Allocation permit is issued, it is unlawful for the fish dealers issued such permit to fail to:~~

- ~~(A) fax or send via electronic mail by noon daily, on forms provided by the Division, the previous day's landings for the permitted fishery to the dealer~~

- ~~contact designated on the permit. Landings for Fridays or Saturdays shall be submitted on the following Monday. If the dealer is unable to fax or electronic mail the required information, the permittee shall call in the previous day's landings to the dealer contact designated on the permit.~~
- (B) ~~submit the required form set forth in Subitem (b)(1)(A) of this Rule to the Division upon request or no later than five days after the close of the season for the fishery permitted;~~
- (C) ~~maintain faxes and other related documentation in accordance with 15A NCAC 03I .0114;~~
- (D) ~~contact the dealer contact designated on the permit daily regardless of whether or not a transaction for the fishery for which a dealer is permitted occurred; and~~
- (E) ~~record the permanent dealer identification number on the bill of lading or receipt for each transaction or shipment from the permitted fishery.~~
- (2) **Striped Bass Dealer Permit:**
- (A) ~~It is unlawful for a fish dealer to possess, buy, sell, or offer for sale striped bass taken from the following areas without first obtaining a Striped Bass Dealer Permit validated for the applicable harvest area:~~
- ~~(i) Atlantic Ocean;~~
- ~~(ii) Albemarle Sound Management Area as designated in 15A NCAC 03R .0201; and~~
- ~~(iii) the Joint and Coastal Fishing Waters of the Central/Southern Management Area as designated in 15A NCAC 03R .0201.~~
- (B) ~~No permittee shall possess, buy, sell, or offer for sale striped bass taken from the harvest areas opened by proclamation without having a North Carolina Division of Marine Fisheries issued valid tag for the applicable area affixed through the mouth and gill cover, or, in the case of striped bass imported from other states, a similar tag that is issued for striped bass in the state of origin. North Carolina Division of Marine Fisheries striped bass tags shall not be bought, sold, offered for sale, or transferred. Tags~~
- ~~shall be obtained at the North Carolina Division of Marine Fisheries Offices. The Division of Marine Fisheries shall specify the quantity of tags to be issued based on historical striped bass landings. It is unlawful for the permittee to fail to surrender unused tags to the Division upon request.~~
- (3) **Albemarle Sound Management Area for River Herring Dealer Permit:** ~~It is unlawful to possess, buy, sell, or offer for sale river herring taken from the Albemarle Sound Management Area for River Herring as defined in 15A NCAC 03R .0202 without first obtaining an Albemarle Sound Management Area for River Herring Dealer Permit.~~
- (4) **Atlantic Ocean Flounder Dealer Permit:**
- (A) ~~It is unlawful for a fish dealer to allow vessels holding a valid License to Land Flounder from the Atlantic Ocean to land more than 100 pounds of flounder from a single transaction at their licensed location during the open season without first obtaining an Atlantic Ocean Flounder Dealer Permit. The licensed location shall be specified on the Atlantic Ocean Flounder Dealer Permit and only one location per permit shall be allowed.~~
- (B) ~~It is unlawful for a fish dealer to possess, buy, sell, or offer for sale more than 100 pounds of flounder from a single transaction from the Atlantic Ocean without first obtaining an Atlantic Ocean Flounder Dealer Permit.~~
- (5) **Black Sea Bass North of Cape Hatteras Dealer Permit:** ~~It is unlawful for a fish dealer to purchase or possess more than 100 pounds of black sea bass taken from the Atlantic Ocean north of Cape Hatteras (35° 15.0321' N) per day per commercial fishing operation during the open season unless the dealer has a Black Sea Bass North of Cape Hatteras Dealer Permit.~~
- (6) **Spiny Dogfish Dealer Permit:** ~~It is unlawful for a fish dealer to purchase or possess more than 100 pounds of spiny dogfish per day per commercial fishing operation unless the dealer has a Spiny Dogfish Dealer Permit.~~
- (a) Aquaculture Operation Permit and Aquaculture Collection Permit:
- (1) It is unlawful to conduct aquaculture operations utilizing marine and estuarine resources without first securing an Aquaculture Operation Permit from the Fisheries Director.
- (2) It is unlawful;
- (A) to take marine and estuarine resources from Coastal Fishing Waters for aquaculture purposes without first

- obtaining an Aquaculture Collection Permit from the Fisheries Director;
- (B) to sell, or use for any purpose not related to North Carolina aquaculture, marine and estuarine resources taken under an Aquaculture Collection Permit; or
- (C) to fail to submit to the Fisheries Director an annual report due on December 1 of each year on the form provided by the Division of Marine Fisheries the amount and disposition of marine and estuarine resources collected under authority of an Aquaculture Collection Permit.
- (3) Lawfully permitted shellfish relaying activities authorized by 15A NCAC 03K .0103 and .0104 are exempt from requirements to have an Aquaculture Operation Permit or Aquaculture Collection Permit issued by the Fisheries Director.
- (4) Aquaculture Operation Permits and Aquaculture Collection Permits shall be issued or renewed on a calendar year basis.
- (5) It is unlawful to fail to provide the Division with a listing of all designees acting under an Aquaculture Collection Permit at the time of application.
- (b) Atlantic Ocean Striped Bass Commercial Gear Permit:
- (1) It is unlawful to take striped bass from the Atlantic Ocean in a commercial fishing operation without first obtaining an Atlantic Ocean Striped Bass Commercial Gear Permit.
- (2) It is unlawful to obtain more than one Atlantic Ocean Striped Bass Commercial Gear Permit during a license year, regardless of the number of Standard Commercial Fishing licenses, Retired Standard Commercial Fishing licenses, or assignments.
- (c) Blue Crab Shedding Permit: It is unlawful to possess more than 50 blue crabs in a shedding operation without first obtaining a Blue Crab Shedding Permit from the Division of Marine Fisheries.
- (d) Coastal Recreational Fishing License Exemption Permit:
- (1) It is unlawful for the responsible party seeking exemption from recreational fishing license requirements for eligible individuals to conduct an organized fishing event held in Joint or Coastal Fishing Waters without first obtaining a Coastal Recreational Fishing License Exemption Permit.
- (2) The Coastal Recreational Fishing License Exemption Permit shall only be issued for recreational fishing activity conducted solely for the participation and benefit of one of the following groups of eligible individuals:
- (A) individuals with physical or mental limitations;
- (B) members of the United States Armed Forces and their dependents, upon presentation of a valid military identification card;
- (C) individuals receiving instruction on recreational fishing techniques and conservation practices from employees of state or federal marine or estuarine resource management agencies, or instructors affiliated with educational institutions; and
- (D) disadvantaged youths as set forth in 42 U.S.C. 12511.
- For purposes of this Paragraph, educational institutions include high schools and other secondary educational institutions.
- (3) The Coastal Recreational Fishing License Exemption Permit is valid for the date, time, and physical location of the organized fishing event for which the exemption is granted and the duration of the permit shall not exceed one year from the date of issuance.
- (4) The Coastal Recreational Fishing License Exemption Permit shall only be issued when all of the following, in addition to the information required in Rule .0501 of this Section, is submitted to the Fisheries Director, in writing, at least 30 days prior to the event:
- (A) the name, date, time, and physical location of the event;
- (B) documentation that substantiates local, state, or federal involvement in the organized fishing event, if applicable;
- (C) the cost or requirements, if any, for an individual to participate in the event; and
- (D) an estimate of the number of participants.
- (e) Dealer permits for monitoring fisheries under a quota or allocation:
- (1) During the commercial season opened by proclamation or rule for the fishery for which a dealer permit for monitoring fisheries under a quota or allocation is issued, it is unlawful for a fish dealer issued such permit to fail to:
- (A) fax or send via electronic mail by noon daily, on forms provided by the Division of Marine Fisheries, the previous day's landings for the permitted fishery to the Division; contact information for the Division is provided on the forms; landings for Fridays or Saturdays shall be submitted on the following Monday; if the dealer is unable to fax or electronically mail the required information, the permittee shall call in

- (B) submit the required form set forth in Part (e)(1)(A) of this Rule to the Division upon request or no later than five days after the close of the season for the fishery permitted;

(C) maintain faxes and other related documentation in accordance with 15A NCAC 03I .0114;

(D) contact the Division daily regardless of whether or not a transaction for the fishery for which a dealer is permitted occurred; and

(E) record the permanent dealer identification number on the bill of lading or receipt for each transaction or shipment from the permitted fishery.

(2) Atlantic Ocean Flounder Dealer Permit:

(A) It is unlawful for a fish dealer to allow vessels holding a valid License to Land Flounder from the Atlantic Ocean to land more than 100 pounds of flounder from a single transaction at their licensed location during the open season without first obtaining an Atlantic Ocean Flounder Dealer Permit. The licensed location shall be specified on the Atlantic Ocean Flounder Dealer Permit and only one location per permit shall be allowed.

(B) It is unlawful for a fish dealer to possess, buy, sell, or offer for sale more than 100 pounds of flounder from a single transaction from the Atlantic Ocean without first obtaining an Atlantic Ocean Flounder Dealer Permit.

(3) Black Sea Bass North of Cape Hatteras Dealer Permit: It is unlawful for a fish dealer to purchase or possess more than 100 pounds of black sea bass taken from the Atlantic Ocean north of Cape Hatteras (35° 15.0321' N) per day per commercial fishing operation during the open season unless the dealer has a Black Sea Bass North of Cape Hatteras Dealer Permit.

(4) Spiny Dogfish Dealer Permit: It is unlawful for a fish dealer to purchase or possess more than 100 pounds of spiny dogfish per day per commercial fishing operation unless the dealer has a Spiny Dogfish Dealer Permit.

(5) Striped Bass Dealer Permit:

(A) It is unlawful for a fish dealer to possess, buy, sell, or offer for sale striped bass taken from the following areas without first obtaining a Striped Bass Dealer Permit validated for the applicable harvest area:

(i) Atlantic Ocean;

(ii) Albemarle Sound Management Area as designated in 15A NCAC 03R .0201; or

(iii) the Joint and Coastal Fishing Waters of the Central/Southern Management Area as designated in 15A NCAC 03R .0201.

(B) No permittee shall possess, buy, sell, or offer for sale striped bass taken from the harvest areas opened by proclamation without having a valid Division of Marine Fisheries-issued tag for the applicable area affixed through the mouth and gill cover or, in the case of striped bass imported from other states, a similar tag that is issued for striped bass in the state of origin. Division striped bass tags shall not be bought, sold, offered for sale, or transferred. Tags shall be obtained at the Division offices. The Division shall specify the quantity of tags to be issued based on historical striped bass landings. It is unlawful for the permittee to fail to surrender unused tags to the Division upon request.

(f) Horseshoe Crab Biomedical Use Permit:

(1) It is unlawful to use horseshoe crabs for biomedical purposes without first obtaining a permit.

(2) It is unlawful for persons who have been issued a Horseshoe Crab Biomedical Use Permit to fail to submit an annual report on the use of horseshoe crabs to the Division of Marine Fisheries due on February 1 of each year. Such reports shall be filed on forms provided by the Division and shall include a monthly account of the number of crabs harvested, statement of percent mortality up to the point of release, harvest method, number or percent of males and females, and disposition of bled crabs prior to release.

(3) It is unlawful for persons who have been issued a Horseshoe Crab Biomedical Use Permit to fail to comply with the Atlantic States Marine Fisheries Commission Interstate Fishery Management Plan for Horseshoe Crab. The Atlantic States Marine Fisheries Commission Interstate Fishery Management Plan for Horseshoe Crab is incorporated by reference including subsequent amendments and editions. Copies of this plan are available via the Internet from the Atlantic States Marine Fisheries Commission at <http://www.asmfcr.org/fisheries->

management/program-overview and at the Division of Marine Fisheries, 3441 Arendell Street, P.O. Box 769, Morehead City, NC 28557, at no cost.

(g) Permit for Weekend Trawling for Live Shrimp:

- (1) It is unlawful to take shrimp with trawls from 9:00 p.m. on Friday through 12:00 p.m. (noon) on Saturday without first obtaining a Permit for Weekend Trawling for Live Shrimp.
- (2) It is unlawful for a holder of a Permit for Weekend Trawling for Live Shrimp to use trawls from 12:01 p.m. on Saturday through 4:59 p.m. on Sunday.
- (3) It is unlawful for a permit holder during the timeframe specified in Subparagraph (k)(1) of this Rule to:
 - (A) use trawl nets to take live shrimp except from areas open to the harvest of shrimp with trawls;
 - (B) take shrimp with trawls that have a combined headrope length of greater than 40 feet in Internal Coastal Waters;
 - (C) possess more than one gallon of dead shrimp (heads on) per trip;
 - (D) fail to have a functioning live bait tank or a combination of multiple functioning live bait tanks with aerator(s) and/or circulating water, with a minimum combined tank capacity of 50 gallons; or
 - (E) fail to call the Division of Marine Fisheries Communications Center at 800-682-2632 or 252-726-7021 prior to each weekend use of the permit, specifying activities and location.

(d) Permit to Waive the Requirement to Use Turtle Excluder Devices in the Atlantic Ocean:

- (1) It is unlawful to trawl for shrimp in the Atlantic Ocean without Turtle Excluder Devices installed in trawls within one nautical mile of the shore from Browns Inlet (34° 35.7000' N latitude) to Rich's Inlet (34° 17.6000' N latitude) without a valid Permit to Waive the Requirement to Use Turtle Excluder Devices in the Atlantic Ocean when allowed by proclamation as set forth in 15A NCAC 03I .0107 from April 1 through November 30.
- (2) It is unlawful to tow a shrimp trawl net for more than 55 minutes from April 1 through October 31 and 75 minutes from November 1 through November 30 in the area described in Subparagraph (d)(1) of this Rule when working under this permit. Tow time begins when the doors enter the water and ends when the doors exit the water.
- (3) It is unlawful to fail to empty the contents of each net at the end of each tow.

~~(4) It is unlawful to refuse to take observers upon request by the Division of Marine Fisheries or the National Oceanic and Atmospheric Administration Fisheries.~~

~~(5) It is unlawful to fail to report any sea turtle captured. Reports shall be made within 24 hours of the capture to the Marine Patrol Communications Center by phone. All turtles taken incidental to trawling shall be handled and resuscitated in accordance with requirements specified in 50 Code of Federal Regulations (CFR) 223.206. 50 CFR 223.206 is hereby incorporated by reference, including subsequent amendments and editions. A copy of the reference materials can be found at http://www.ecfr.gov/cgi-bin/text-idx?SID=9088932317e242b91d6a87a47b6bda54&mc=true&tpl=/ecfrbrowse/Title50/50tab_02.tpl, free of charge.~~

~~(e)(h) Pound Net Set Permit: The holder of a Pound Net Set Permit shall follow the Pound Net Set Permit conditions as set forth in Rule 15A NCAC 03J .0505. .0505 sets forth the specific conditions for pound net set permits.~~

~~(f) Aquaculture Operation Permit and Aquaculture Collection Permit:~~

- ~~(1) It is unlawful to conduct aquaculture operations utilizing marine and estuarine resources without first securing an Aquaculture Operation Permit from the Fisheries Director.~~
- ~~(2) It is unlawful:~~
 - ~~(A) to take marine and estuarine resources from Coastal Fishing Waters for aquaculture purposes without first obtaining an Aquaculture Collection Permit from the Fisheries Director;~~
 - ~~(B) to sell, or use for any purpose not related to North Carolina aquaculture, marine and estuarine resources taken under an Aquaculture Collection Permit; and~~
 - ~~(C) to fail to submit to the Fisheries Director an annual report due on December 1 of each year on the form provided by the Division the amount and disposition of marine and estuarine resources collected under authority of an Aquaculture Collection Permit.~~
- ~~(3) Lawfully permitted shellfish relaying activities authorized by 15A NCAC 03K .0103 and .0104 are exempt from requirements to have an Aquaculture Operation Permit or Aquaculture Collection Permit issued by the Fisheries Director.~~
- ~~(4) Aquaculture Operation Permits and Aquaculture Collection Permits shall be issued or renewed on a calendar year basis.~~
- ~~(5) It is unlawful to fail to provide the Division of Marine Fisheries with a listing of all designees~~

~~acting under an Aquaculture Collection Permit at the time of application.~~

~~(g)(i)~~ Scientific or Educational Activity Permit:

- (1) It is unlawful for institutions or agencies seeking exemptions from license, rule, proclamation, or statutory requirements to collect, hold, culture, or exhibit for scientific or educational purposes any marine or estuarine species without first obtaining a Scientific or Educational Activity Permit.
- (2) The Scientific or Educational Activity Permit shall only be issued for collection methods and possession allowances approved by the Division of Marine Fisheries.
- (3) The Scientific or Educational Activity Permit shall only be issued for approved activities conducted by or under the direction of Scientific or Educational institutions as defined in Rule 15A NCAC 03I .0101.
- (4) It is unlawful for the responsible party issued a Scientific or Educational Activity Permit to fail to submit an annual report on collections and, if authorized, sales to the Division of Marine Fisheries due on December 1 of each year unless otherwise specified on the permit. The reports shall be filed on forms provided by the Division. Scientific or Educational Activity permits shall be issued on a calendar year basis.
- (5) It is unlawful to sell marine or estuarine species taken under a Scientific or Educational Activity Permit without:
 - (A) the required license for such sale;
 - (B) an authorization stated on the permit for such sale; and
 - (C) providing the information required in Rule 15A NCAC 03I .0114 if the sale is to a licensed fish dealer.
- (6) It is unlawful to fail to provide the Division of Marine Fisheries a listing of all designees acting under a Scientific or Educational Activity Permit at the time of application.
- (7) The permittee or designees utilizing the permit shall call the Division of Marine Fisheries Communications Center at 800-682-2632 or 252-726-7021 not later than 24 hours prior to use of the permit, specifying activities and location.

~~(h)(j)~~ Under Dock Oyster Culture Permit:

- (1) It is unlawful to cultivate oysters in containers under docks for personal consumption without first obtaining an Under Dock Oyster Culture Permit.
- (2) An Under Dock Oyster Culture Permit shall be issued only in accordance with provisions set forth in G.S. 113-210(c).
- (3) The applicant shall complete and submit an examination, with a minimum of 70 percent correct answers, based on an educational package provided by the Division of Marine

Fisheries pursuant to G.S. 113-210(j). The examination demonstrates the applicant's knowledge of:

- (A) the application process;
 - (B) permit criteria;
 - (C) basic oyster biology and culture techniques;
 - (D) shellfish harvest area closures due to pollution;
 - (E) safe handling practices;
 - (F) permit conditions; and
 - (G) permit revocation criteria.
- (4) Action by an Under Dock Oyster Culture Permit holder to encroach on or usurp the legal rights of the public to access public trust resources in Coastal Fishing Waters shall result in permit revocation.

~~(i) Atlantic Ocean Striped Bass Commercial Gear Permit:~~

- ~~(1) It is unlawful to take striped bass from the Atlantic Ocean in a commercial fishing operation without first obtaining an Atlantic Ocean Striped Bass Commercial Gear Permit.~~
- ~~(2) It is unlawful to use a single Standard Commercial Fishing License, including assignments, to obtain more than one Atlantic Ocean Striped Bass Commercial Gear Permit during a license year.~~

~~(j) Coastal Recreational Fishing License Exemption Permit:~~

- ~~(1) It is unlawful for the responsible party seeking exemption from recreational fishing license requirements for eligible individuals to conduct an organized fishing event held in Joint or Coastal Fishing Waters without first obtaining a Coastal Recreational Fishing License Exemption Permit.~~
- ~~(2) The Coastal Recreational Fishing License Exemption Permit shall only be issued for recreational fishing activity conducted solely for the participation and benefit of one of the following groups of eligible individuals:~~
 - ~~(A) individuals with physical or mental limitations;~~
 - ~~(B) members of the United States Armed Forces and their dependents, upon presentation of a valid military identification card;~~
 - ~~(C) individuals receiving instruction on recreational fishing techniques and conservation practices from employees of state or federal marine or estuarine resource management agencies, or instructors affiliated with educational institutions; and~~
 - ~~(D) disadvantaged youths as set forth in U.S. Code 42 § 12511.~~

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

- ~~(3) The Coastal Recreational Fishing License Exemption Permit is valid for the date, time,~~

and physical location of the organized fishing event for which the exemption is granted and the duration of the permit shall not exceed one year from the date of issuance.

- (4) ~~The Coastal Recreational Fishing License Exemption Permit shall only be issued when all of the following, in addition to the information required in 15A NCAC 03O .0501, is submitted to the Fisheries Director, in writing, at least 30 days prior to the event:~~

- ~~(A) the name, date, time, and physical location of the event;~~
- ~~(B) documentation that substantiates local, state, or federal involvement in the organized fishing event, if applicable;~~
- ~~(C) the cost or requirements, if any, for an individual to participate in the event; and~~
- ~~(D) an estimate of the number of participants.~~

(k) Permit for Weekend Trawling for Live Shrimp:

- (1) ~~It is unlawful to take shrimp with trawls from 9:00 p.m. on Friday through 12:00 p.m. (noon) on Saturday without first obtaining a Permit for Weekend Trawling for Live Shrimp.~~
- (2) ~~It is unlawful for a holder of a Permit for Weekend Trawling for Live Shrimp to use trawls from 12:01 p.m. on Saturday through 4:59 p.m. on Sunday.~~
- (3) ~~It is unlawful for a permit holder during the timeframe specified in Subparagraph (k)(1) of this Rule to:~~
 - ~~(A) use trawl nets to take live shrimp except from areas open to the harvest of shrimp with trawls;~~
 - ~~(B) take shrimp with trawls that have a combined headrope length of greater than 40 feet in Internal Coastal Waters;~~
 - ~~(C) possess more than one gallon of dead shrimp (heads on) per trip;~~
 - ~~(D) fail to have a functioning live bait tank or a combination of multiple functioning live bait tanks with aerator(s) and/or circulating water, with a minimum combined tank capacity of 50 gallons; and~~
 - ~~(E) fail to call the Division of Marine Fisheries Communications Center at 800-682-2632 or 252-726-7021 prior to each weekend use of the permit, specifying activities and location.~~

SECTION .0100 - DESCRIPTIVE BOUNDARIES

15A NCAC 03R .0112 ATTENDED GILL NET AREAS

(a) The attended gill net areas referenced in 15A NCAC 03J .0103(g) are delineated in the following areas:

- (1) Pamlico River, west of a line beginning at a point 35° 27.5768' N - 76° 54.3612' W on Ragged Point; running southwesterly to a point 35° 26.9176' N - 76° 55.5253' W on Mauls Point;
- (2) ~~Within~~ within 200 yards of any shoreline in Pamlico River and its tributaries east of a line beginning at a point 35° 27.5768' N - 76° 54.3612' W on Ragged Point; running southwesterly to a point 35° 26.9176' N - 76° 55.5253' W on Mauls Point; and west of a line beginning at a point 35° 22.3622' N - 76° 28.2032' W on Roos Point; running southerly to a point at 35° 18.5906' N - 76° 28.9530' W on Pamlico Point;
- (3) Pungo River, east of the northern portion of the Pantego Creek breakwater and a line beginning at a point 35° 31.7198' N - 76° 36.9195' W on the northern side of the breakwater near Tooleys Point; running southeasterly to a point 35° 30.5312' N - 76° 35.1594' W on Durants Point;
- (4) ~~Within~~ within 200 yards of any shoreline in Pungo River and its tributaries west of the northern portion of the Pantego Creek breakwater and a line beginning at a point 35° 31.7198' N - 76° 36.9195' W on the northern side of the breakwater near Tooleys Point; running southeasterly to a point 35° 30.5312' N - 76° 35.1594' W on Durants Point; and west of a line beginning at a point 35° 22.3622' N - 76° 28.2032' W on Roos Point; running southerly to a point at 35° 18.5906' N - 76° 28.9530' W on Pamlico Point;
- (5) Neuse River and its tributaries northwest of the Highway 17 highrise bridge;
- (6) Trent River and its tributaries; and
- (7) ~~Within~~ within 200 yards of any shoreline in Neuse River and its tributaries east of the Highway 17 highrise bridge and south and west of a line beginning on Maw Point at a point 35° 09.0407' N - 76° 32.2348' W; running southeasterly near the Maw Point Shoal Marker "2" to a point 35° 08.1250' N - 76° 30.8532' W; running southeasterly near the Neuse River Entrance Marker "NR" to a point 35° 06.6212' N - 76° 28.5383' W; running southerly to a point 35° 04.4833' N - 76° 28.0000' W near Point of Marsh in Neuse River. In Core and Clubfoot creeks, the Highway 101 Bridge constitutes the attendance boundary.

(b) The attended gill net areas referenced in 15A NCAC 03J .0103(h) are delineated in the following Internal Coastal Waters and Joint Fishing Waters of the state south of a line beginning on

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

SUBCHAPTER 03R - DESCRIPTIVE BOUNDARIES

Roanoke Marshes Point at a point 35° 48.3693' N - 75° 43.7232' W; running southeasterly to a point 35° 44.1710' N - 75° 31.0520' W on Eagles Nest Bay to the South Carolina State line:

- (1) ~~All~~ all primary nursery areas described in 15A NCAC 03R .0103, all permanent secondary nursery areas described in 15A NCAC 03R .0104, and no-trawl areas described in 15A NCAC 03R .0106(2), (4), (5), (8), (10), (11), and (12);
- (2) ~~In~~ in the area along the Outer Banks, beginning at a point 35° 44.1710' N - 75° 31.0520' W on Eagles Nest Bay; running northwesterly to a point 35° 45.1833' N - 75° 34.1000' W west of Pea Island; running southerly to a point 35° 40.0000' N - 75° 32.8666' W west of Beach Slough; running southeasterly and passing near Beacon "2" in Chicamcomico Channel to a point 35° 35.0000' N - 75° 29.8833' W west of the Rodanthe Pier; running southwesterly to a point 35° 28.4500' N - 75° 31.3500' W on Gull Island; running southerly to a point 35° 22.3000' N - 75° 33.2000' W near Beacon "2" in Avon Channel ; running southwesterly to a point 35° 19.0333' N - 75° 36.3166' W near Beacon "2" in Cape Channel; running southwesterly to a point 35° 15.5000' N - 75° 43.4000' W near Beacon "36" in Rollinson Channel; running southeasterly to a point 35° 14.9386' N - 75° 42.9968' W near Beacon "35" in Rollinson Channel; running southwesterly to a point 35° 14.0377' N - 75° 45.9644' W near a "Danger" Beacon northwest of Austin Reef; running southwesterly to a point 35° 11.4833' N - 75° 51.0833' W on Legged Lump; running southeasterly to a point 35° 10.9666' N - 75° 49.7166' W south of Legged Lump; running southwesterly to a point 35° 09.3000' N - 75° 54.8166' W near the west end of Clarks Reef; running westerly to a point 35° 08.4333' N - 76° 02.5000' W near Nine Foot Shoal Channel; running southerly to a point 35° 06.4000' N - 76° 04.3333' W near North Rock; running southwesterly to a point 35° 01.5833' N - 76° 11.4500' W near Beacon "HL"; running southerly to a point 35° 00.2666' N - 76° 12.2000' W; running southerly to a point 34° 59.4664' N - 76° 12.4859' W on Wainwright Island; running easterly to a point 34° 58.7853' N - 76° 09.8922' W on Core Banks; running northerly along the shoreline and across the inlets following the COLREGS Demarcation Line to the point of beginning;
- (3) ~~In~~ in Core and Back sounds, beginning at a point 34° 58.7853' N - 76° 09.8922' W on Core Banks; running northwesterly to a point 34° 59.4664' N - 76° 12.4859' W on Wainwright Island; running southerly to a point 34°

58.8000' N - 76° 12.5166' W; running southeasterly to a point 34° 58.1833' N - 76° 12.3000' W; running southwesterly to a point 34° 56.4833' N - 76° 13.2833' W; running westerly to a point 34° 56.5500' N - 76° 13.6166' W; running southwesterly to a point 34° 53.5500' N - 76° 16.4166' W; running northwesterly to a point 34° 53.9166' N - 76° 17.1166' W; running southerly to a point 34° 53.4166' N - 76° 17.3500' W; running southwesterly to a point 34° 51.0617' N - 76° 21.0449' W; running southwesterly to a point 34° 48.3137' N - 76° 24.3717' W; running southwesterly to a point 34° 46.3739' N - 76° 26.1526' W; running southwesterly to a point 34° 44.5795' N - 76° 27.5136' W; running southwesterly to a point 34° 43.4895' N - 76° 28.9411' W near Beacon "37A"; running southwesterly to a point 34° 40.4500' N - 76° 30.6833' W; running westerly to a point 34° 40.7061' N - 76° 31.5893' W near Beacon "35" in Back Sound; running westerly to a point 34° 41.3178' N - 76° 33.8092' W near Buoy "3"; running southwesterly to a point 34° 39.6601' N - 76° 34.4078' W on Shackleford Banks; running easterly and northeasterly along the shoreline and across the inlets following the COLREGS Demarcation lines to the point of beginning;

(4) ~~Within~~ within 200 yards of any shoreline in the area upstream of the 76° 28.0000' W longitude line beginning at a point 35° 22.3752' N - 76° 28.0000' W near Roos Point in Pamlico River; running southeasterly to a point 35° 04.4833' N - 76° 28.0000' W near Point of Marsh in Neuse River; and

(5) ~~Within~~ within 50 yards of any shoreline east of the 76° 28.0000' W longitude line beginning at a point 35° 22.3752' N - 76° 28.0000' W near Roos Point in Pamlico River; running southeasterly to a point 35° 04.4833' N - 76° 28.0000' W near Point of Marsh in Neuse River, except from October 1 through November 30, south and east of Highway 12 in Carteret County and south of a line from a point 34° 59.7942' N - 76° 14.6514' W on Camp Point; running easterly to a point at 34° 58.7853' N - 76° 09.8922' W on Core Banks; to the South Carolina State Line.

Authority G.S. 113-134; 113-173; 113-182; ~~113-224~~; 143B-289.52.

TITLE 21 – OCCUPATIONAL LICENSING BOARDS AND COMMISSIONS

**CHAPTER 18 – BOARD OF EXAMINERS OF
ELECTRICAL CONTRACTORS**

SECTION .0200 - EXAMINATIONS

Notice is hereby given in accordance with G.S. 150B-21.2 that the Board of Examiners of Electrical Contractors intends to amend the rule cited as 21 NCAC 18B .0201.

Link to agency website pursuant to G.S. 150B-19.1(c):
<http://www.ncbeec.org/>

Proposed Effective Date: January 1, 2019

Public Hearing:

Date: September 13, 2018

Time: 8:30 a.m.

Location: State Board of Examiners of Electrical Contractors,
3101 Industrial Drive, Suite 206, Raleigh, NC

Reason for Proposed Action: *The Board seeks to hold a public hearing to consider reduction of the experience required to take the exam for Special Restricted Elevator classification to follow similar reduction of experience requirements for other classifications made previously.*

Comments may be submitted to: Tim Norman, 3101 Industrial Drive, Suite 206, Raleigh, NC 27609; phone (919) 733-9042; fax (919) 733-6105

Comment period ends: October 1, 2018 at 5:00 p.m.

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 written objections to the Rules Review Commission after the adoption of the Rule. 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 those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-431-3000.

Fiscal impact (check all that apply).

- ☐ State funds affected
- ☐ Environmental permitting of DOT affected
Analysis submitted to Board of Transportation
- ☐ Local funds affected
- ☐ Substantial economic impact (≥\$1,000,000)
- ☐ Approved by OSBM
- ☒ No fiscal note required by G.S. 150B-21.4

**SUBCHAPTER 18B - BOARD'S RULES FOR THE
IMPLEMENTATION OF THE ELECTRICAL
CONTRACTING LICENSING ACT**

**21 NCAC 18B .0201 REQUIREMENTS FOR ALL
EXAMINATION APPLICANTS**

(a) To take an examination in any electrical contracting license classification, the applicant shall:

- (1) be 18 years of age;
- (2) submit the required duly filed application as defined in Rule .0210 of this Section;
- (3) submit with the application written statements from two persons, attesting to the applicant's good character; and
- (4) meet the requirements set out in Paragraph (b) of this Rule.

(b) Examination applicants shall meet the following requirements for the specified license classifications:

- (1) Limited classification. An applicant shall have two years of experience, as defined in Rule .0202 of this Section, of which one year shall be primary experience. The balance of experience may be primary, secondary, or both.
- (2) Intermediate classification. An applicant shall have four years of experience, as defined in Rule .0202 of this Section, of which two and one half years shall be primary experience. The balance of experience may be primary, secondary, or both.
- (3) Unlimited classification. An applicant shall:
 - (A) have five years of experience, as defined in Rule .0202 of this Section, of which four years shall be primary experience. The balance of experience may be primary, secondary, or both; and
 - (B) submit with the application written statements from two persons who are knowledgeable of the applicant's electrical experience, attesting to the applicant's ability to supervise and direct all electrical wiring or electrical installation work of an electrical contracting business in the unlimited classification.
- (4) Single family detached residential dwelling (SP-SFD) classification. An applicant shall have two years of experience, as defined in Rule .0202 of this Section, of which one year shall be primary experience. The balance of experience may be primary, secondary, or both.
- (5) Special restricted fire alarm/low voltage (SP-FA/LV) classification. An applicant shall have two years of experience, as defined in Rule .0202 of this Section, of which one year shall be primary experience. The balance of experience may be primary, secondary, or both. An applicant in this classification may also receive creditable experience for service in any of the

- capacities listed in Rule .0202 that the applicant gained in the low voltage field.
- (6) Special restricted elevator (SP-EL) classification. An applicant shall:
- (A) have ~~four~~ two years of experience, as defined in Rule .0202 of this Section, of which ~~two and one-half years~~ one year shall be primary experience. The balance of experience may be primary, secondary, or both. An applicant in this classification shall also receive creditable experience for service in any of the capacities listed in Rule .0202 that the applicant gained in the elevator field; and
- (B) include on the application information to establish that the applicant is regularly on active duty in, and will be the listed qualified individual for a firm that is primarily engaged in, a lawful elevator business in this State, consistent with G.S. 87-43 and 21 NCAC 18B .0301.
- (7) Special restricted plumbing and heating (SP-PH) classification. An applicant shall:
- (A) have two years of experience, as defined in Rule .0202 of this Section, of which one year shall be primary experience. The balance of experience may be primary, secondary, or both. An applicant in this classification shall also receive creditable experience for service in any of the capacities listed in Rule .0202 that the applicant gained in the plumbing, heating, or air conditioning field; and
- (B) include on the application information verifying that the applicant is regularly on active duty in, and will be the listed qualified individual for a firm that is primarily engaged in, a lawful plumbing, heating, or air conditioning business in this State consistent with G.S. 87-43 and 21 NCAC 18B .0301.
- (8) Special restricted ground water pump (SP-WP) classification. An applicant shall:
- (A) have two years of experience, as defined in Rule .0202 of this Section, of which one year shall be primary experience. The balance of experience may be primary, secondary, or both. An applicant in this classification shall also receive creditable experience for
- service in any of the capacities listed in Rule .0202 that the applicant gained in the ground water pump field; and
- (B) include on the application information to establish that the applicant is regularly on active duty in, and will be the listed qualified individual for a firm that is primarily engaged in, a lawful ground water pump business in this State, consistent with G.S. 87-43 and 21 NCAC 18B .0301.
- (9) Special restricted electric sign (SP-ES) classification. An applicant shall:
- (A) have two years of experience, as defined in Rule .0202 of this Section, of which one year shall be primary experience. The balance of experience be primary, secondary, or both. An applicant in this classification shall also receive creditable experience in any of the capacities listed in Rule .0202 that the applicant gained in the electric sign field; and
- (B) include on the application information to establish that the applicant is regularly on active duty in, and will be the listed qualified individual for a firm that is primarily engaged in, a lawful electric sign business in this State.
- (10) Special restricted swimming pool (SP-SP) classification. An applicant shall:
- (A) have two years of experience, as defined in Rule .0202 of this Section, of which one year shall be primary experience. The balance of experience may be primary, secondary, or both. An applicant in this classification shall also receive creditable experience for service in any of the capacities listed in Rule .0202 that the applicant gained in the swimming pool field; and
- (B) include on the application information verifying that the applicant is regularly on active duty in, and will be the listed qualified individual for a firm that is primarily engaged in, a lawful swimming pool business in this State, consistent with G.S. 87-43 and 21 NCAC 18B .0301.

Authority G.S. 87-42; 87-43.3; 87-43.4; 87-44.

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

Rules approved by the Rules Review Commission at its meeting on June 14, 2018 Meeting.

**REGISTER CITATION TO THE
NOTICE OF TEXT**

AGRICULTURE AND CONSUMER SERVICES, DEPARTMENT OF

<u>Importation Requirements: Cervidae</u>	02 NCAC 52B .0213*	32:06 NCR
<u>Intrastate Requirements: Cervidae</u>	02 NCAC 52C .0701	32:06 NCR

COMMERCE - EMPLOYMENT SECURITY, DIVISION OF

<u>Office Location</u>	04 NCAC 24A .0101*	32:17 NCR
<u>Address Changes and Electronic Address Changes</u>	04 NCAC 24A .0102	32:17 NCR
<u>Addresses for Filing Claims, Appeals, Exceptions, Request...</u>	04 NCAC 24A .0104	32:17 NCR
<u>Filing/Mailing Dates and Use of Forms</u>	04 NCAC 24A .0106	32:17 NCR
<u>Power of Attorney</u>	04 NCAC 24A .0109	32:17 NCR
<u>Written Request Required</u>	04 NCAC 24A .0201	32:17 NCR
<u>Clear Description of Records Required</u>	04 NCAC 24A .0202	32:17 NCR
<u>Determination as to Disclosure</u>	04 NCAC 24A .0203	32:17 NCR
<u>Release of Information to Third Party</u>	04 NCAC 24A .0204*	32:17 NCR
<u>Fees for Copies and Services</u>	04 NCAC 24A .0205	32:17 NCR
<u>Method of Payment</u>	04 NCAC 24A .0206	32:17 NCR
<u>Payment Required Before Information Release</u>	04 NCAC 24A .0207	32:17 NCR
<u>Filing a Claim</u>	04 NCAC 24B .0101	32:17 NCR
<u>Weekly Certifications</u>	04 NCAC 24B .0103	32:17 NCR
<u>Determination by Adjudicator</u>	04 NCAC 24B .0401	32:17 NCR
<u>Determination of Labor Dispute and Referral for Hearing</u>	04 NCAC 24B .0503	32:17 NCR
<u>Setoff Debt Collection Act Notice to Claimant</u>	04 NCAC 24B .0901	32:17 NCR
<u>Claimant Setoff Debt Collection Act Hearings</u>	04 NCAC 24B .0902	32:17 NCR
<u>Notice to Claimant of Referral to Top</u>	04 NCAC 24B .1001	32:17 NCR
<u>Claimant Reevaluation of Debt</u>	04 NCAC 24B .1002	32:17 NCR
<u>Timeliness Exception</u>	04 NCAC 24C .0102*	32:17 NCR
<u>Base Period Employer Denied Noncharging</u>	04 NCAC 24C .0103	32:17 NCR
<u>Appearance by Party</u>	04 NCAC 24C .0201	32:17 NCR
<u>Presenting and Scheduling Appealed Claims</u>	04 NCAC 24C .0202	32:17 NCR
<u>Contents of Appeal to Appeals Section</u>	04 NCAC 24C .0203	32:17 NCR
<u>Disqualification of Appeals Referee</u>	04 NCAC 24C .0208*	32:17 NCR
<u>Controlled Substance Results</u>	04 NCAC 24C .0211	32:17 NCR
<u>Combination Telephone and In-person Hearings</u>	04 NCAC 24C .0213*	32:17 NCR
<u>Withdrawal of Appeal</u>	04 NCAC 24C .0214*	32:17 NCR
<u>New Filing After Withdrawal of Appeal</u>	04 NCAC 24C .0215*	32:17 NCR
<u>Notices, Service, and Legal Representation or Supervision...</u>	04 NCAC 24C .0302*	32:17 NCR
<u>Admission of Out-of-State Attorney to Appear Before Appea...</u>	04 NCAC 24C .0303*	32:17 NCR
<u>Issuance of Subpoenas</u>	04 NCAC 24C .0401	32:17 NCR
<u>Notice to Employer of Potential Charges</u>	04 NCAC 24D .0102*	32:17 NCR
<u>Determination on Requests for Noncharging</u>	04 NCAC 24D .0105	32:17 NCR

<u>Appealing Denial or Request for Noncharging</u>	04 NCAC 24D .0106	32:17 NCR
<u>Determination on Grounds Contained in Protest</u>	04 NCAC 24D .0205	32:17 NCR
<u>Voluntary Election by Employers</u>	04 NCAC 24D .0401	32:17 NCR
<u>Election to Reimburse in Lieu of Contributions</u>	04 NCAC 24D .0402	32:17 NCR
<u>Payment of Employer Taxes</u>	04 NCAC 24D .0403	32:17 NCR
<u>Status Reports</u>	04 NCAC 24D .0602*	32:17 NCR
<u>Transfer of Experience</u>	04 NCAC 24D .0701	32:17 NCR
<u>Application for Compromise</u>	04 NCAC 24D .0801	32:17 NCR
<u>Special Tax Investigations</u>	04 NCAC 24D .0901	32:17 NCR
<u>Request for Redetermination of Tax Rate</u>	04 NCAC 24D .1001	32:17 NCR
<u>Division's Obligations</u>	04 NCAC 24D .1002*	32:17 NCR
<u>Notice to Employer of Referral to Top</u>	04 NCAC 24D .1101	32:17 NCR
<u>Employer Reevaluation of Debt</u>	04 NCAC 24D .1102	32:17 NCR
<u>Setoff Debt Collection Act Notice to Employer</u>	04 NCAC 24D .1103	32:17 NCR
<u>Employer Setoff Debt Collection Act Hearing</u>	04 NCAC 24D .1104	32:17 NCR
<u>Request for Seasonal Determination</u>	04 NCAC 24D .1201*	32:17 NCR
<u>Written Determination</u>	04 NCAC 24D .1202	32:17 NCR
<u>Office Location</u>	04 NCAC 24F .0101	32:17 NCR
<u>Addresses for Notice and Electronic Notice</u>	04 NCAC 24F .0102	32:17 NCR
<u>Addresses for Filing Appeals, Exceptions, or Requests</u>	04 NCAC 24F .0103	32:17 NCR
<u>Filing/Mailing Dates and Use of Forms</u>	04 NCAC 24F .0104	32:17 NCR
<u>Signatures</u>	04 NCAC 24F .0105	32:17 NCR
<u>Appeal Date</u>	04 NCAC 24F .0106*	32:17 NCR
<u>Timeliness Exception</u>	04 NCAC 24F .0107*	32:17 NCR
<u>Requirements for Appeal Statement to Board of Review</u>	04 NCAC 24F .0201	32:17 NCR
<u>Acknowledgment of Appeal</u>	04 NCAC 24F .0202*	32:17 NCR
<u>Oral Arguments</u>	04 NCAC 24F .0203	32:17 NCR
<u>Legal Representation or Supervision by North Carolina Att...</u>	04 NCAC 24F .0204	32:17 NCR
<u>Introduction of Evidence in Higher Authority Hearings</u>	04 NCAC 24F .0205	32:17 NCR
<u>Appealing a Tax Matter</u>	04 NCAC 24F .0301	32:17 NCR
<u>Scheduling Tax Hearings</u>	04 NCAC 24F .0302*	32:17 NCR
<u>Telephone Hearings Before the Board of Review</u>	04 NCAC 24F .0303*	32:17 NCR
<u>Combination Telephone and In-person Hearings before the B...</u>	04 NCAC 24F .0305*	32:17 NCR
<u>Subpoenas</u>	04 NCAC 24F .0307*	32:17 NCR
<u>Conduct of Tax Hearings by the Board of Review</u>	04 NCAC 24F .0309	32:17 NCR
<u>Burden of Proof in Hearings Before the Board of Review</u>	04 NCAC 24F .0310	32:17 NCR
<u>Admission of Out-of-State Attorney to Appear Before Board...</u>	04 NCAC 24F .0311*	32:17 NCR

MEDICAL CARE COMMISSION

<u>Definitions</u>	10A NCAC 13P .0102*	32:11 NCR
<u>EMS System Requirements</u>	10A NCAC 13P .0201*	32:11 NCR
<u>Transport of Stretcher Bound Patients</u>	10A NCAC 13P .0222	32:11 NCR
<u>Specialty Care Transport Program Criteria</u>	10A NCAC 13P .0301	32:11 NCR
<u>Scope of Practice for EMS Personnel</u>	10A NCAC 13P .0505	32:11 NCR
<u>Practice Settings for EMS Personnel</u>	10A NCAC 13P .0506	32:11 NCR
<u>Initial Designation Process</u>	10A NCAC 13P .0904	32:11 NCR
<u>Licensed EMS Providers</u>	10A NCAC 13P .1502	32:11 NCR
<u>EMS Educational Institutions</u>	10A NCAC 13P .1505	32:11 NCR

HHS - MEDICAL ASSISTANCE, DIVISION OF

<u>Notice</u>	10A NCAC 21A .0301*	32:13 NCR
<u>Good Cause for Delayed Hearings</u>	10A NCAC 21A .0302*	32:13 NCR
<u>Appeal Decision</u>	10A NCAC 21A .0303*	32:13 NCR
<u>Effective Date of Assistance</u>	10A NCAC 21B .0204*	32:13 NCR
<u>Transfer or Resources</u>	10A NCAC 21B .0311	32:13 NCR
<u>Notice of Estate Recovery</u>	10A NCAC 21D .0101	32:13 NCR
<u>Permanently Institutionalized</u>	10A NCAC 21D .0102	32:13 NCR
<u>Age 55 and Over</u>	10A NCAC 21D .0103	32:13 NCR
<u>Reconsideration Review</u>	10A NCAC 21D .0201	32:13 NCR
<u>Permanently Institutionalized</u>	10A NCAC 21D .0301	32:13 NCR
<u>Age 55 and Over</u>	10A NCAC 21D .0302	32:13 NCR
<u>Filing Claim Against Estate</u>	10A NCAC 21D .0401	32:13 NCR
<u>Collection of Claims</u>	10A NCAC 21D .0402	32:13 NCR
<u>Recovery Not Cost Effective</u>	10A NCAC 21D .0501	32:13 NCR
<u>Undue Hardship</u>	10A NCAC 21D .0502	32:13 NCR
<u>Determination of Undue Hardship</u>	10A NCAC 21D .0503	32:13 NCR
<u>Institutional Health Services</u>	10A NCAC 22B .0101	32:13 NCR
<u>Coordination with Title XVIII</u>	10A NCAC 22B .0102*	32:13 NCR
<u>Institutional Standards</u>	10A NCAC 22B .0103*	32:13 NCR
<u>Time Limitation</u>	10A NCAC 22B .0104*	32:13 NCR
<u>Overutilizer Identification</u>	10A NCAC 22B .0105	32:13 NCR
<u>Cost Sharing</u>	10A NCAC 22C .0101	32:13 NCR
<u>Medically Needy</u>	10A NCAC 22C .0102	32:13 NCR
<u>Categorically Needy</u>	10A NCAC 22C .0103	32:13 NCR
<u>Co-Payment</u>	10A NCAC 22D .0101	32:13 NCR
<u>Detection</u>	10A NCAC 22F .0105*	32:13 NCR
<u>Confidentiality</u>	10A NCAC 22F .0106*	32:13 NCR
<u>Record Retention</u>	10A NCAC 22F .0107*	32:13 NCR
<u>Definition of Provider Fraud</u>	10A NCAC 22F .0201*	32:13 NCR
<u>Investigation</u>	10A NCAC 22F .0202*	32:13 NCR
<u>Referral to Law Enforcement Agency</u>	10A NCAC 22F .0203*	32:13 NCR
<u>Purpose</u>	10A NCAC 22F .0401	32:13 NCR
<u>Reconsideration Review for Program Abuse</u>	10A NCAC 22F .0402*	32:13 NCR
<u>Recoupment</u>	10A NCAC 22F .0601*	32:13 NCR
<u>Termination</u>	10A NCAC 22F .0605	32:13 NCR
<u>Technique for Protecting Medicaid Overpayments</u>	10A NCAC 22F .0606*	32:13 NCR
<u>Recipient Management Lock-In System</u>	10A NCAC 22F .0704*	32:13 NCR
<u>Recoupment of Overpayments</u>	10A NCAC 22F .0706*	32:13 NCR
<u>Reimbursement Methods for State-Operated Facilities</u>	10A NCAC 22G .0108	32:13 NCR
<u>Nursing Home Provider Assessment</u>	10A NCAC 22G .0109	32:13 NCR
<u>Administrative Reconsideration Reviews</u>	10A NCAC 22G .0208	32:13 NCR
<u>Mental Health Clinic Services</u>	10A NCAC 22G .0502	32:13 NCR
<u>Health Maintenance Organizations and Prepaid Health Plans</u>	10A NCAC 22G .0504	32:13 NCR
<u>Reimbursement Principles, Hearing Aids/Accessories/Batteries</u>	10A NCAC 22G .0509	32:13 NCR
<u>Appeals by Medicaid Beneficiaries</u>	10A NCAC 22H .0101	32:13 NCR
<u>Requests for Formal and Informal Appeals</u>	10A NCAC 22H .0102	32:13 NCR

<u>Time Limits on Requests for Recipient/Applicant Informal ...</u>	10A NCAC 22H .0103	32:13 NCR
<u>Payment Pending Appeals</u>	10A NCAC 22H .0104	32:13 NCR
<u>Dismissal of Appeal</u>	10A NCAC 22H .0105	32:13 NCR
<u>Definitions</u>	10A NCAC 22H .0201*	32:13 NCR
<u>Transfer and Discharge Requirements</u>	10A NCAC 22H .0202	32:13 NCR
<u>Initiating a Hearing</u>	10A NCAC 22H .0203*	32:13 NCR
<u>Hearing Procedures</u>	10A NCAC 22H .0204*	32:13 NCR
<u>Hearing Officer's Final Decision</u>	10A NCAC 22H .0205*	32:13 NCR
<u>Definitions</u>	10A NCAC 22H .0301*	32:13 NCR
<u>PASRR Requirements</u>	10A NCAC 22H .0302*	32:13 NCR
<u>Initiating a Hearing</u>	10A NCAC 22H .0303	32:13 NCR
<u>Hearing Procedures</u>	10A NCAC 22H .0304*	32:13 NCR
<u>Hearing Officer's Final Decision</u>	10A NCAC 22H .0305*	32:13 NCR
<u>Exit Conference</u>	10A NCAC 22I .0102	32:13 NCR
<u>Reconsideration Review</u>	10A NCAC 22I .0104	32:13 NCR
<u>Petition for Reconsideration Review</u>	10A NCAC 22J .0102*	32:13 NCR
<u>Reconsideration Review Process</u>	10A NCAC 22J .0103*	32:13 NCR
<u>Petition for a Contested Case Hearing</u>	10A NCAC 22J .0104	32:13 NCR
<u>Definition</u>	10A NCAC 22K .0101	32:13 NCR
<u>Agreement</u>	10A NCAC 22K .0102*	32:13 NCR
<u>Presumptive Determinations</u>	10A NCAC 22K .0103	32:13 NCR
<u>Program Definition</u>	10A NCAC 22L .0101	32:13 NCR
<u>Coordination Fee</u>	10A NCAC 22L .0102*	32:13 NCR
<u>Access To Care</u>	10A NCAC 22L .0103	32:13 NCR
<u>Enrollment</u>	10A NCAC 22L .0104*	32:13 NCR
<u>Program Definition</u>	10A NCAC 22L .0201*	32:13 NCR
<u>Access to Care</u>	10A NCAC 22L .0203*	32:13 NCR
<u>Definitions</u>	10A NCAC 22N .0101	32:13 NCR
<u>Signed Agreements</u>	10A NCAC 22N .0102	32:13 NCR
<u>Definitions</u>	10A NCAC 22N .0201	32:13 NCR
<u>Disclosure of Ownership</u>	10A NCAC 22N .0202	32:13 NCR
<u>Enrollment Restrictions</u>	10A NCAC 22N .0203*	32:13 NCR
<u>Definitions</u>	10A NCAC 22N .0301	32:13 NCR
<u>Disclosure of Ownership</u>	10A NCAC 22N .0302	32:13 NCR
<u>Enrollment Restrictions</u>	10A NCAC 22N .0303	32:13 NCR
<u>Psychiatric Admission Criteria/Medicaid Beneficiaries Und...</u>	10A NCAC 22O .0112	32:13 NCR

PUBLIC HEALTH, COMMISSION FOR

<u>Authorized Vendors</u>	10A NCAC 43D .0708*	32:12 NCR
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CRIMINAL JUSTICE EDUCATION AND TRAINING STANDARDS COMMISSION

<u>Criminal Justice Instructor Training</u>	12 NCAC 09B .0209*	32:18 NCR
<u>Comprehensive Written Examination - Basic Law Enforcement...</u>	12 NCAC 09B .0406*	32:18 NCR
<u>Instructor Training</u>	12 NCAC 09G .0414*	32:12 NCR

ALCOHOLIC BEVERAGE CONTROL COMMISSION

<u>Payment of Fees and Fines</u>	14B NCAC 15A .0104*	32:18 NCR
<u>Applications for Permits: General Provisions</u>	14B NCAC 15B .0102*	32:18 NCR

<u>Additional Permit Limitations and Requirements</u>	14B NCAC 15B .0103*	32:18 NCR
<u>Alcohol Seller/Server Training</u>	14B NCAC 15B .0113*	32:18 NCR
<u>Prohibited Statements in Advertising or on Labels</u>	14B NCAC 15B .1003*	32:18 NCR
<u>Administrative Fines: Payment</u>	14B NCAC 15B .1104*	32:18 NCR

ENVIRONMENTAL MANAGEMENT COMMISSION

<u>Purpose</u>	15A NCAC 02D .1001*	32:12 NCR
<u>Applicability</u>	15A NCAC 02D .1002*	32:12 NCR
<u>Definitions</u>	15A NCAC 02D .1003*	32:12 NCR
<u>On-Board Diagnostic Standards</u>	15A NCAC 02D .1005*	32:12 NCR
<u>Sale and Service of Analyzers</u>	15A NCAC 02D .1006*	32:12 NCR
<u>Heavy Duty Diesel Engine Requirements</u>	15A NCAC 02D .1008*	32:12 NCR
<u>Purpose</u>	15A NCAC 02D .1101	32:13 NCR
<u>Applicability</u>	15A NCAC 02D .1102*	32:13 NCR
<u>Definitions</u>	15A NCAC 02D .1103	32:13 NCR
<u>Toxic Air Pollutant Guidelines</u>	15A NCAC 02D .1104*	32:13 NCR
<u>Facility Reporting, Recordkeeping</u>	15A NCAC 02D .1105*	32:13 NCR
<u>Determination of Ambient Air Concentration</u>	15A NCAC 02D .1106*	32:13 NCR
<u>Multiple Facilities</u>	15A NCAC 02D .1107*	32:13 NCR
<u>Multiple Pollutants</u>	15A NCAC 02D .1108*	32:13 NCR
<u>112(J) Case by Case Maximum Achievable Control Technology</u>	15A NCAC 02D .1109*	32:13 NCR
<u>National Emission Standards for Hazardous Air Pollutants</u>	15A NCAC 02D .1110*	32:13 NCR
<u>Maximum Achievable Control Technology</u>	15A NCAC 02D .1111*	32:13 NCR
<u>112(g) Case by Case Maximum Achievable Control Technology</u>	15A NCAC 02D .1112*	32:13 NCR
<u>Purpose and Scope</u>	15A NCAC 02D .1201*	32:13 NCR
<u>Definitions</u>	15A NCAC 02D .1202*	32:13 NCR
<u>Hazardous Waste Incinerators</u>	15A NCAC 02D .1203	32:13 NCR
<u>Large Municipal Waste Combustors</u>	15A NCAC 02D .1205	32:13 NCR
<u>Hospital, Medical, and Infectious Waste Incinerators</u>	15A NCAC 02D .1206*	32:13 NCR
<u>Conical Incinerators</u>	15A NCAC 02D .1207	32:13 NCR
<u>Other Incinerators</u>	15A NCAC 02D .1208*	32:13 NCR
<u>Commercial and Industrial Solid Waste Incineration Units</u>	15A NCAC 02D .1210*	32:12 NCR
<u>Other Solid Waste Incineration Units</u>	15A NCAC 02D .1211	32:13 NCR
<u>Small Municipal Waste Combustors</u>	15A NCAC 02D .1212	32:13 NCR
<u>Applicability</u>	15A NCAC 02Q .0701*	32:13 NCR
<u>Exemptions</u>	15A NCAC 02Q .0702*	32:13 NCR
<u>Definitions</u>	15A NCAC 02Q .0703*	32:13 NCR
<u>New Facilities</u>	15A NCAC 02Q .0704*	32:13 NCR
<u>Modifications</u>	15A NCAC 02Q .0706*	32:13 NCR
<u>Previously Permitted Facilities</u>	15A NCAC 02Q .0707*	32:13 NCR
<u>Compliance Schedule for Previously Unknown Toxic Air Poll...</u>	15A NCAC 02Q .0708*	32:13 NCR
<u>Demonstrations</u>	15A NCAC 02Q .0709*	32:13 NCR
<u>Public Notice and Opportunity for Public Hearing</u>	15A NCAC 02Q .0710*	32:13 NCR
<u>Emission Rates Requiring a Permit</u>	15A NCAC 02Q .0711*	32:13 NCR
<u>Calls by the Director</u>	15A NCAC 02Q .0712*	32:13 NCR
<u>Pollutants with Otherwise Applicable Federal Standards or...</u>	15A NCAC 02Q .0713	32:13 NCR

WILDLIFE RESOURCES COMMISSION

<u>Form and Contents of Petition</u>	15A NCAC 10A .0401*	n/a G.S. 150B-21.5
<u>Beaufort County</u>	15A NCAC 10F .0303*	32:07 NCR
<u>Bladen County</u>	15A NCAC 10F .0304*	32:07 NCR
<u>Brunswick County</u>	15A NCAC 10F .0305*	32:14 NCR
<u>Columbus County</u>	15A NCAC 10F .0309*	32:11 NCR
<u>Dare County</u>	15A NCAC 10F .0310*	32:11 NCR
<u>Granville, Vance and Warren Counties</u>	15A NCAC 10F .0311*	32:11 NCR
<u>Hyde County</u>	15A NCAC 10F .0313*	32:07 NCR
<u>New Hanover County</u>	15A NCAC 10F .0314*	32:07 NCR
<u>Forsyth: Rockingham And Stokes Counties</u>	15A NCAC 10F .0316*	32:11 NCR
<u>Stanly County</u>	15A NCAC 10F .0317*	32:11 NCR
<u>Warren County</u>	15A NCAC 10F .0318*	32:07 NCR
<u>Washington County</u>	15A NCAC 10F .0319*	32:07 NCR
<u>Union County</u>	15A NCAC 10F .0322*	32:11 NCR
<u>Davidson County</u>	15A NCAC 10F .0324*	32:11 NCR
<u>Pamlico County</u>	15A NCAC 10F .0326*	32:07 NCR
<u>Montgomery County</u>	15A NCAC 10F .0327*	32:11 NCR
<u>Martin County</u>	15A NCAC 10F .0328*	32:07 NCR
<u>Rowan County</u>	15A NCAC 10F .0329*	32:11 NCR
<u>Carteret County</u>	15A NCAC 10F .0330*	32:07 NCR
<u>Wake County</u>	15A NCAC 10F .0331*	32:07 NCR
<u>Alexander County</u>	15A NCAC 10F .0332*	32:11 NCR
<u>Mecklenburg and Gaston Counties</u>	15A NCAC 10F .0333*	32:11 NCR
<u>Guilford County</u>	15A NCAC 10F .0334*	32:07 NCR
<u>Northampton and Warren Counties</u>	15A NCAC 10F .0336*	32:11 NCR
<u>Franklin County</u>	15A NCAC 10F .0337*	32:07 NCR
<u>Caldwell County</u>	15A NCAC 10F .0338*	32:14 NCR
<u>Town of Lake Lure</u>	15A NCAC 10F .0341*	32:11 NCR
<u>Chatham County</u>	15A NCAC 10F .0343*	32:11 NCR
<u>Town Of River Bend</u>	15A NCAC 10F .0344*	32:11 NCR
<u>Chatham and Wake Counties</u>	15A NCAC 10F .0345*	32:11 NCR
<u>Arrowhead Beach Subdivision</u>	15A NCAC 10F .0346*	32:11 NCR
<u>Craven County</u>	15A NCAC 10F .0347*	32:11 NCR
<u>Person County</u>	15A NCAC 10F .0348*	32:07 NCR
<u>Durham and Wake Counties</u>	15A NCAC 10F .0350*	32:14 NCR
<u>New Bern</u>	15A NCAC 10F .0351*	32:07 NCR
<u>Camden County</u>	15A NCAC 10F .0352*	32:07 NCR
<u>Pitt County</u>	15A NCAC 10F .0354*	32:07 NCR
<u>Perquimans County</u>	15A NCAC 10F .0355*	32:07 NCR
<u>Pasquotank County</u>	15A NCAC 10F .0356*	32:07 NCR
<u>Nash County</u>	15A NCAC 10F .0357*	32:11 NCR
<u>Jones County</u>	15A NCAC 10F .0358*	32:11 NCR
<u>Wilkes County</u>	15A NCAC 10F .0361*	32:07 NCR
<u>Harnett County</u>	15A NCAC 10F .0362*	32:11 NCR
<u>Caswell and Person Counties</u>	15A NCAC 10F .0363*	32:07 NCR
<u>Greensboro</u>	15A NCAC 10F .0364*	32:07 NCR

<u>Tyrell County</u>	15A NCAC 10F .0365*	32:07 NCR
<u>Town of Nags Head</u>	15A NCAC 10F .0368*	32:07 NCR
<u>Town of Swansboro</u>	15A NCAC 10F .0369*	32:11 NCR
<u>City of Rocky Mount</u>	15A NCAC 10F .0370*	32:07 NCR
<u>Belews Lake in Stokes County</u>	15A NCAC 10F .0371*	32:11 NCR
<u>Cube Yadkin Generation Safety Zones</u>	15A NCAC 10F .0374*	32:07 NCR
<u>Town of Emerald Isle</u>	15A NCAC 10F .0376*	32:11 NCR
<u>General Requirements</u>	15A NCAC 10H .0301	32:14 NCR
<u>Minimum Standards</u>	15A NCAC 10H .0302	32:14 NCR
<u>Forfeiture</u>	15A NCAC 10H .0303	32:14 NCR
<u>Captive Cervid Herd Certification Program</u>	15A NCAC 10H .0304	32:14 NCR

IRRIGATION CONTRACTORS LICENSING BOARD

<u>Complaint Process</u>	21 NCAC 23 .0208*	32:14 NCR
<u>Water Supply</u>	21 NCAC 23 .0503*	32:14 NCR

MEDICAL BOARD

<u>Exceptions</u>	21 NCAC 32R .0103*	32:12 NCR
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OCCUPATIONAL THERAPY, BOARD OF

<u>Definitions</u>	21 NCAC 38 .0103*	32:16 NCR
<u>Approval of Activities for Maintaining Continuing Competence</u>	21 NCAC 38 .0803*	32:16 NCR
<u>Types of Supervision</u>	21 NCAC 38 .0903*	32:16 NCR
<u>Delineation of Clinical Responsibilities</u>	21 NCAC 38 .0905*	32:16 NCR

APPRAISAL BOARD

<u>Continuing Education</u>	21 NCAC 57A .0204*	32:14 NCR
<u>Payment of Fee Required by G.S. 93e-1-7(c)</u>	21 NCAC 57B .0613*	32:14 NCR
<u>Form of Complaints and Other Pleadings</u>	21 NCAC 57C .0101*	32:14 NCR
<u>Registration Renewal</u>	21 NCAC 57D .0202*	32:14 NCR
<u>Compliance Manager</u>	21 NCAC 57D .0303*	32:14 NCR
<u>Removal of an Appraiser from an Appraiser Panel</u>	21 NCAC 57D .0311*	32:14 NCR

RESPIRATORY CARE BOARD

<u>Definitions</u>	21 NCAC 61 .0103*	32:12 NCR
<u>Code of Ethics</u>	21 NCAC 61 .0104*	32:12 NCR
<u>License Number: Display of License</u>	21 NCAC 61 .0301*	32:12 NCR
<u>Grounds for License Denial or Discipline</u>	21 NCAC 61 .0307*	32:12 NCR
<u>Receiving Processing Complaints</u>	21 NCAC 61 .0801*	32:12 NCR

The following rules are subject to Legislative Review.

APPRAISAL BOARD

<u>Licensed Residential and Certified Residential Real Estat...</u>	21 NCAC 57B .0102*	32:14 NCR
<u>Certified General Real Estate Appraiser Course Requirements</u>	21 NCAC 57B .0103*	32:14 NCR

**TITLE 02 - DEPARTMENT OF AGRICULTURE AND
CONSUMER SERVICES**

**02 NCAC 52B .0213 IMPORTATION
REQUIREMENTS: CERVIDS**

(a) No farmed cervids shall be imported into North Carolina from:

- (1) a herd located in a county or its equivalent, if not within the United States or in a territory without counties, where Chronic Wasting Disease ("CWD") has been diagnosed;
- (2) a herd located in a county or its equivalent, if not within the United States or in a territory without counties, that is contiguous to a county or its equivalent, if not within the United States or in a territory without counties, where CWD has been diagnosed; or
- (3) a CWD-positive, exposed, or suspect farmed cervid facility.

(b) Any imported farmed cervid that fails to comply with G.S. 106-549.97, 02 NCAC 52L, or this Rule, shall be deemed a CWD-suspect animal until further investigation by the North Carolina Department of Agriculture and Consumer Services' Veterinary Division.

(c) No CWD-susceptible cervids, as identified by the North Carolina Department of Agriculture and Consumer Services' Veterinary Division or the USDA, shall be imported into North Carolina without first being tested negative for CWD using an antemortem test approved by the USDA.

(d) All cervids entering North Carolina shall be accompanied by all of the following:

- (1) an interstate certificate of veterinary inspection ("ICVI") issued within 30 days prior to arrival;
- (2) the following statement shall also appear on the ICVI: "All cervidae on this certificate originate from a Chronic Wasting Disease (CWD) monitored or certified herd in which these animals have been kept for at least one year or were natural additions. There has been no diagnosis, signs, or epidemiological evidence of CWD in this herd or any herd contributing to this herd for the previous five years."; and
- (3) proof of a negative USDA-approved tuberculosis test for animals six months of age or older conducted within 60 days prior to arrival if the animal originates from a tuberculosis accredited herd. If the animal is six months of age or older and originates from a herd of unknown status, two negative USDA approved tests for tuberculosis shall be required with the second being greater than 90 days from the initial test and within 60 days prior to arrival. If the animal is less than six months of age and from a herd of unknown status, one negative USDA approved tuberculosis test shall be required. The herd of origin and commingled susceptible species shall have had no diagnosis of tuberculosis in the 36 months preceding shipment.

(e) All farmed cervids entering North Carolina shall be accompanied by all of the following:

- (1) individual animal identification required by 02 NCAC 52L .0112 and noted on the ICVI; and
- (2) a valid transportation permit issued by the North Carolina Department of Agriculture and Consumer Services' Veterinary Division.

(f) The State Veterinarian of North Carolina may issue orders prohibiting the importation of certain farmed cervids or issue moratoriums pending the investigation of any threat of disease based on his or her expertise and experience that will pose a risk of spreading disease that will damage or harm the North Carolina farmed cervid industry, including the control or spread of CWD.

*History Note: Authority G.S. 106-307.5; 106-317; 106-399.4; 106-400; 106-549.97(a2);
Eff. August 1, 2002;
Amended Eff. July 1, 2018.*

**02 NCAC 52C .0701 INTRASTATE
REQUIREMENTS: CERVIDAE**

*History Note: Authority G.S. 106-317; 106-400; 106-549.97(a2);
Eff. July 1, 1998;
Amended Eff. August 1, 2004; August 1, 2002;
Amended Eff. January 1, 2016;
Repealed Eff. July 1, 2018.*

TITLE 04 - DEPARTMENT OF COMMERCE

04 NCAC 24A .0101 OFFICE LOCATION

The administrative office of the North Carolina Department of Commerce, Division of Employment Security (hereinafter "DES" or "The Division") is located at 700 Wade Avenue, in Raleigh, North Carolina. The general mailing address is Post Office Box 25903, Raleigh, NC 27611-5903. The office is open to the public during business hours, from 8:00 a.m. to 5:00 p.m., Monday through Friday, except for State holidays as set forth in 25 NCAC 01E .0901, including subsequent amendments and editions.

*History Note: Authority G.S. 96-4;
Eff. July 1, 2015;
Amended Eff. July 1, 2018.*

**04 NCAC 24A .0102 ADDRESS CHANGES AND
ELECTRONIC ADDRESS CHANGES**

(a) Each employing unit that has or had individuals in employment as defined in G.S. 96-1 shall notify DES in writing of any change to its mailing address. This notice shall be transmitted by facsimile, via the internet on the DES website, or by postal mail within seven days after the effective date of the change. All notices shall be submitted to the Tax Administration Section, Attn: Address Change by mail to Post Office Box 26504, Raleigh, North Carolina, 27611-6504, facsimile to (919) 733-1255, or email to des.tax.customerservice@nccommerce.com.

(b) Each claimant with an active claim or who is registered for work at a public employment office, shall notify DES in writing

of any change in address or electronic mail address within seven days after the effective date of the change. All notices shall be submitted to the DES Customer Call Center, Attn: Address Change, by mail to Post Office Box 25903, Raleigh, NC 27611-5903, facsimile to (919) 857-1296, or email to des.ui.customerservice@nccommerce.com. Claimants may also make and submit address and electronic mail address changes from their home page in the Southeast Consortium Unemployment Benefits Integration (SCUBI) system.

(c) Each claimant who is liable to DES for an overpayment of benefits, shall notify DES by facsimile, via the DES website, or by postal mail of any change of address within seven days after the effective date of the change. All notices of overpayment address changes shall be submitted to the Benefits Integrity Unit, Attn: Overpayment Address Change by mail to Post Office Box 25903, Raleigh, NC 27611-5903, facsimile to (919) 733-1369, or email to des.ui.bpc@nccommerce.com.

History Note: Authority G.S. 96-4; 96-40; 20 C.F.R. 640.1; Eff. July 1, 2015; Amended Eff. July 1, 2018; September 1, 2017.

04 NCAC 24A .0104 ADDRESSES FOR FILING CLAIMS, APPEALS, EXCEPTIONS, REQUESTS OR PROTESTS

(a) Claimants shall file a claim for unemployment insurance benefits by internet on DES's website, or by telephone.

- (1) The telephone number for DES's Customer Call Center for filing a new initial claim or inquiring about an existing claim is (888) 737-0259.
- (2) The telephone number for filing weekly certifications is (888) 372-3453.

(b) Appeals from a Determination by Adjudicator shall be filed with the Appeals Section in SCUBI, by mail, facsimile, or email.

- (1) The mailing address is Post Office Box 27967, Raleigh, North Carolina 27611-7967.
- (2) The facsimile number is (919) 857-1296.
- (3) The email address is des.public.appeals@nccommerce.com.
- (4) Correspondence and appeals submitted by email outside the SCUBI system shall not include social security numbers or employer account numbers.
- (5) Appeals shall be filed by a party or a party's legal representative as defined in 04 NCAC 24A .0105 and shall contain the date of the appeal, the docket or issue identification number of the determination being appealed, the claimant's identification number, the names of the claimant and employer, each reason for the appeal, the name of the individual filing the appeal, the official position of an individual filing the appeal on behalf of the party, and a telephone number.

(c) Appeals of a Non-Fraud Overpayment Determination shall be filed with the Benefits Integrity Unit in SCUBI, by mail, or facsimile.

- (1) The mailing address is Post Office Box 27967, Raleigh, North Carolina 27611-7967.

- (2) The facsimile number is (919) 857-1296.
- (3) Correspondence submitted by email outside the SCUBI system shall not include social security numbers or employer account numbers.
- (4) Appeals shall be filed by a party or a party's legal representative as defined in 04 NCAC 24A .0105 and shall contain the date of the appeal, the docket or identification number of the determination being appealed, the claimant's identification number, the names of the claimant and employer, each reason for the appeal, the name of the individual filing the appeal, the official position of an individual filing the appeal on behalf of the party, and a telephone number.
- (5) Any questions regarding the contents of a Non-Fraud Overpayment Determination shall be directed to the Benefits Integrity Unit by telephone to (919) 707-1338, facsimile at (919) 857-1296, or email at des.ui.bpc@nccommerce.com.

(d) Appeals of a Fraud Overpayment Determination shall be filed with the Benefits Integrity Unit in SCUBI, by mail, or facsimile.

- (1) The mailing address is Post Office Box 27967, Raleigh, North Carolina 27611-7967.
- (2) The facsimile number is (919) 857-1296.
- (3) Correspondence submitted by email outside the SCUBI system shall not include social security numbers or employer account numbers.
- (4) Appeals shall be filed by a party or a party's legal representative as defined in 04 NCAC 24A .0105 and shall contain the date of the appeal, the docket or identification number of the determination being appealed, the claimant's identification number, the names of the claimant and employer, each reason for the appeal, the name of the individual filing the appeal, the official position of an individual filing the appeal on behalf of the party, and a telephone number.
- (5) Any questions regarding the contents of a Fraud Overpayment Determination shall be directed to the Benefits Integrity Unit by telephone to (919) 707-1338, facsimile at (919) 857-1296, or email at des.ui.bpc@nccommerce.com.

(e) Appeals of a Monetary Determination denying a protest to a Wage Transcript and Monetary Determination shall be filed with the Tax Administration Section in SCUBI, by mail, facsimile, or email.

- (1) The mailing address is Post Office Box 26504, Raleigh, North Carolina 27611-6504.
- (2) The facsimile number is (919) 733-1255.
- (3) The email address is des.tax.customerservice@nccommerce.com.
- (4) Correspondence and appeals submitted by email outside the SCUBI system shall not include social security numbers or employer account numbers.

- (5) Appeals shall be filed by a party or a party's legal representative as defined in 04 NCAC 24A .0105 and shall contain the date of the appeal, the docket or identification number of the determination being appealed, the claimant's identification number, the names of the claimant and employer, each reason for the appeal, the name of the individual filing the appeal, the official position of an individual filing the appeal on behalf of the party, and a telephone number.
 - (6) Any questions regarding the contents of a determination denying a protest to a Wage Transcript and Monetary Determination shall be directed to the Wage Records Unit of the Tax Administration Section by telephone to (919) 707-1191, facsimile at (919) 733-1255, or email at des.tax.customerservice@nccommerce.com.
- (f) Protests of a Wage Transcript and Monetary Determination shall be filed with the Tax Administration Section in SCUBI, by mail, or facsimile.
- (1) The mailing address is Post Office Box 26504, Raleigh, North Carolina 27611-6504.
 - (2) The facsimile number is . (919) 733-1255.
 - (3) Correspondence submitted by email outside the SCUBI system shall not include social security numbers or employer account numbers.
 - (4) Protests shall be filed by a party or a party's legal representative as defined in 04 NCAC 24A .0105 and shall contain the date of the protest, the docket or identification number of the determination being protested, the claimant's identification number, the names of the claimant and employer, each reason for the protest, the name of the individual filing the protest, the official position of an individual filing the protest on behalf of the party, and a telephone number.
 - (5) Any questions regarding the contents of a Wage Transcript and Monetary Determination shall be directed to the Wage Records Unit by telephone to (919) 707-1191, facsimile at (919) 733-1255, or email at des.tax.customerservice@nccommerce.com.
- (g) Petitions for Waiver of Overpayment shall be filed with the Benefits Integrity Unit in SCUBI, by mail, or facsimile.
- (1) The mailing address is Post Office Box 27967, Raleigh, North Carolina 27611-7967.
 - (2) The facsimile number is (919) 857-1296.
 - (3) Correspondence submitted by email outside the SCUBI system shall not include social security numbers or employer account numbers.
 - (4) Petitions shall be filed by a party or a party's legal representative as defined in 04 NCAC 24A .0105 and shall contain the date of the petition, docket or identification number of the overpayment determination, the claimant's identification number, the name of the claimant, each reason for the request to waive repayment of the overpayment, the name of the individual filing the petition, the official position of an individual filing the petition on behalf of the party, and a telephone number.
 - (h) Claimant appeals of a North Carolina Department of Revenue (NCDOR) Offset Letter shall be filed with the Benefits Integrity Unit in SCUBI, by mail, or facsimile.
 - (1) The mailing address is Post Office Box 27967, Raleigh, North Carolina 27611-7967.
 - (2) The facsimile number is (919) 857-1296.
 - (3) Correspondence regarding a claimant's NCDOR Offset Letter submitted by email outside the SCUBI system shall not include social security numbers or employer account numbers.
 - (4) Appeals shall be filed by a party or a party's legal representative as defined in 04 NCAC 24A .0105 and shall contain the date of the appeal, the docket or identification number of the offset letter being appealed, the claimant's identification number, the name of the claimant, each reason for the appeal, the name of the individual filing the appeal, the official position of an individual filing the appeal on behalf of the party, and a telephone number.
 - (5) Any questions regarding the contents of a claimant's NCDOR Offset Letter shall be directed to the Benefits Integrity Unit by telephone to (919) 707-1338, facsimile at (919) 857-1296, or email at des.ui.bpc@nccommerce.com.
 - (i) Employer appeals of a North Carolina Department of Revenue (NCDOR) Offset Letter for outstanding tax debts shall be filed with the Tax Administration Section by mail or facsimile.
 - (1) The mailing address is Post Office Box 26504, Raleigh, NC 27611-6504.
 - (2) The facsimile number is (919) 733-1255.
 - (3) Correspondence regarding an employer's NCDOR Offset Letter submitted by email outside the SCUBI system shall not include social security numbers or employer account numbers.
 - (4) Appeals shall be filed by a party or a party's legal representative as defined in 04 NCAC 24A .0105 and shall contain the date of the appeal, the docket or identification number of the offset letter, the name of the employer, each reason for the appeal, the name of the individual filing the appeal, the official position of an individual filing the appeal on behalf of the party, and a telephone number.
 - (5) Any questions regarding the contents of an employer's NCDOR Offset letter for outstanding tax debts shall be directed to the Tax Administration Section by facsimile at (919) 733-1255, or email at des.tax.customerservice@nccommerce.com.

(j) Claimant Requests for Reevaluation under the Treasury Offset Program (TOP) shall be filed with the Benefits Integrity Unit in SCUBI, by mail, or facsimile.

- (1) The mailing address is Post Office Box, 27967, Raleigh, North Carolina 27611-7697.
- (2) The facsimile number is (919) 857-1296.
- (3) Correspondence submitted by email outside the SCUBI system shall not include social security numbers or employer account numbers.
- (4) Requests shall be filed by a party or a party's legal representative as defined in 04 NCAC 24A .0105 and shall contain the date of the request, the docket or identification number of the TOP notice, the claimant's identification number, the name of the claimant, each reason for the request, the name of the individual filing the request, the official position of an individual filing the request on behalf of the party, and a telephone number.
- (5) Claimant questions regarding TOP shall be directed to a Recovery Specialist by telephone to (919) 707-1338, or email at des.ui.bpc@nccommerce.com.

(k) Employer Requests for Reevaluation under the Treasury Offset Program (TOP) shall be filed with the Tax Administration Section by mail or facsimile.

- (1) The mailing address is Post Office Box 26504, Raleigh, North Carolina 27611-6504.
- (2) The facsimile number is (919) 733-1255.
- (3) Correspondence submitted by email outside the SCUBI system shall not include social security numbers or employer account numbers.
- (4) Requests shall be filed by a party or a party's legal representative as defined in 04 NCAC 24A .0105 and shall contain the date of the request, the docket or identification number of the TOP notice, the name of the employer, each reason for the request, the name of the individual filing the request, the official position of an individual filing the request on behalf of the party, and a telephone number.
- (5) Employer questions regarding TOP shall be directed to the Tax Administration Section by telephone to (919) 707-1150, facsimile at (919) 733-1255, or email at des.tax.customerservice@nccommerce.com.

(l) Appeals from an Appeals Decision shall be filed with the Board of Review in SCUBI, by mail, facsimile, or email.

- (1) The mailing address is Post Office Box 28263, Raleigh, North Carolina 27611-8263.
- (2) The facsimile number is (919) 733-0690.
- (3) The email address is des.ha.appeals@nccommerce.com.
- (4) Correspondence and appeals submitted by email outside the SCUBI system shall not include social security numbers or employer account numbers.
- (5) Appeals shall be filed by a party or a party's legal representative as defined in 04 NCAC

24A .0105 and shall contain the date of the appeal, the docket or issue identification number of the determination being appealed, the claimant's identification number, the names of the claimant and employer, each reason for the appeal, the name of the individual filing the appeal, the official position of an individual filing the appeal on behalf of the party, and a telephone number.

(m) Protests or appeals of adequacy determinations shall be filed with the Claims Unit in SCUBI, by mail, or facsimile.

- (1) The mailing address is Post Office Box 27967, Raleigh, North Carolina . 27611-7967.
- (2) The facsimile number is (919) 857-1296.
- (3) Correspondence submitted by email outside the SCUBI system shall not include social security numbers or employer account numbers.
- (4) Protests or appeals shall be filed by a party or a party's legal representative as defined in 04 NCAC 24A .0105 and shall contain the date of the protest or appeal, the docket or identification number of the determination being protested or appealed, the name of the employer, each reason for the protest or appeal, the name of the party filing the protest or appeal, the official position of an individual filing the protest or appeal on behalf of the party, and a telephone number.

(n) Protests or appeals of a Tax Liability Determination shall be filed with the Tax Administration Section by mail, facsimile, or email.

- (1) The mailing address is Post Office Box 26504, Raleigh, NC 27611-6504.
- (2) The facsimile number is (919) 715-7197.
- (3) The email address is des.tax.customerservice@nccommerce.com.
- (4) Correspondence and protests or appeals submitted by email outside the SCUBI system shall not include social security numbers or employer account numbers.
- (5) Protests or appeals shall be filed by a party or a party's legal representative as defined in 04 NCAC 24A .0105 and shall contain the date of the protest or appeal, the docket or identification number of the determination being appealed, the claimant's identification number, the names of the claimant and employer, each reason for the protest or appeal, the name of the individual filing the protest or appeal, the official position of an individual filing the protest or appeal on behalf of the party, and a telephone number.

(o) Protests or appeals of a Tax Rate Assignment shall be filed with the Tax Administration Section by mail, facsimile, or email.

- (1) The mailing address is Post Office Box 26504, Raleigh, NC 27611-6504.
- (2) The facsimile number is (919) 733-1255.
- (3) The email address is des.tax.customerservice@nccommerce.com.

- (4) Correspondence and protests or appeals submitted by email outside the SCUBI system shall not include social security numbers or employer account numbers.
 - (5) Protests or appeals shall be filed by a party or a party's legal representative as defined in 04 NCAC 24A .0105 and shall contain the date of the protest or appeal, the docket or identification number of the rate assignment, the name and address of the employer, the employer's account number, each reason for the protest or appeal, the name of the individual filing the protest or appeal, the official position of an individual filing the protest or appeal on behalf of the party, and a telephone number.
- (p) Protests or appeals of Audit Results shall be filed with the Tax Administration Section by mail, facsimile, or email.
- (1) The mailing address is Post Office Box 26504, Raleigh, NC 27611-6504.
 - (2) The facsimile number is (919) 733-1255.
 - (3) The email address is des.tax.customerservice@nccommerce.com.
 - (4) Correspondence and protests or appeals submitted by email outside the SCUBI system shall not include social security numbers or employer account numbers.
 - (5) Protests or appeals shall be filed by a party or a party's legal representative as defined in 04 NCAC 24A .0105 and shall contain the date of the protest or appeal, the docket or identification number of the result being protested or appealed, the name of the employer, each reason for the protest or appeal, the name of the individual filing the protest or appeal, the official position of an individual filing the protest or appeal on behalf of the party, and a telephone number.
- (q) Protests or appeals of Tax Assessments shall be filed with the Tax Administration Section by mail, facsimile, or email.
- (1) The mailing address is Post Office Box 26504, Raleigh, NC 27611-6504.
 - (2) The facsimile number is (919) 733-1255.
 - (3) The email address is des.tax.customerservice@nccommerce.com.
 - (4) Correspondence and protests or appeals submitted by email outside the SCUBI system shall not include social security numbers or employer account numbers.
 - (5) Protests or appeals shall be filed by a party or a party's legal representative as defined in 04 NCAC 24A .0105 and shall contain the date of the protest or appeal, the docket or identification number of the assessment being protested or appealed, the name of the employer, each reason for the protest or appeal, the name of the individual filing the protest or appeal, the official position of the individual filing the protest or appeal on behalf of the party, and a telephone number.
- (r) Exceptions to a Tax Opinion shall be filed with the Board of Review by mail, facsimile, or email.
 - (1) The mailing address is Post Office Box 28263, Raleigh, North Carolina 27611-8263.
 - (2) The facsimile number is (919) 715-7193.
 - (3) The email address is BOR@nccommerce.com.
 - (4) Correspondence and exceptions submitted by email outside the SCUBI system shall not include social security numbers or employer account numbers.
 - (5) Exceptions shall be filed by a party or a party's legal representative as defined in 04 NCAC 24A .0105 and shall contain the date of the exceptions, the docket or identification number of the tax opinion, the claimant's identification number, the names of the claimant and employer, the name of the individual filing the exceptions, each reason for the exceptions, the official position of an individual filing the exceptions on behalf of the party, and a telephone number.
 - (s) Requests for non-charging of benefits to an employer's account, and protests or appeals of benefit charges to an employer's account shall be filed with the Claims Unit in SCUBI, by mail, or facsimile.
 - (1) The mailing address is Post Office Box 27967, Raleigh, North Carolina 27611-7967.
 - (2) The facsimile number is (919) 857-1296.
 - (3) Correspondence, requests, protests, or appeals submitted by email outside the SCUBI system shall not include social security numbers or employer account numbers.
 - (4) Requests for non-charging and protests or appeals shall be filed by a party or a party's legal representative as defined in 04 NCAC 24A .0105 and shall contain the date of the request, the docket or employer's identification number, the name of the employer, each reason for the request, the name and official position of the individual filing the request, protest, or appeal, on behalf of the party, and a telephone number.
 - (t) Requests for seasonal determinations and protests or appeals of a Denial of Seasonal Assignment shall be filed with the Tax Administration Section by mail, facsimile, or email.
 - (1) The mailing address is Post Office Box 26504, Raleigh, NC 27611-6504.
 - (2) The facsimile number is (919) 715-7197.
 - (3) The email address is des.tax.customerservice@nccommerce.com.
 - (4) Correspondence and protests or appeal submitted by email outside the SCUBI system shall not include social security numbers or employer account numbers.
 - (5) Protests or appeals shall be filed by a party or a party's legal representative as defined in 04 NCAC 24A .0105 and shall contain the date of the protest or appeal, the docket or identification number of the denial being appealed, the name of the employer, each

reason for the protest or appeal, the name of the individual filing the protest or appeal, the official position of an individual filing the protest or appeal on behalf of the party, and a telephone number.

(u) Transmittal of interstate work search records and photo identification shall be filed with the Claims Unit by mail or facsimile.

(1) The mailing address is Post Office Box 27967, Raleigh, North Carolina 27611-7967.

(2) The facsimile number is (919) 857-1296.

(v) Requests for oral arguments or to reschedule oral arguments shall be filed with the Board of Review in SCUBI, by mail, facsimile, or email.

(1) The mailing address is Post Office Box 28263, Raleigh, North Carolina 27611-8263.

(2) The facsimile number is (919) 733-0690.

(3) The email address is des.ha.appeals@nccommerce.com.

(4) Correspondence and requests for oral arguments submitted by email outside the SCUBI system shall not include social security numbers or employer account numbers.

(4) Requests for oral arguments shall be filed by a party or a party's legal representative as defined in 04 NCAC 24A .0105 and shall contain the date of the request, the docket or issue identification number of the decision being appealed, the claimant's identification number, the names of the claimant and employer, the name and official position of the individual filing the request on behalf of the party, a telephone number, and a statement that a copy of the request was served on the opposing party, if one exists.

(w) Employers may file requests for compromise of tax debts with DES's Tax Administration Section by mail, facsimile, or email.

(1) The address is Post Office Box 26504, Raleigh, NC 27611-6504.

(2) The facsimile number is (919) 733-1255.

(3) The email address is des.tax.customerservice@nccommerce.com.

(4) Correspondence submitted by email outside the SCUBI system shall not include social security numbers or employer account numbers.

(5) The letter shall contain the date of the request, the name of the employer, the name and official position of the individual filing the election on behalf of the employer, and a telephone number.

(x) Employers electing to pay reimbursements for benefits, rather than contributions, shall submit written notice of their election to DES's Tax Administration Section by mail, facsimile, or email.

(1) The address is Post Office Box 26504, Raleigh, NC 27611-6504.

(2) The facsimile number is (919) 733-1255.

(3) The email address is des.tax.customerservice@nccommerce.com.

(4) Correspondence submitted by email outside the SCUBI system shall not include social security numbers or employer account numbers.

(5) The letter shall contain the date of the notice of election, the name and address of the employer, the name and official position of the individual filing the election on behalf of the employer, and a telephone number.

(y) Employers shall make payments to DES by credit card, money order, electronic check, business check with funds drawn from a U.S. financial institution, cashier's check from a U.S. financial institution, automated clearing house (ACH) credit, or cash.

(1) Payments made by money order, business check, cashier's check, or cash shall be sent by mail or delivery service to DES's Tax Administration Section, Post Office Box 26504, Raleigh, NC 27611-6504, or by delivery to an agent of DES designated to accept payments in accordance with G.S. 96-10.

(2) Payments by electronic transmission shall be made on DES's website.

(3) Payments by ACH credit shall be initiated by employers through their U.S. financial institution.

(z) Claimants shall make payments to DES by cashier's check from a U.S. financial institution, by personal check with funds drawn from a U.S. financial institution, by money order, or by credit card.

(1) Payments by mail or delivery service shall be sent to the Benefit Payment Control (BPC) Unit, Post Office Box 25903, Raleigh, NC 27611-5903.

(2) Payments by credit card shall be made on DES's website, or by calling BPC at (919) 707-1338.

History Note: Authority G.S. 75-62; 96-4; 96-9.6; 96-9.8; 96-10; 96-10.1; 96-14.1; 96-15; 96-17; 96-18; 96-40; 20 C.F.R. 603.4;

Eff. July 1, 2015;

Amended Eff. September 1, 2017;

Amended Eff. July 1, 2018.

04 NCAC 24A .0106 FILING/MAILING DATES AND USE OF FORMS

(a) Except as otherwise provided in this Chapter, a document or form shall be filed with DES on the date the document or form is received by DES.

(b) When a filing deadline or due date for a form or payment falls on a Saturday, Sunday, or State holiday as set forth in 25 NCAC 01E .0901, the deadline or due date shall be extended to the first business day following the Saturday, Sunday, or State holiday.

(c) When determining whether a party had good cause for filing a late appeal or protest, DES shall consider the date mailed in the order listed:

(1) the postmark date or the postal meter date, where there is only one;

(2) the postmark date if there is both a postmark date and a postal meter date, if they conflict; or

- (3) the date the document was delivered to a delivery service, which is equivalent to a postmark date of the United States Postal Service.

(d) A document received in an envelope bearing no legible postmark, postal meter date, or date of delivery to the delivery service shall be considered to have been sent three business days before receipt by DES, or on the date of the document, if the document date is less than three days earlier than date of receipt.

(e) If the envelope is lost after delivery to DES, the date on the document shall control. If the document is undated, DES shall deem the date the writing was sent to be three business days prior to receipt by DES, subject to sworn testimony establishing an earlier date from the sender of the writing.

(f) Except as otherwise provided in this Chapter, the date and time that DES receives a document shall be used when the document is sent by facsimile transmission or via the internet.

(g) Except as otherwise provided in this Chapter, when a document furnishes information that is sufficient to indicate the purpose or intent of the document, but is not on a form prescribed by DES, the controlling date shall be determined as described in this Section.

History Note: Authority G.S. 1A-1, Rule 6; 96-4; Eff. July 1, 2015; Amended Eff. July 1, 2018.

04 NCAC 24A .0109 POWER OF ATTORNEY

(a) An employer may appoint an agent with authority to act on his, her, or its behalf with DES in accordance with G.S. 32C-2-214. An employer's appointment of an agent shall be made in writing in the manner prescribed by G.S. 32C-3-301, or by using the Power of Attorney and Declaration of Representative form found on DES's website.

- (b) An agent appointed pursuant to a power of attorney may:
- (1) complete and submit documents for filing employers' tax and wage reports;
 - (2) complete and submit documents regarding an employer's tax rate, contributions, and direct reimbursements;
 - (3) respond to benefit claims documents, including responding to requests for information about a claimant's separation or status;
 - (4) engage in discussions with DES representatives regarding the actions listed above; and
 - (5) accept or receive correspondence sent by DES regarding claims for benefits or an employer's contributions.

History Note: Authority G.S. 32C-2-214; 32C-3-301; 96-4; 96-9.15; Eff. July 1, 2015; Amended Eff. July 1, 2018; September 1, 2017.

04 NCAC 24A .0201 WRITTEN REQUEST REQUIRED

Any individual or employing unit requesting to inspect or copy any record containing confidential unemployment insurance information shall make the request in writing. All requests shall

be submitted to the Legal Services Section, ATTN: Legal Release by mail to Post Office Box 25903, Raleigh, North Carolina, 27611-5903, or by facsimile to (919) 715-7194.

History Note: Authority G.S. 96-4; 20 CFR 603.5; Eff. July 1, 2015; Amended Eff. July 1, 2018.

04 NCAC 24A .0202 CLEAR DESCRIPTION OF RECORDS REQUIRED

(a) Each written request for unemployment insurance information shall describe the record or records sought and provide sufficient details to permit identification and location of the records.

- (b) The request shall specify:
- (1) the subject matter of the record;
 - (2) the date or approximate date that the record was made;
 - (3) the place where the record was made;
 - (4) the person or office that made the record; and
 - (5) any other necessary identifying details about the record, such as an account or form number.

(c) If the description is insufficient for an employee familiar with the subject area of the request to locate the record, the Chief Counsel or designee shall notify the person making the request and indicate the additional information required to locate the record.

History Note: Authority G.S. 96-4; 20 CFR 603.5; Eff. July 1, 2015; Amended Eff. July 1, 2018.

04 NCAC 24A .0203 DETERMINATION AS TO DISCLOSURE

(a) If the Chief Counsel or designee determines that the applicable law does not permit disclosure of the requested information, the Chief Counsel or designee shall provide written notification to the person making the request. The notice shall state reasons for the denial, including the applicable law prohibiting disclosure.

(b) Where there is specific information in a record that is prohibited from disclosure, the specific information shall be deleted or redacted before providing the requested record.

History Note: Authority G.S. 96-4; 20 CFR 603.5; Eff. July 1, 2015; Amended Eff. July 1, 2018.

04 NCAC 24A .0204 RELEASE OF INFORMATION TO THIRD PARTY

(a) Upon written request, a claimant, employer, applicant, or other person who authorizes information or records to be released to a third party or person shall provide:

- (1) the name of the third party or person;
- (2) the address of the third party or person; and
- (3) a statement that the claimant, employer, applicant, or other person authorizing the disclosure of information waives confidentiality as to the information directed to be released.

(b) An individual requesting that DES release or disclose to a third party or person the individual's quarterly wage records, including the amount of wages and names of each employer reporting wages for the individual shall:

- (1) identify the third party or person by name;
- (2) provide the address of the third party or person;
- (3) contain a statement that the individual waives confidentiality as to the information authorized to be disclosed to the identified third party; and
- (4) state that the authorization and waiver is given on the basis of informed consent as mandated by 20 CFR 603.5 and any other applicable federal regulation that may be promulgated by the U.S. Department of Labor.

History Note: Authority G.S. 96-4; 20 CFR 603.5;
Eff. July 1, 2015;
Amended Eff. July 1, 2018.

04 NCAC 24A .0205 FEES FOR COPIES AND SERVICES

(a) Search Fees:

- (1) The fee for searching DES records by authorized staff shall be four dollars and forty cents (\$4.40) for each one-quarter hour or fraction thereof required to obtain the records to be searched or to search the records.
- (2) If the search for requested records requires transportation of DES staff to the location of the records, or transportation of the records to DES staff at a cost of more than five dollars (\$5.00), the actual transportation costs shall be added to the search time cost.
- (3) If the search for requested records requires batch processing by computer, the Chief Counsel or designee shall provide an estimate of DES's cost to produce the information to the individual making the request. The amount of the estimate provided shall be based on the computer programming and other actions necessary for the batch processing. Upon consenting to the estimate provided by the Chief Counsel or designee, DES shall send an invoice for the actual cost of producing the requested information to the individual making the request.

(b) Reproduction Fees: The fees for obtaining copies of records shall be computed as follows:

- (1) copying: one cent (\$0.01) per page;
- (2) transcription of hearing: three dollars and seventy-five cents (\$3.75) per quarter hour or fraction thereof; and
- (3) recording of hearing: three dollars and seventy-five cents (\$3.75) per compact disk or recording.

(c) No more than 10 copies of any document shall be furnished in response to any request.

(d) Administrative and Overhead Fees: The fee required for the time required for the Chief Counsel or designee to review a

request and determine whether the request is authorized by G.S. 96-4 shall be five dollars and eighty-four cents (\$5.84) for each one-quarter hour or fraction thereof. The overhead cost for processing and invoicing shall be four dollars and fifty cents (\$4.50) per invoice.

(e) Any individual receiving records from DES under this Section shall be charged a minimum fee of fifteen dollars (\$15.00).

History Note: Authority G.S. 96-4; 20 CFR 603.8;
Eff. July 1, 2015;
Amended Eff. July 1, 2018.

04 NCAC 24A .0206 METHOD OF PAYMENT

(a) Fees shall be paid by money order, personal or business check with funds drawn from a U.S. financial institution, or cashier's check from a U.S. financial institution.

(b) An agency of state or federal government, a county, or a municipality may pay fees by draft.

(c) Payments shall be mailed to the North Carolina Department of Commerce, Division of Employment Security, ATTN: Finance and Budget, Post Office Box 25903, Raleigh, North Carolina 27611-5903.

History Note: Authority G.S. 96-4; 20 CFR 603.8;
Eff. July 1, 2015;
Amended Eff. July 1, 2018.

04 NCAC 24A .0207 PAYMENT REQUIRED BEFORE INFORMATION RELEASE

(a) Payment shall accompany all requests for release of information. If payment does not accompany a request, or is insufficient to cover all fees, DES shall send an invoice for all fees due to the individual making the request, due immediately upon receipt.

(b) If the search for requested records exceeds the minimum fee under 04 NCAC 24A .0205, the Chief Counsel or designee shall provide an estimate of DES's cost to produce the information to the individual making the request. Upon consenting to the estimate provided by the Chief Counsel or designee, DES shall send an invoice for the actual cost of producing the requested information to the individual making the request. Payment shall be due immediately, as set forth in Paragraph (a) of this Rule.

(c) When exigent circumstances require the immediate release of information to local, state, or federal law enforcement officials, DES shall release the information upon receipt of a written assurance demonstrating a guaranty of future payment from the law enforcement official making the request.

History Note: Authority G.S. 96-4; 20 CFR 603.8;
Eff. July 1, 2015;
Amended Eff. July 1, 2018.

04 NCAC 24B .0101 FILING A CLAIM

(a) An individual shall contact DES by internet or telephone to file a valid initial claim for benefits pursuant to 04 NCAC 24A .0104(a).

(b) Prior to receiving any benefits, the claimant shall register for work with a public employment office.

(c) Information for an initial claim shall include:

- (1) the claimant's name, social security number, address, telephone number, email address, and date of birth, and gender;
- (2) immigration status;
- (3) whether the claimant worked for the federal government or in another state during the previous two years;
- (4) whether the claimant applied for or is receiving disability payments;
- (5) whether the claimant was or will be paid vacation or severance and the time frame that the payment covers;
- (6) whether there was a policy in effect regarding paid time off prior to the claimant's separation;
- (7) whether the claimant refused work since becoming unemployed;
- (8) whether the claimant filed for or is receiving benefits under any other unemployment insurance law;
- (9) whether the claimant applied for or is receiving any type of retirement pension;
- (10) the name and complete address of the claimant's last employer;
- (11) the reason for the claimant's separation from work; and
- (12) the claimant's beginning and ending dates of employment.

History Note: Authority G.S. 96-4; 96-14.1; 96-14.9; 96-15; 96-15.01; 20 CFR 602;
Eff. July 1, 2015;
Amended Eff. July 1, 2018.

04 NCAC 24B .0103 WEEKLY CERTIFICATIONS

(a) After a claimant files an initial claim and establishes a benefit year, the claimant shall file subsequent weekly certifications for payment of benefits by telephone, or internet on DES's website at intervals of no less than 7 and no more than 14 consecutive days for each week claimed.

- (1) Each claimant shall file weekly certifications as prescribed under 04 NCAC 24A .0104(a).
- (2) Any claimant who reports earnings that exceed the sum of his or her weekly benefit amount plus earnings allowance for three consecutive weeks shall be unable to file a weekly certification in the fourth week, and must contact DES's Customer Call Center to continue his or her claim as set forth in 04 NCAC 24A .0104(a)(1).
- (3) If at any time during the benefit year, more than 14 calendar days elapse since the claimant last filed a weekly certification, the claimant shall file an additional or reopened claim for benefits as defined in 04 NCAC 24A .0105, and shall comply with all eligibility requirements.

(b) Each claimant shall:

- (1) file claims and weekly certifications in accordance with the rules of this Chapter that includes the following:

- (A) information required for claims filing outlined in Rule .0101 of this Section.
- (B) information required for filing weekly certification, including each claimant's full name and social security number;
- (2) inform DES of whether he or she worked during the previous calendar week;
- (3) provide information regarding all earnings before deductions (gross) for work performed during the previous calendar week;
- (4) provide information as to whether he or she received holiday, vacation, bonus, or separation pay, and the gross amount during the previous calendar week;
- (5) provide information as to whether there was a policy in effect regarding paid time off prior to the claimant's separation;
- (6) inform DES of whether he or she began receiving or whether there was a change in any type of retirement pension during the previous calendar week;
- (7) provide information regarding whether he or she applied for or received any disability payments during the previous calendar week;
- (8) provide information regarding whether he or she applied for or received workers' compensation payments during the previous calendar week;
- (9) inform DES of whether he or she applied for or received unemployment insurance compensation under the law of any state or federal government agency;
- (10) inform DES of whether he or she was physically able and available for work, during the previous calendar week;
- (11) provide information as to whether he or she looked for work, refused work, or kept a record of work search during the previous calendar week as required by G.S. 96-14.9(e)(4);
- (12) inform DES of whether he or she attended school or training during the previous calendar week, and if so, whether he or she is willing to quit school or rearrange his or her schedule to accept work;
- (13) provide information as to whether he or she has quit a job or been discharged from a job since filing a claim for unemployment benefits;
- (14) sign all forms for the valid initial claim or weekly certification that are filed in person, by mail, or delivery service; and
- (15) submit all claims and weekly certifications as required by the Employment Security Law and this Section.

History Note: Authority G.S. 96-4; 96-14.1; 96-14.9; 96-15; 96-15.01;
Eff. July 1, 2015;
Amended Eff. July 1, 2018.

04 NCAC 24B .0401 DETERMINATION BY ADJUDICATOR

Each adjudicator shall render a written determination resolving any issues related to the claim or protest under G.S. 96-15, which shall include:

- (1) each issue or question involved;
- (2) the docket or issue identification number of the case;
- (3) the resolution of each issue;
- (4) the citation of the provision of law applied to reach the resolution of each issue or question;
- (5) the parties' rights to file an appeal of the determination;
- (6) the statutory time period under G.S. 96-15(b)(2) within which an appeal may be filed;
- (7) instructions for requesting an in-person hearing;
- (8) information on filing an appeal of the determination as set forth in 04 NCAC 24A .0104(b); and
- (9) notice that claims filed on or after June 30, 2013 are subject to repayment of overpayments, including those resulting from any decision that is later reversed on appeal.

History Note: Authority G.S. 96-4; 96-15; 20 CFR 602; Eff. July 1, 2015;
Amended Eff. July 1, 2018.

04 NCAC 24B .0503 DETERMINATION OF LABOR DISPUTE AND REFERRAL FOR HEARING

- (a) If an issue of unemployment due to a labor dispute exists, the Chief Counsel shall refer the matter in writing to DES's Board of Review or designee for hearing.
- (b) Hearings involving the issue of unemployment due to a labor dispute shall be heard upon order of the Board of Review or designee and conducted pursuant to 04 NCAC 24F .0303.

History Note: Authority G.S. 96-4; 96-14.7; 96-15; Eff. July 1, 2015;
Amended Eff. July 1, 2018.

04 NCAC 24B .0901 SETOFF DEBT COLLECTION ACT NOTICE TO CLAIMANT

- (a) Consistent with G.S. 105A-8, DES shall provide written notice to the debtor within 10 days after receiving the debtor's refund.
- (b) The notice shall include:
 - (1) the claimant's name;
 - (2) the type of debt;
 - (3) the amount of the refund received by DES;
 - (4) the total amount of the claimant's debt owed to DES;
 - (5) the total amount of fees, as applicable;
 - (6) the amount of assessed penalties, as applicable;
 - (7) a citation to the legal authority that permits collection of the debt through setoff;
 - (8) a statement of DES's intention to apply the refund against the debt;

- (9) an explanation that the debt is the basis for the agency's claim to the debtor's refund;
- (10) a statement of the claimant's right to contest the debt by filing a written request for a hearing;
- (11) the time period and procedure for requesting a hearing pursuant to 04 NCAC 24A .0104(h);
- (12) a statement that failure to request a hearing within the required time shall result in setoff of the debt;
- (13) a statement of the claimant's right to request to enter into a written repayment agreement with DES;
- (14) instructions for paying the debt;
- (15) a mailing address where payments shall be sent;
- (16) the date that the notice was mailed to the claimant; and
- (17) a telephone number for the claimant to seek information regarding the notice.

- (c) Claimants choosing to repay the debt after receiving notice shall make payment to DES in accordance with 04 NCAC 24A .0104(z).

History Note: Authority G.S. 96-4; 105A-8; Eff. July 1, 2018.

04 NCAC 24B .0902 CLAIMANT SETOFF DEBT COLLECTION ACT HEARINGS

- (a) A claimant debtor may file an appeal from a notice to claim his or her State income tax refund pursuant to a North Carolina Department of Revenue Offset Letter in accordance with 04 NCAC 24A .0104(h).
- (b) Rule 04 NCAC 24A .0106 shall apply in determining timeliness of an appeal.
- (c) Hearings pursuant to G.S. 105A-8(b) shall be conducted consistent with the procedures prescribed in 04 NCAC 24C .0209.

History Note: Authority G.S. 96-4; 105A-8; Eff. July 1, 2015;
Recodified from 04 NCAC 24B .0901 Eff. February 1, 2018;
Amended Eff. July 1, 2018.

04 NCAC 24B .1001 NOTICE TO CLAIMANT OF REFERRAL TO TOP

- (a) Consistent with 31 U.S.C. 3716, DES shall notify the claimant by mail of its intent to refer the debt to the Treasury Offset Program (TOP) at least 60 days before submitting the debt to TOP.
- (b) The notice shall include:
 - (1) the claimant's name;
 - (2) the type of debt;
 - (3) the total amount of the referred debt;
 - (4) the total amount of the claimant's debt owed to DES;
 - (5) the total amount of fees, as applicable;
 - (6) the amount of assessed penalties, as applicable;
 - (7) a citation to the legal authority that permits collection of the debt through TOP;
 - (8) a statement of DES's intention to collect the debt through administrative offset;

- (9) a statement that the claimant may request a copy of DES's records that support the debt;
- (10) a statement of the claimant's right to request that DES reevaluate the debt;
- (11) the time period and procedure for requesting a reevaluation pursuant to 04 NCAC 24A .0104(j);
- (12) a statement that failure to request a reevaluation within the required time shall result in referral of the debt;
- (13) a statement of the claimant's right to request to enter into a written repayment agreement with DES;
- (14) instructions for paying the debt;
- (15) a mailing address where payments shall be sent;
- (16) a mailing address and facsimile number to request a reevaluation of the debt;
- (17) a telephone number for the claimant to seek information regarding the notice; and
- (18) the date that the notice was mailed to the claimant.

(c) Claimants choosing to repay the debt after receiving notice shall make payment to DES in accordance with 04 NCAC 24A .0104(z).

History Note: Authority G.S. 96-4; 96-18; 31 CFR 285; 31 U.S.C. 3716;
Eff. July 1, 2015;
Amended Eff. July 1, 2018.

04 NCAC 24B .1002 CLAIMANT REEVALUATION OF DEBT

(a) A claimant requesting a reevaluation of his or her debt shall submit a written request to DES's Benefits Integrity Unit pursuant to 04 NCAC 24A .0104(j).

- (1) The written request shall explain why the debt should not be referred to the Treasury Offset Program (TOP) for collection.
- (2) The written request shall be accompanied by documents or other clear and convincing evidence that shows:
 - (A) the identity of the individual to whom the debt is assigned is incorrect; or
 - (B) the amount of the debt is inaccurate.

(b) The Assistant Secretary or designee shall consider the evidence submitted by the claimant.

(c) The Assistant Secretary or designee shall issue a written decision on the request for reevaluation. The written decision shall be mailed or sent by electronic transmission to the claimant and include the following:

- (1) whether the debt shall be referred to TOP; and
- (2) reasons for the decision.

History Note: Authority G.S. 96-4; 96-18; 31 CFR 285; 31 U.S.C. 3716;
Eff. July 1, 2015;
Amended Eff. July 1, 2018.

04 NCAC 24C .0102 TIMELINESS EXCEPTION

Timeliness sanctions shall be waived by the Appeals Referee when DES or an agent state representative gives misleading information on appeal rights to a party, if the party:

- (1) establishes what he or she was told was misleading and how he or she was misled, pursuant to the procedures in 04 NCAC 24C .0101;
- (2) identifies, if possible, the individual who misled him or her; and
- (3) establishes that DES did not provide the party with any written instructions contrary to the misleading information with service of the decision being appealed.

History Note: Authority G.S. 96-4; 96-15;
Eff. July 1, 2015;
Amended Eff. July 1, 2018.

04 NCAC 24C .0103 BASE PERIOD EMPLOYER DENIED NONCHARGING

A base period employer who was not the claimant's last employer may file an appeal from a determination denying noncharging of benefits to its account as provided in 04 NCAC 24A .0104(s). The claimant is not a party with appeal rights in this appeal.

History Note: Authority G.S. 96-4; 96-11.3; 96-11.4;
Eff. July 1, 2015;
Amended Eff. July 1, 2018.

04 NCAC 24C .0201 APPEARANCE BY PARTY

An appearance by a party to an appeals hearing includes offering testimony, questioning witnesses, and presenting oral arguments. A submission of written documents or observation of the proceedings shall not constitute an appearance.

- (1) A party or witness shall appear by telephone when the party participates in the telephone conference call with the Appeals Referee on the date and time of the hearing and participates in the proceedings.
- (2) A party or witness shall appear in person at the location on the date and times scheduled for the in-person hearing, and participate in the proceedings.
- (3) An individual shall appear at an in-person/telephone hearing as provided in 04 NCAC 24C .0213 on the date and time of the hearing and participate in the proceedings.

History Note: Authority G.S. 96-4; 96-15;
Eff. July 1, 2015;
Amended Eff. July 1, 2018.

04 NCAC 24C .0202 PRESENTING AND SCHEDULING APPEALED CLAIMS

A party wishing to appeal from an adjudicator's determination shall file an appeal pursuant to Rule 04 NCAC 24A .0104(b).

History Note: Authority G.S. 96-4; 96-15;

Eff. July 1, 2015;
Amended Eff. July 1, 2018.

04 NCAC 24C .0203 CONTENTS OF APPEAL TO APPEALS SECTION

A party's written appeal shall contain the following:

- (1) the date of the appeal;
- (2) the docket or issue identification number of the determination being appealed;
- (3) the claimant's identification number;
- (4) the names of the claimant and employer;
- (5) each reason for the appeal;
- (6) the name of the individual filing the appeal;
- (7) the official position, if any, of an individual filing the appeal on behalf of the party; and
- (8) a telephone number.

History Note: Authority G.S. 96-4; 96-15;
Eff. July 1, 2015;
Amended Eff. July 1, 2018.

04 NCAC 24C .0208 DISQUALIFICATION OF APPEALS REFEREE

- (a) An Appeals Referee shall be free of any personal interest or bias in the appeal over which he or she is presiding.
- (b) An Appeals Referee shall not participate in hearing an appeal in which that Appeals Referee has a personal interest in the outcome of the appeals decision.
- (c) An Appeals Referee may recuse himself or herself from a hearing to avoid the appearance of impropriety or partiality.
- (d) A pre-hearing challenge to the impartiality of a designated Appeals Referee shall be in writing, addressed to the Chief Appeals Referee as provided in 04 NCAC 24A .0104(b), and shall be heard and decided by the Chief Appeals Referee or designee.
- (e) The Chief Appeals Referee or designee's decision on any pre-hearing challenge to the impartiality of an assigned Appeals Referee shall be in writing and mailed to the parties.

History Note: Authority G.S. 96-4; 96-15; 20 CFR 650.2;
Eff. July 1, 2015;
Amended Eff. July 1, 2018.

04 NCAC 24C .0211 CONTROLLED SUBSTANCE RESULTS

In lieu of live testimony from a laboratory representative at a contested claims hearing, an affidavit from an authorized representative of the laboratory may be presented to prove controlled substance examination results, chain of custody, or compliance with all testing or retesting required by federal or state law.

- (1) When a party desires to introduce the affidavit at the hearing, a copy of the affidavit shall be received by the party against whom the affidavit will be offered at least two days before the hearing.
- (2) If the party who desires to introduce the affidavit is unable, despite reasonable efforts, to accomplish the required service within the time specified, the Appeals Referee may adjourn or

continue the hearing to allow such service to be accomplished. However, the Appeals Referee shall not continue the hearing if the party against whom the affidavit is offered has refused to accept service or has taken other steps to avoid or delay receipt of the affidavit.

- (3) At the hearing, the party shall offer an authenticated copy of the affidavit as an exhibit.
- (4) If the party against whom the affidavit is offered objects to the entry of the affidavit into the official

record, the objecting party may request an adjournment or continuance of the hearing to subpoena the author of the affidavit. The affidavit's author shall be permitted to testify by telephone at the reconvened hearing.

- (5) Once the affidavit is made a part of the official record of evidence compiled by the Appeals Referee, the Appeals Referee may, in his or her discretion, base findings of fact on the affidavit.
- (6) The results of the controlled substance examination and compliance with any applicable statutory or regulatory procedural requirements shall be deemed proven if the claimant admits or stipulates to them during the hearing or by affidavit.

History Note: Authority G.S. 95-230; 95-231; 95-232; 95-233; 95-234; 95-235; 96-4; 96-15;
Eff. July 1, 2015;
Amended Eff. July 1, 2018.

04 NCAC 24C .0213 COMBINATION TELEPHONE AND IN-PERSON HEARINGS

- (a) The Appeals Referee may conduct an in-person/telephone hearing to avoid prejudice, to ensure security, to comply with standards for appeal promptness, or to expedite an appeal.
- (b) A party may obtain an in-person/telephone hearing by filing a written objection to a telephone conference call hearing notice pursuant to 04 NCAC 24C .0205, or to an in-person hearing notice pursuant to 04 NCAC 24C .0206.

- (1) The objection shall state each reason that the party objects to appearing in the manner listed in the hearing notice.
- (2) The objecting party shall state the manner in which it, or its witnesses, request to appear for the hearing.
- (3) This request shall be directed to the Appeals Section as provided in 04 NCAC 24A .0104(b), or to the designated Appeals Referee using the contact information provided in the hearing notice.

(c) The Appeals Referee shall consider a party's request to change its witnesses' appearance from a telephone or in-person hearing, and shall make a determination of whether the substantial rights of each party would be preserved by granting the party's request.

(d) The Appeals Referee may grant a request to change an appearance by telephone or in-person for good cause as defined in 04 NCAC 24A .0105. If the request is granted, the official hearing record shall include the written request for the change,

reflect the Appeals Referee's determination that the substantial rights of each party would be preserved by granting the request, and each reason for the determination.

(e) The objecting party shall appear in person or by telephone as requested by the objecting party if the Appeals Referee grants the request.

(f) The Appeals Referee may deny a request to change a party's appearance at a hearing to telephone or in-person if:

- (1) the Appeals Referee believes that the requesting party's intent is to inconvenience the opposing party or delay the proceedings;
- (2) the party or witnesses request to appear by telephone, and are less than 40 miles away from an in-person hearing location; or
- (3) the request is made less than 24 hours before the hearing is scheduled to begin.

(g) If a party's request for a change to a telephone or in-person hearing is denied, the Appeals Referee shall state the grounds for denial on the record, include the written request in the official records, and state the reasons for the denial in the written decision.

(h) The Appeals Referee shall notify each party of the change prior to the hearing.

History Note: Authority G.S. 96-4; 96-15;
Eff. July 1, 2018.

04 NCAC 24C .0214 WITHDRAWAL OF APPEAL

(a) An appealing party may withdraw its appeal with the approval of the Appeals Referee.

(b) An appealing party's request to withdraw its appeal shall be in writing and contain:

- (1) the reason for the request to withdraw the appeal;
- (2) the date of the request;
- (3) the docket or issue identification number of the determination being appealed;
- (4) the claimant's identification number;
- (5) the names of the claimant and employer;
- (6) the name of the individual making the request to withdraw the appeal;
- (7) the official position of an individual filing the request to withdraw the appeal on behalf of the party; and
- (8) a telephone number.

This request shall be directed to DES's Appeals Section or to the Appeals Referee designated to hear the case, or recorded by the Appeals Referee using the digital recording system used to record hearings in accordance with G.S. 96-15(c).

(c) Following receipt of a request to withdraw the appeal, the Appeals Referee shall review each reason for the request.

(d) If a request to withdraw the appeal is approved, the Appeals Referee shall issue an order granting the request to withdraw the appeal. The order shall contain no right to appeal the withdrawal of the appeal.

(e) If a request to withdraw the appeal is denied, the Appeals Referee shall issue an order denying the request to withdraw the appeal, informing the party of the information considered and the reason for the ruling. The order shall contain no right to appeal the denial of the withdrawal of the appeal.

(f) A copy of the party's request to withdraw the appeal and the Appeal Referee's order granting or denying the request shall be included in the official record of the case.

History Note: Authority G.S. 96-4; 96-15;
Eff. July 1, 2018.

04 NCAC 24C .0215 NEW FILING AFTER WITHDRAWAL OF APPEAL

(a) A party whose request to withdraw the appeal was granted who then files an appeal of the same determination or issue number shall be deemed to have filed the appeal on the date that DES receives the new filing.

(b) The record on appeal for a matter that was closed before a new appeal was received shall include the appealing party's initial request to withdraw the appeal, the order granting the request to withdraw the appeal, and the new appeal filing.

(c) DES or a party may raise the issue of the timeliness of the appeal if the appeal is filed after the appeal rights have expired on the determination or issue being appealed.

(d) Timeliness of the appeal shall be determined in accordance with 04 NCAC 24A .0106.

History Note: Authority G.S. 96-4; 96-15;
Eff. July 1, 2018.

04 NCAC 24C .0302 NOTICES, SERVICE, AND LEGAL REPRESENTATION OR SUPERVISION BY NORTH CAROLINA ATTORNEY

(a) Notices or certification of legal representation by an attorney licensed to practice law in this State shall be in writing and presented to the Appeals Referee to become part of the official record.

(b) Notices or certification of legal representation by an individual who is supervised by an attorney licensed to practice law in this State shall be in writing and presented to the Appeals Referee to become part of the official record, and shall contain:

- (1) the name, business address, and telephone number of the supervising attorney;
- (2) the supervising attorney's active North Carolina State Bar number; and
- (3) the name, address, and telephone number of the person being supervised.

(c) When a party has a legal representative, all documents or information required to be provided to the party shall only be provided to the legal representative, unless otherwise instructed on the record during the hearing.

(d) An address provided to an Appeals Referee for mailing or electronic transmission of an Appeals Decision in a specific case shall not constitute a change of address with DES as set forth in 04 NCAC 24A .0102.

(e) Any information provided to a party's legal representative shall have the same force and effect as if it had been sent to the party.

History Note: Authority G.S. 84-4; 84-7.1; 96-4; 96-15; 96-17;
Eff. July 1, 2015;
Amended Eff. July 1, 2018.

04 NCAC 24C .0303 ADMISSION OF OUT-OF-STATE ATTORNEY TO APPEAR BEFORE APPEALS REFEREE

- (a) Pursuant to G.S. 84-4.1, attorneys residing in and licensed to practice law in another state may seek to be admitted to practice before DES to represent a client.
- (b) An out-of-state attorney seeking to practice before DES, or the North Carolina attorney with whom the out-of-state attorney associates pursuant to G.S. 84-4.1(5), shall file a motion with the Chief Appeals Referee that complies with the requirements of G.S. 84-4.1.
- (c) A proposed Order Permitting Out-Of-State Attorney to Appear Pro Hac Vice, found on DES's website, shall be provided to the Chief Appeals Referee with the motion.
- (d) Following review of the motion, the Chief Appeals Referee shall issue an order granting or denying the motion.
- (e) Pro hac vice admission granted to practice before an Appeals Referee shall allow continued representation before the Board of Review and all administrative proceedings regarding the same matter. The Chief Appeals Referee has the discretionary authority to deny a motion for pro hac vice admission even if the motion complies with the requirements of G.S. 84-4.1.
- (f) Upon receipt of an order granting a motion for pro hac vice admission to practice before an Appeals Referee, the admitted out-of-state attorney or the associated North Carolina attorney shall pay the fees required by G.S. 84-4.1 to the North Carolina State Bar and General Court of Justice, and file a statement with the Chief Appeals Referee documenting payment of the fees and the submission of any pro hac vice admission registration statement required by the North Carolina State Bar. A copy of the motion, Order, registration statement, and documentation reflecting payment of the fees shall be provided to the Appeals Referee to be included in the official hearing record.

History Note: Authority G.S. 84-4.1; 96-4; 96-17; Eff. July 1, 2018.

04 NCAC 24C .0401 ISSUANCE OF SUBPOENAS

- (a) Subpoenas to compel the attendance of witnesses and the production of records for any appeal hearing may be issued at the direction of the designated Appeals Referee.
- (1) A subpoena may be issued at the request of a party or on motion of the Appeals Referee.
 - (2) Any documentation showing service of the subpoena shall become part of the official hearing record.
- (b) Any party's request for a subpoena to be issued by the Appeals Referee shall be in writing, sent to the Appeals Referee, and shall include:
- (1) the name of the party requesting the subpoena;
 - (2) the claimant's name, if applicable;
 - (3) the employer's name, if applicable;
 - (4) the docket or issue identification number of the case;
 - (5) the name, address, and telephone number of each person sought for appearance at the hearing;
 - (6) the specific identification of any document, recording, or item sought, including a detailed description of where the item is located;

- (7) the name and address of the individual or party in possession of any item sought; and
 - (8) a statement of why the testimony or evidence to be subpoenaed is necessary for a proper presentation of the case.
- (c) The request shall be granted only to the extent that the items or testimony sought appears relevant to the issues on appeal.
- (d) Legal representatives may issue subpoenas at their own expense only if prior consent is obtained from the designated Appeals Referee.
- (e) Subpoenas shall be issued at least five business days before the date of the scheduled hearing.
- (f) Service of a subpoena shall be made by delivering a copy to the person, or by registered or certified mail, return receipt requested, unless a party or witness consents to service of the subpoena by other means, including electronic transmission.
- (g) Any party or person receiving a subpoena may serve a written objection to the issuance of the subpoena.
- (1) The objection shall be directed to the Appeals Referee listed in the hearing notice prior to the commencement of the hearing and provide reasons for the objection and the relief sought by the objecting party.
 - (2) The Appeals Referee shall rule on the objection and notify the parties before the hearing. The Appeals Referee's reasons for the ruling shall be in writing or stated on the record during the hearing.

History Note: Authority G.S. 96-4; 96-15; Eff. July 1, 2015; Amended Eff. July 1, 2018.

04 NCAC 24D .0102 NOTICE TO EMPLOYER OF POTENTIAL CHARGES

- (a) DES shall notify each employer in writing of potential charges to the employer's account. The notice shall contain the:
- (1) date of the notice;
 - (2) claimant's name and social security number;
 - (3) date the claimant's benefit year began;
 - (4) claimant's weekly benefit amount and weekly earnings allowance;
 - (5) employer's reporting number used to report wages for the claimant;
 - (6) base period wages reported by the employer by calendar quarter and dollar amount;
 - (7) employer's percentage of total base period wages reported;
 - (8) maximum potential charge amount that can be applied to the employer's experience rating account if the claimant exhausts his or her benefits;
 - (9) a statement containing the employer's right to protest the notice; and
 - (10) the time period within which a protest shall be filed pursuant to G.S. 96-15(b)(2).
- (b) DES shall provide notice of potential charges to the employer's account using the following forms, as applicable:

- (1) Notice of Combined Wage Claim and Potential Charges to Your Account;
- (2) Notice of Unemployment Claim, Wages Reported and Potential Charges;
- (3) Notice of Initial Claim and Potential Charges to Reimbursable Employer;
- (4) Notice of Initial Claim and Potential Charges for Claimants on Temporary Layoff;
- (5) Reversal of Previously Allowed Noncharging;
- (6) Reversal of Previously Denied Noncharging;
- (7) Administrative Determination Disallowing Noncharging; or
- (8) List of Charges to Your Account.

History Note: Authority G.S. 96-4; 96-11.1; 96-11.2; 96-11.3; 96-11.4; 96-15;
Eff. July 1, 2015;
Amended Eff. July 1, 2018.

04 NCAC 24D .0105 DETERMINATION ON REQUESTS FOR NONCHARGING

DES shall render a determination in writing as to each request for noncharging. The determination shall contain notice of whether the request for noncharging has been granted or denied.

- (1) Where a request for noncharging is granted, the employer's account shall be protected from benefit charges for benefit payments made after the last day that the claimant worked, based on wages reported by the employer before the claimant separated from the employer.
- (2) Where a request for noncharging is denied, the determination shall contain:
 - (a) the reason(s) for denying the request;
 - (b) the mailing date of the determination;
 - (c) the time period within which a protest of the denial must be filed; and
 - (d) instructions for protesting the denial to DES's Claims Unit in accordance with 04 NCAC 24A .0104(s).

History Note: Authority G.S. 96-4; 96-11.1; 96-11.3; 96-11.4; Eff. July 1, 2015;
Recodified from 04 NCAC 24D .0202 Eff. March 1, 2017;
Amended Eff. July 1, 2018.

04 NCAC 24D .0106 APPEALING DENIAL OF REQUEST FOR NONCHARGING

- (a) The employing unit may file an appeal following an unsuccessful protest of a request for noncharging.
- (b) Employers shall direct all appeals from denials of a request for noncharging to the DES's Claims Unit in accordance with 04 NCAC 24A .0104(s).
- (c) Rule 04 NCAC 24A .0106 shall apply in determining timeliness of an appeal.
- (d) Hearings on the denial of noncharging shall be conducted pursuant to 04 NCAC 24C .0209.

History Note: Authority G.S. 96-4; 96-11.3; 96-11.4; Eff. July 1, 2015;

*Recodified from 04 NCAC 24D .0203 Eff. March 1, 2017;
Amended Eff. July 1, 2018.*

04 NCAC 24D .0205 DETERMINATION ON GROUNDS CONTAINED IN PROTEST

DES's determination on the employer's protest to the list of benefit charges to its account shall contain:

- (1) notice of whether the relief sought by the employer in the protest was granted or denied;
- (2) any adjustments that have been made to the list of charges if the relief sought in the protest was granted, or the reasons for denial if the relief sought in the protest was denied;
- (3) the date the determination was mailed or sent to the employer by electronic transmission;
- (4) the employer's right to appeal the determination consistent with 04 NCAC 24C .0203;
- (5) the time period within which an appeal shall be filed; and
- (6) instructions for filing an appeal with DES's Claims Unit pursuant to 04 NCAC 24A .0104(s).

History Note: Authority G.S. 96-4; 96-11.3; 96-15; Eff. July 1, 2015;
Recodified from 04 NCAC 24D .0107 Eff. March 1, 2017;
Amended Eff. July 1, 2018; October 1, 2017.

04 NCAC 24D .0401 VOLUNTARY ELECTION BY EMPLOYERS

- (a) Any employer electing coverage under G.S. 96-9.8 of the Employment Security Law shall make the election by completing the Employer Status Report (Form NCUI 604), available on DES's website.
- (b) The information provided in the Employer Status Report (Form NCUI 604) shall be provided in the same manner as required under Rule .0602 of this Subchapter.
- (c) Voluntary election shall not be granted if DES determines that potential benefit payments would exceed the taxes received from the employer.
- (d) Employers who satisfy the criteria for voluntary election of coverage pursuant to G.S. 96-9.8 shall have a contributory unemployment tax account, and shall not have a reimbursable account.

History Note: Authority G.S. 96-4; 96-9.8; 26 U.S.C. 3306; Eff. July 1, 2015;
Amended Eff. July 1, 2018.

04 NCAC 24D .0402 ELECTION TO REIMBURSE IN LIEU OF CONTRIBUTIONS

- (a) A new qualifying employer under G.S. 96-9.6 electing to pay reimbursements for benefits, rather than contributions, shall make the election by writing a letter stating their election to DES's Tax Administration Section as provided in 04 NCAC 24A .0104(x) within 30 days after the employer receives written notification from the Division that it is eligible to make an election as defined under G.S. 96-9.6.

(b) A qualifying employer under G.S. 96-9.6 electing to pay reimbursements for benefits, rather than contributions, shall within 30 days before the January 1 effective date, make the election by sending a letter stating their election to DES's Tax Administration Section pursuant to 04 NCAC 24A .0104(x).

History Note: Authority G.S. 96-4; 96-9.6; 96-9.8; 26 U.S.C. 3309;

Eff. July 1, 2015;

Amended Eff. July 1, 2018.

04 NCAC 24D .0403 PAYMENT OF EMPLOYER TAXES

(a) Taxes shall be due and payable to the Division of Employment Security and sent to DES's administrative office in Raleigh, North Carolina, or delivered to an agent of DES designated to accept payments as provided in 04 NCAC 24A .0104(y).

(b) Timeliness of payments shall be determined pursuant to 04 NCAC 24A .0106.

History Note: Authority G.S. 96-4; 96-9.15;

Eff. July 1, 2015;

Amended Eff. July 1, 2018.

04 NCAC 24D .0602 STATUS REPORTS

(a) Each employing unit shall complete and file an Employer Status Report (Form NCUI 604) with DES within 10 days of becoming subject to the Employment Security Law. The Employer Status Report is located on DES's website, and shall include the following:

- (1) the employing unit's federal identification number, if any;
- (2) the employing unit's North Carolina Department of Revenue's withholding identification number, if any;
- (3) all previously assigned unemployment insurance tax identification or account numbers;
- (4) the employing unit's legal name;
- (5) the employing unit's trade name;
- (6) the employing unit's mailing address, telephone, and fax numbers;
- (7) the physical address and county for each of the employing unit's North Carolina locations;
- (8) if the employing unit has no locations in this State, the primary employee's home address;
- (9) the principal activity or service performed by the employing unit in North Carolina;
- (10) the name and address of each of the employing unit's owners;
- (11) the name, telephone number, and email address of an individual authorized to act on behalf of the employing unit;
- (12) the type of business ownership;
- (13) the number of employees expected within 12 months of the date that Form NCUI 604 is submitted to DES;
- (14) the date the employing unit first hired one or more workers in North Carolina;

(15) whether the employing unit in this State is part of a larger organization and is primarily engaged in providing support services to that organization;

(16) whether the employing unit is an employment service company as defined in G.S. 96-1(14);

(17) for general employers:

(A) whether the employing unit has or expects to have a quarterly payroll of one thousand five hundred dollars (\$1,500) or more and if so, the date that this occurred or is expected to occur; and

(B) whether the employing unit has or expects to employ at least one worker in 20 different calendar weeks during a calendar year and if so, the date that this occurred or is expected to occur;

(18) for agricultural employers:

(A) whether the employing unit has or expects to have a quarterly payroll of twenty thousand dollars (\$20,000) or more, and if so, the date that this occurred or is expected to occur; and

(B) whether the employing unit has or will employ 10 or more workers in 20 different weeks during a calendar year, and if so, the date that this occurred or is expected to occur;

(19) for domestic employers, whether the employing unit has or will pay one thousand dollars (\$1,000) or more in a calendar quarter for domestic services in a private home, college club, fraternity, or sorority, and if so, the date that this occurred or is expected to occur;

(20) for non-profit organizations, whether the employing unit has or will employ 4 or more workers in 20 different weeks during a calendar year, and if so, the date that this occurred or is expected to occur;

(21) for employing units of government, whether the entity is local, state, or federal;

(22) whether the employing unit wants to voluntarily cover its workers for unemployment insurance even if it is not subject to the Employment Security Law;

(23) whether the employing unit has ever paid taxes pursuant to the Federal Unemployment Tax Act, and if so for which years the taxes were paid;

(24) whether the employing unit has acquired, transferred assets, or merged with another business, or made any other change in the ownership of the business, and if so:

(A) the former entity's legal name;

(B) the former entity's trade name;

(C) the former entity's address;

- (D) the former entity's North Carolina Unemployment Insurance Tax Identification number;
- (E) the date on which the employing unit acquired the former entity, or changed its business;
- (F) whether the employing unit acquired all or a portion of the former entity, and if a portion, the percent acquired;
- (G) whether the former entity was operating when it was acquired by the employing unit, and if not, the date that the former entity closed;
- (H) whether the former entity was in bankruptcy when it was acquired by the employing unit; and
- (I) whether the former entity continues to have employees in North Carolina.
- (25) whether there are workers who perform services for the employing unit, and who the employing unit considers to be self-employed or independent contractors;
- (26) the name, signature, and official position of the individual filing the Form NCUI 604 on behalf of the employing unit; and
- (27) the date that the individual completed Form NCUI 604 and submitted it to DES.

(b) An employing unit that ceases business, continues operations without employees, transfers, leases, or sells all or any part of the assets of its business, or changes the business name, business entity, business location, telephone number, or mailing address of the business shall give notice to DES within 10 days by completing and filing a Change in Status Report (Form NCUI 101A), which is available on DES's website. Form NCUI 101A shall state:

- (1) the employing unit's name;
- (2) the employing unit's mailing address;
- (3) the employing unit's trade name;
- (4) the employing unit's North Carolina Unemployment Insurance Tax Identification number;
- (5) whether the employing unit sold or otherwise transferred part or all of the business, and if so:
 - (A) the name, mailing address, and telephone number of the entity to which the business was sold or otherwise transferred;
 - (B) the trade name of the entity to which the business was sold or otherwise transferred;
 - (C) whether the entire business operations, including equipment, merchandise, raw materials, and employees were sold, transferred, or leased to a new owner, and if so, the date of the sale, transfer or lease;
- (6) whether a partnership was formed or changed, including the effective date of the formation or change, and an explanation of what occurred;

- (7) whether the business was incorporated, including the effective date of incorporation;
- (8) whether the business ceased all operations in North Carolina, including the date that all operations ceased;
- (9) whether the business is operating without employees, including the last date on which the business had any employees;
- (10) whether the business name changed, and if so, the new name of the business and a copy of the corporate minutes or amended charter on file with the North Carolina Department of the Secretary of State;
- (11) whether there was a change in the address or telephone number, and if so, the changes to the address or telephone number;
- (12) whether there was a change in the employing unit's contact for tax matters, and if so, the new agent's name, address, and telephone number, if applicable; and
- (13) the name and signature of the individual submitting the Change in Status Report to DES on behalf of the employing unit.

(c) An employing unit that acquires all or any part of the assets of another business shall complete and file an Employer Status Report (Form NCUI 604) within 10 days of the acquisition.

History Note: Authority G.S. 96-4; 96-10; 96-11.7; Eff. July 1, 2015; Amended Eff. July 1, 2018.

04 NCAC 24D .0701 TRANSFER OF EXPERIENCE

History Note: Authority G.S. 96-4; 96-10; 96-11.7; Eff. July 1, 2015; Repealed Eff. July 1, 2018.

04 NCAC 24D .0801 APPLICATION FOR COMPROMISE

- (a) An employing unit may file a request for compromise of its tax debt with DES.
- (b) A request for compromise shall include the following:
 - (1) the name and address of the employing unit;
 - (2) the date the request to compromise is made;
 - (3) the date the requested compromise is requested to be effective;
 - (4) stated reasons for the request to compromise;
 - (5) evidence to support the claim or reasons for the request;
 - (6) the amount and terms offered by the employer to settle the debt; and
 - (7) the signature of a duly authorized representative of the employer.
- (c) The employer shall provide all information requested by the Department pursuant to Section .0500 of this Subchapter for the determination of the compromise.
- (d) The request for compromise shall be filed with DES's Tax Administration Section pursuant to 04 NCAC 24A .0104(w).

History Note: Authority G.S. 96-4; 96-10; 96-10.1;
Eff. July 1, 2015;
Amended Eff. July 1, 2018.

04 NCAC 24D .0901 SPECIAL TAX INVESTIGATIONS

- (a) When it is discovered by a representative of DES that a claimant is alleging that he or she was an employee and the employer is alleging that the claimant was not an employee, the matter shall be referred to DES's Assistant Secretary in writing.
- (b) The Assistant Secretary, on behalf of DES, shall refer the matter to the Tax Administration Section for an investigation. Upon receipt of the findings of the investigation, the Assistant Secretary shall issue a Result of Investigation by the Tax Administration Section. The Result of Investigation shall be in writing and mailed to each party to the controversy pursuant to 04 NCAC 24A .0103.
- (c) The Result of Investigation shall provide notice of each party's rights for filing an appeal to obtain a hearing before the Board of Review, and the time period within which an appeal shall be filed pursuant to 04 NCAC 24A .0104(n).
- (d) Appeal hearings pursuant to this Section shall be upon order of the Board of Review and conducted pursuant to 04 NCAC 24F .0303.

History Note: Authority G.S. 96-4; 96-9.2;
Eff. July 1, 2015;
Amended Eff. July 1, 2018.

04 NCAC 24D .1001 REQUEST FOR REDETERMINATION OF TAX RATE

- (a) An employer may request a review and redetermination of its tax rate after receiving notice of the tax rate.
- (b) An employer requesting a review and redetermination of its tax rate shall file its written request with DES's Tax Administration Section as set forth in 04 NCAC 24A .0104(o).
- (c) The request for a review and redetermination shall be filed prior to May 1 following the effective date of the contribution rate pursuant to G.S. 96-9.2(d).

History Note: Authority G.S. 96-4; 96-9.2;
Eff. July 1, 2015;
Amended Eff. July 1, 2018.

04 NCAC 24D .1002 DIVISION'S OBLIGATIONS

- (a) DES shall review the employing unit's request to review and redetermine its tax rate and all available facts, and shall issue a written ruling. The ruling shall be mailed to the employing unit's address as set forth in 04 NCAC 24A .0103 and include the following:
 - (1) whether the application was granted or denied;
 - (2) the applicable legal authority, with specific citations, for the ruling;
 - (3) the mailing date of the notice;
 - (4) a statement containing the employer's right to appeal the notice; and
 - (5) the time period within which an appeal may be filed.

- (b) The employing unit may file an appeal of the ruling and request a hearing.
 - (1) The appeal shall be filed with DES's Tax Administration Section pursuant to 04 NCAC 24A .0104(o).
 - (2) Hearings requested pursuant to this Section shall be conducted as set forth in 04 NCAC 24F .0303.

History Note: Authority G.S. 96-4; 96-9.2;
Eff. July 1, 2015;
Amended Eff. July 1, 2018.

04 NCAC 24D .1101 NOTICE TO EMPLOYER OF REFERRAL TO TOP

- (a) Consistent with 31 U.S.C. 3716, DES shall notify the employer by mail of its intent to refer the debt to the Treasury Offset Program (TOP) at least 60 days before submitting the debt to TOP.
- (b) The notice shall include:
 - (1) the employer's name;
 - (2) the type of debt;
 - (3) the total amount of the referred debt;
 - (4) the total amount of the employer's debt owed to DES;
 - (5) the total amount of fees, as applicable;
 - (6) the amount of assessed penalties, as applicable;
 - (7) a citation to the legal authority that permits collection of the debt through TOP;
 - (8) a statement of DES's intention to collect the debt through administrative offset;
 - (9) a statement that the employer may request a copy of DES's records that support the debt;
 - (10) a statement of the employer's right to request that DES reevaluate the debt;
 - (11) the time period and procedure for requesting a reevaluation pursuant to 04 NCAC 24A .0104(k);
 - (12) a statement that failure to request a reevaluation within the required time shall result in referral of the debt;
 - (13) a statement of the employer's right to request to enter into a written repayment agreement with DES;
 - (14) instructions for paying the debt;
 - (15) a mailing address where payments shall be sent;
 - (16) a mailing address and facsimile number to request a reevaluation of the debt;
 - (17) a telephone number for the employer to seek information regarding the notice; and
 - (18) the date that the notice was mailed to the employer.
- (c) Employers choosing to repay the debt after receiving notice shall make payment to DES in accordance with 04 NCAC 24A .0104(y).

History Note: Authority G.S. 96-4; 96-9.15; 96-18; 31 CFR 285; 31 U.S.C. 3716;
Eff. July 1, 2018.

04 NCAC 24D .1102 EMPLOYER REEVALUATION OF DEBT

(a) An employer requesting a reevaluation of its debt shall submit a written request to DES's Tax Administration Section pursuant to 04 NCAC 24A .0104(k).

- (1) The written request shall explain why the debt should not be referred to the Treasury Offset Program (TOP) for collection.
- (2) The written request shall be accompanied by documents or other clear and convincing evidence that shows:
 - (A) the identity of the employer to whom the debt is assigned is incorrect; or
 - (B) the amount of the debt is inaccurate.
- (b) The Assistant Secretary or designee shall consider the evidence submitted by the employer.
- (c) The Assistant Secretary or designee shall issue a written decision on the request for reevaluation. The written decision shall be mailed or sent by electronic transmission to the employer and include the following:

- (1) whether the debt shall be referred to TOP; and
- (2) reasons for the decision.

History Note: Authority G.S. 96-4; 96-18; 31 CFR 285; 31 U.S.C. 3716;
Eff. July 1, 2018.

04 NCAC 24D .1103 SETOFF DEBT COLLECTION ACT NOTICE TO EMPLOYER

(a) Consistent with G.S. 105A-8, DES shall provide written notice of receipt to the debtor employer within 10 days after receiving the debtor's refund.

(b) The notice shall include:

- (1) the employer's name;
- (2) the type of debt;
- (3) the amount of the refund received by DES;
- (4) the total amount of the employer's debt owed to DES;
- (5) the total amount of fees, as applicable;
- (6) the amount of assessed penalties, as applicable;
- (7) a citation to the legal authority that permits collection of the debt through setoff;
- (8) a statement of DES's intention to apply the refund against the debt;
- (9) an explanation that the debt is the basis for the agency's claim to the debtor's refund;
- (10) a statement of the employer's right to contest the debt by filing a written request for a hearing;
- (11) the time period and procedure for requesting a hearing pursuant to 04 NCAC 24A .0104(i);
- (12) a statement that failure to request a hearing within the required time shall result in setoff of the debt;
- (13) a statement of the employer's right to enter into a written repayment agreement with DES;
- (14) instructions for paying the debt;
- (15) a mailing address where payments shall be sent;
- (16) the date that the notice was mailed to the employer; and

- (17) a telephone number for the employer to seek information regarding the notice.

(c) Employers choosing to repay the debt after receiving notice shall make payment to DES in accordance with 04 NCAC 24A .0104(y).

History Note: Authority G.S. 96-4; 105A-8;
Eff. July 1, 2018.

04 NCAC 24D .1104 EMPLOYER SETOFF DEBT COLLECTION ACT HEARINGS

(a) An employer debtor may file an appeal from a notice to claim its State income tax refund pursuant to a North Carolina Department of Revenue Offset Letter in accordance with 04 NCAC 24A .0104(i).

(b) Rule 04 NCAC 24A .0106 shall apply in determining timeliness of an appeal.

(c) Hearings pursuant to G.S. 105A-8(b) shall be conducted consistent with the procedures prescribed in 04 NCAC 24F .0303.

History Note: Authority G.S. 96-4; 105A-8;
Eff. July 1, 2018.

04 NCAC 24D .1201 REQUEST FOR SEASONAL DETERMINATION

(a) Each employer desiring a seasonal determination shall request an Application for Seasonal Determination (Form NCUI 611) from DES's Tax Administration Section by telephone, mail, facsimile, or email as provided in 04 NCAC 24A .0104(t).

(b) Each employer shall complete and submit the Application for Seasonal Determination (Form NCUI 611) to the Tax Administration Section as provided in 04 NCAC 24A .0104(t).

(c) A request submitted on Form NCUI 611 shall contain the following:

- (1) the employing unit's name and physical address;
- (2) years of operation in North Carolina;
- (3) location of each seasonal pursuit;
- (4) description of each seasonal pursuit;
- (5) an explanation of why the seasonal pursuit being requested cannot be conducted throughout the year;
- (6) beginning and ending dates of each seasonal pursuit for the last four years;
- (7) the name of the individual requesting the determination;
- (8) the official position of the individual requesting the determination on behalf of the employing unit; and
- (9) a telephone number.

(d) The completed Application for Seasonal Determination shall be filed at least 20 days before the beginning date of the period of production operations for which the determination is requested.

History Note: Authority G.S. 96-4; 96-16;
Eff. July 1, 2015;
Amended Eff. July 1, 2018.

04 NCAC 24D .1202 WRITTEN DETERMINATION

(a) DES shall issue a written determination granting or denying the request upon making its determination pursuant to G.S. 96-16(c). The determination shall notify the employer of the following:

- (1) the specific seasonal period assigned by DES;
- (2) the effective date of the determination; and
- (3) the specific filing requirements for seasonal employers.

(b) A determination that denies the request for a seasonal designation shall state the reasons for the denial.

(c) The determination shall contain notice of each party's right to appeal the determination and request a hearing, the date the determination was mailed, and the time period within which an appeal shall be filed.

(d) The employer may file its appeal of a denial of a request for seasonal pursuit designation with DES's Tax Administration Section as prescribed in 04 NCAC 24A .0104(t).

(e) Hearings shall be conducted as set forth in 04 NCAC 24F .0303.

History Note: Authority G.S. 96-4; 96-16;

Eff. July 1, 2015;

Amended Eff. July 1, 2018.

04 NCAC 24F .0101 OFFICE LOCATION FOR BOARD OF REVIEW

The administrative office of the North Carolina Department of Commerce, Board of Review is located at 700 Wade Avenue, in Raleigh, North Carolina. The mailing address is Post Office Box 28263, Raleigh, NC 27611. The office is open to the public during business hours, from 8:00 a.m. to 5:00 p.m., Monday through Friday, except for State holidays as set forth in 25 NCAC 01E .0901, including subsequent amendments and editions.

History Note: Authority G.S. 96-4; 96-15.3;

Eff. July 1, 2018.

04 NCAC 24F .0102 ADDRESSES FOR NOTICE AND ELECTRONIC NOTICE

Rule 04 NCAC 24A .0103 shall apply for notice sent by the Board of Review.

History Note: Authority G.S. 96-4; 96-15; 96-15.3;

Eff. July 1, 2018.

04 NCAC 24F .0103 ADDRESSES FOR FILING APPEALS, EXCEPTIONS, OR REQUESTS

Appeals, exceptions, and requests shall be filed with the Board of Review in accordance with 04 NCAC 24A .0104(l), (r), and (v).

History Note: Authority G.S. 96-4; 96-15; 96-15.3;

Eff. July 1, 2018.

04 NCAC 24F .0104 FILING/MAILING DATES AND USE OF FORMS

Rule 04 NCAC 24A .0106 shall apply in determining the timeliness of appeals, exceptions, and requests filed with the Board of Review.

History Note: Authority G.S. 96-4; 96-15; 96-15.3;

Eff. July 1, 2018.

04 NCAC 24F .0105 SIGNATURES

(a) Rule 04 NCAC 24A .0107 shall apply in authenticating a digital signature.

(b) Rule 04 NCAC 24A .0108 shall apply in determining signatures on reports and forms.

History Note: Authority G.S. 96-4; 96-9.15; 96-15; 96-15.3;

Eff. July 1, 2018.

04 NCAC 24F .0106 APPEAL DATE

(a) A party shall be allowed to establish an appeal date earlier than a postal meter date, or the date of a document by presenting clear and convincing evidence.

(b) When a party alleges that it filed an appeal that the Board of Review never received, the party shall present clear and convincing evidence of a timely filing, which may be corroborated by testimony or physical evidence linked to the appeal in question.

(c) The Board of Review shall allow cross-examination in de novo hearings to establish the timeliness of an appeal, using the criteria set forth in 04 NCAC 24A .0106.

History Note: Authority G.S. 96-4; 96-15; 96-15.3;

Eff. July 1, 2018.

04 NCAC 24F .0107 TIMELINESS EXCEPTION

Timeliness sanctions shall be waived by the Board of Review or its designee when the Board of Review, DES, or an agent state representative gives misleading information on appeal rights to a party, if the party:

- (1) establishes what he or she was told was misleading and how he or she was misled, using the criteria set forth in 04 NCAC 24F .0106;
- (2) identifies, if possible, the individual who misled him or her; and
- (3) establishes that the Board of Review or DES did not provide the party with any written instructions contrary to the misleading information with service of the decision being appealed.

History Note: Authority G.S. 96-4; 96-15; 96-15.3;

Eff. July 1, 2018.

04 NCAC 24F .0201 REQUIREMENTS FOR APPEAL STATEMENT TO BOARD OF REVIEW

A written statement of appeal from an Appeals Decision to the Board of Review shall comply with 04 NCAC 24A .0104(l)(5).

History Note: Authority G.S. 96-4; 96-15;

Eff. July 1, 2015;

Recodified from 04 NCAC 24C .0501 Eff. October 1, 2017;

Amended Eff. July 1, 2018.

04 NCAC 24F .0202 ACKNOWLEDGMENT OF APPEAL

(a) The receipt of a party's appeal from an Appeals Decision shall be acknowledged in writing by the Board of Review or its designee and sent to all parties of record.

(b) The notice acknowledging receipt of an appeal shall inform each party of the following:

- (1) the right to request oral arguments;
- (2) the deadline to request oral arguments;
- (3) the right to submit written arguments regarding the appeal;
- (4) the deadline for submitting written arguments;
- (5) that the party may submit a written request for a record of the hearing proceeding pursuant to G.S. 96-15(f); and
- (6) the procedures for obtaining a record of the hearing, including recordings or transcripts.

(c) Records shall be provided in accordance with G.S. 96-4(x) and Section .0200 of 04 NCAC 24A.

*History Note: Authority G.S. 96-4; 96-15; 20 CFR 603; Eff. July 1, 2015;
Recodified from 04 NCAC 24C .0502 Eff. October 1, 2017;
Amended Eff. July 1, 2018.*

04 NCAC 24F .0203 ORAL ARGUMENTS

(a) Oral arguments before the Board of Review shall be granted at the discretion of the Board of Review.

(b) A written request for oral arguments shall:

- (1) be directed to the Board of Review pursuant to 04 NCAC 24A .0104(v).
- (2) be received within 15 days of the date on the notice acknowledging receipt of an appeal from the Appeals Decision; and
- (3) contain a statement that a copy of the request was mailed or personally delivered to the opposing party, if one exists.

(c) If the request is granted, the Board of Review shall give written notice to each interested party to appear for oral arguments.

(d) Notice to appear before the Board of Review to present oral arguments shall contain:

- (1) the Higher Authority Decision docket number;
- (2) the issue identification or Appeals Decision docket number;
- (3) the identity of the party requesting oral arguments;
- (4) the right of the non-requesting party to appear and present oral arguments;
- (5) the date and time for oral arguments;
- (6) the physical address of the location where oral arguments are scheduled to be held; and
- (7) each party's right to legal representation.

(e) The notice to appear for oral arguments shall be provided to each party by mail or electronic transmission at least 14 calendar days before the date scheduled for arguments in accordance with 04 NCAC 24A .0103.

(f) Any request to reschedule oral arguments shall be for good cause as defined in 04 NCAC 24A .0105, and sent to the Board of

Review pursuant to 04 NCAC 24A .0104(v), and to each party to the proceeding by personal service, mail, electronic transmission, or delivery service as defined under 04 NCAC 24A .0105. A request to reschedule oral arguments shall state each reason for the request.

*History Note: Authority G.S. 96-4; 96-15;
Eff. July 1, 2015;
Recodified from 04 NCAC 24C .0503 Eff. October 1, 2017;
Amended Eff. July 1, 2018.*

04 NCAC 24F .0204 LEGAL REPRESENTATION OR SUPERVISION BY NORTH CAROLINA ATTORNEY BEFORE THE BOARD OF REVIEW

(a) An individual who is a party to a proceeding may represent himself or herself before the Board of Review.

(b) A partnership or association may be represented by any of its members.

(c) A corporation may be represented by an officer.

(d) Any party may be represented by a legal representative as defined in 04 NCAC 24A .0105.

(e) Notices or certification of legal representation by an attorney licensed to practice law in this State shall be in writing and presented to the Board of Review to become part of the official record.

(f) Notices or certification of legal representation by an individual who is supervised by an attorney licensed to practice law in this State shall be in writing and presented to the Board of Review to become part of the official record, and shall contain:

- (1) the name, business address, and telephone number of the supervising attorney;
- (2) the supervising attorney's active North Carolina State Bar number; and
- (3) the name, address, and telephone number of the person being supervised.

(g) When a party has a legal representative, all documents or information required to be provided to the party shall be provided only to the legal representative, unless otherwise requested in writing to the Board of Review.

(h) An address provided to the Board of Review for mailing or electronic transmission in a specific case shall not constitute a change of address with DES for purposes of 04 NCAC 24A .0102.

(i) Any information provided to a party's legal representative shall have the same force and effect as if it had been sent to the party.

*History Note: Authority G.S. 96-4; 96-15; 96-17;
Eff. July 1, 2015;
Recodified from 04 NCAC 24C .0504 Eff. October 1, 2017;
Amended Eff. July 1, 2018.*

04 NCAC 24F .0205 INTRODUCTION OF EVIDENCE IN HIGHER AUTHORITY HEARINGS

(a) The Board of Review shall allow each party 10 minutes from the time of the scheduled hearing to appear for the hearing.

(b) If the appealing party fails to appear for the hearing and a continuance had not been previously granted, the Board of Review shall issue a Higher Authority Decision dismissing the appeal.

- (c) A party desiring to introduce documents or other non-testimonial evidence at a de novo hearing shall provide an authenticated copy plus one copy for the Board of Review to include in the official record of the hearing. A copy of any document or other evidence provided to the Board of Review shall be provided to the opposing party prior to the hearing.
- (d) A party offering 20 or more documents into evidence shall prepare a list of the documents in the order of their presentation. The list shall be provided to the Board of Review and to each party before the hearing to become part of the official hearing record.
- (e) If the Board of Review takes official notice of facts, whether under judicial notice or within the Board's specialized knowledge, the official notice and its source shall be stated on the record and noticed to the parties. Each party shall be given an opportunity to dispute the noticed fact by argument and submission of evidence.

*History Note: Authority G.S. 96-4; 96-15; 96-15.3;
Eff. July 1, 2015;
Recodified from 04 NCAC 24C .0505 Eff. October 1, 2017;
Amended Eff. July 1, 2018.*

04 NCAC 24F .0301 APPEALING A TAX MATTER

- (a) A written appeal regarding monetary eligibility denying a protest to a Wage Transcript and Monetary Determination shall be filed with DES's Tax Administration Section pursuant to 04 NCAC 24A .0104(e).
- (b) A written appeal of a Tax Liability Determination shall be filed with DES's Tax Administration Section pursuant to 04 NCAC 24A .0104(n).
- (c) A written appeal of a Tax Rate Assignment shall be filed with DES's Tax Administration Section pursuant to 04 NCAC 24A .0104(o).
- (d) A written appeal of an Audit Result shall be filed with DES's Tax Administration Section pursuant to 04 NCAC 24A .0104(p).
- (e) A written appeal of a Tax Assessment shall be filed with DES's Tax Administration Section pursuant to 04 NCAC 24A .0104(q).
- (f) Written Exceptions to a Tax Opinion shall be filed with the Board of Review pursuant to 04 NCAC 24A .0104(r).

*History Note: Authority G.S. 96-4;
Eff. July 1, 2015;
Recodified from 04 NCAC 24D .1101 Eff. October 1, 2017;
Amended Eff. July 1, 2018.*

04 NCAC 24F .0302 SCHEDULING TAX HEARINGS

- (a) A notice of the hearing shall be mailed to each party at least 14 days before the hearing date.
- (b) The hearing notice shall include the following:
- (1) identify the determination, decision, or result being appealed;
 - (2) the name of the appealing party;
 - (3) the date and time of the hearing;
 - (4) if requested at the time of the filing of the appeal, the physical location of an in-person hearing;
 - (5) the telephone number at which each party will be called for a telephone hearing;

- (6) each issue, with statutory reference, to be heard and decided;
- (7) the name and contact information for the Board of Review or designated Hearing Officer;
- (8) the manner in which witnesses may offer evidence and participate in the hearing;
- (9) each party's right to obtain a legal representative as defined in 04 NCAC 24A .0105;
- (10) instructions for requesting a rescheduling of the hearing;
- (11) notice that a party may object to a telephone hearing and request an in-person hearing; and
- (12) a statement of each party's right to request the issuance of a subpoena for the production of records or individuals to appear to testify, and instructions for how to do so.

*History Note: Authority G.S. 96-4;
Eff. July 1, 2015;
Recodified from 04 NCAC 24D .1102 Eff. October 1, 2017;
Amended Eff. July 1, 2018.*

04 NCAC 24F .0303 TELEPHONE HEARINGS BEFORE THE BOARD OF REVIEW

- (a) Hearings shall be conducted by telephone conference call, unless a request is made for an in-person hearing at the time the appeal is filed, or an objection is made pursuant to Rule .0304 of this Section.
- (b) In cases of telephone hearings, the Board of Review or designated Hearing Officer shall provide a Telephone Hearing Questionnaire for each party to submit each telephone number to be called by the Board of Review or its designated Hearing Officer for the hearing.
- (c) Each party may complete and submit the Telephone Hearing Questionnaire containing each number to be called for the hearing to the Board of Review or Hearing Officer at the address listed in the hearing notice.
- (d) After receiving the hearing notice, and prior to the hearing, any party may contact the Board of Review or Hearing Officer to provide the name of each participant and each telephone number to be called for the hearing. In the absence of the submission by a party of any telephone number to be called for the hearing, the Board of Review or Hearing Officer shall call the party at the telephone number listed on the hearing notice.

*History Note: Authority G.S. 96-4;
Eff. July 1, 2015;
Recodified from 04 NCAC 24D .1103 Eff. October 1, 2017;
Amended Eff. July 1, 2018.*

04 NCAC 24F .0305 COMBINATION TELEPHONE AND IN-PERSON HEARINGS BEFORE THE BOARD OF REVIEW

- (a) The Board of Review or designated Hearing Officer may conduct an in-person/telephone hearing to avoid prejudice, to ensure security, to comply with standards for appeal promptness, or to expedite an appeal.

(b) A party may obtain an in-person/telephone hearing by filing a written objection to a telephone conference call hearing notice pursuant to 04 NCAC 24F .0303, or to an in-person hearing notice pursuant to 04 NCAC 24F .0304.

- (1) The objection shall state each reason that the party objects to appearing in the manner listed in the hearing notice.
- (2) The objecting party shall state the manner in which it, or its witnesses, request to appear for the hearing.
- (3) This request shall be directed to the Board of Review or Hearing Officer designated in the hearing notice.

(c) The Board of Review or Hearing Officer shall consider a party's request to change its witnesses' appearance from a telephone or in-person hearing, and shall make a determination of whether the substantial rights of each party would be preserved by granting the party's request.

(d) The Board of Review or Hearing Officer may grant a request to change an appearance by telephone or in-person for good cause as defined in 04 NCAC 24A .0105. If the request is granted, the official hearing record shall include the written request for the change, reflect the Board of Review's or Hearing Officer's determination that the substantial rights of each party would be preserved by granting the request, and each reason for the determination.

(e) The objecting party shall appear in-person or by telephone as requested by the objecting party if the Board of Review or Hearing Officer grants the request.

(f) The Board of Review or Hearing Officer may deny a request to change a party's appearance at a telephone or in-person hearing if:

- (1) the Board of Review or Hearing Officer believes that the requesting party's intent is to inconvenience the opposing party or delay the proceedings;
- (2) the party or witnesses request to appear by telephone, and are less than 40 miles away from an in-person hearing location; or
- (3) the request is made less than 24 hours before the hearing is scheduled to begin.

(g) If a party's request for a change to a telephone or in-person hearing is denied, the Board of Review or Hearing Officer shall state the grounds for denial on the record, include the written request in the official records, and state the reasons for the denial in the written decision.

(h) The Board of Review or Hearing Officer shall notify each party of the change prior to the hearing.

History Note: Authority G.S. 96-4; 96-15.3;
Eff. July 1, 2018.

04 NCAC 24F .0307 SUBPOENAS

(a) Subpoenas to compel the attendance of witnesses and the production of records for any tax hearing may be issued by the Board of Review or its designated Hearing Officer.

- (1) A subpoena may be issued at the request of a party or on the Board of Review's or Hearing Officer's own motion.

- (2) Any documentation showing service of the subpoena shall become part of the official hearing record.

(b) Any party's request for a subpoena to be issued by the Board of Review or Hearing Officer shall be in writing, sent to the Board of Review or Hearing Officer, and shall include:

- (1) the name of the party requesting the subpoena;
- (2) the claimant's name, if applicable;
- (3) the employer's name, if applicable;
- (4) the docket number of the case;
- (5) the name, address, and telephone number of each person sought for appearance at the hearing;
- (6) the specific identification of any document, recording, or item sought, including a detailed description of where the item is located;
- (7) the name and address of the individual or party in possession of any item sought; and
- (8) a statement of why the testimony or evidence to be subpoenaed is necessary for a proper presentation of the case.

(c) The request shall be granted only to the extent that the items or testimony sought appears relevant to the issues on appeal.

(d) Legal representatives shall issue subpoenas at their own expense and discretion.

(e) Subpoenas shall be issued at least five business days before the date of the scheduled hearing.

(f) Service of a subpoena shall be made by delivering a copy to the person, or by registered or certified mail, return receipt requested, unless a party or witness consents to service of the subpoena by other means, including electronic transmission.

(g) Any party or person receiving a subpoena may serve a written objection to the issuance of the subpoena.

- (1) The objection shall be directed to the Board of Review or Hearing Officer prior to the commencement of the hearing and provide reasons for the objection and the relief sought by the objecting party.
- (2) The Board of Review or Hearing Officer shall rule on the objection and notify the parties before the hearing. The reasons for the ruling shall be in writing or stated on the record during the hearing.

History Note: Authority G.S. 96-4;

Eff. July 1, 2015;

Recodified from 04 NCAC 24D .1106 Eff. October 1, 2017;

Amended Eff. July 1, 2018.

04 NCAC 24F .0309 CONDUCT OF TAX HEARINGS BY THE BOARD OF REVIEW

(a) The Board of Review shall allow each party 10 minutes from the time of the scheduled hearing to appear for the hearing.

(b) If the appealing party fails to appear for the hearing and a continuance had not been previously granted, the Board of Review shall issue a Tax Opinion dismissing the appeal.

(c) A party desiring to introduce documents or other non-testimonial evidence at a de novo hearing shall provide an authenticated copy plus one copy for the Board of Review to

include in the official record of the hearing. A copy of any document or other evidence provided to the Board of Review shall be provided to the opposing party prior to the hearing.

(d) A party offering 30 or more documents into evidence shall prepare a list of documents in the order of their presentation. The list shall be provided to the Board of Review and to each party before the hearing to become part of the official hearing record.

(e) If the Board of Review takes official notice of facts, whether under judicial notice or within the Board's specialized knowledge, the official notice and its source shall be stated on the record and noticed to the parties. Each party shall be given an opportunity to dispute the noticed fact by argument and submission of evidence.

*History Note: Authority G.S. 96-4; 96-15.3;
Eff. July 1, 2018.*

04 NCAC 24F .0310 BURDEN OF PROOF IN HEARINGS BEFORE THE BOARD OF REVIEW

The burden of proof shall rest with the appealing party in any hearing on an appeal set forth in 04 NCAC 24F .0301.

*History Note: Authority G.S. 96-4; 96-15.3;
Eff. July 1, 2018.*

04 NCAC 24F .0311 ADMISSION OF OUT-OF-STATE ATTORNEY TO APPEAR BEFORE BOARD OF REVIEW

(a) Pursuant to G.S. 84-4.1, attorneys residing in and licensed to practice law in another state may seek to be admitted to practice before the Board of Review to represent a client. Attorneys admitted pursuant to 04 NCAC 24C .0303 for the same matter are not required to seek admission pursuant to this Rule.

(b) An out-of-state attorney seeking to practice before the Board of Review, or the North Carolina attorney with whom the out-of-state attorney associates pursuant to G.S. 84-4.1(5), shall file a motion with the Board of Review that complies with the requirements of G.S. 84-4.1.

(c) A proposed Order Permitting Out-Of-State Attorney to Appear Pro Hac Vice shall be provided to the Board of Review with the motion.

(d) Following review of the motion, the Board of Review shall issue an order granting or denying the motion.

(e) Pro hac vice admission granted to practice before the Board of Review shall allow continued representation before the Board of Review in all administrative proceedings regarding the same matter. The Board of Review has the discretionary authority to deny a motion for pro hac vice admission even if the motion complies with the requirements of G.S. 84-4.1.

(f) Upon receipt of an order granting a motion for pro hac vice admission to practice before the Board of Review, the admitted out-of-state attorney or the associated North Carolina attorney shall pay the fees required by G.S. 84-4.1 to the North Carolina State Bar and General Court of Justice, and file a statement with the Board of Review documenting payment of the fees and the submission of any pro hac vice admission registration statement required by the North Carolina State Bar. A copy of the motion, Order, registration statement, and documentation reflecting payment of the fees shall be provided to the Board of Review to be included in the official hearing record.

*History Note: Authority G.S. 84-4.1; 96-4; 96-17;
Eff. July 1, 2018.*

TITLE 10A - DEPARTMENT OF HEALTH AND HUMAN SERVICES

10A NCAC 13P .0102 DEFINITIONS

In addition to the definitions in G.S. 131E-155, the following definitions apply throughout this Subchapter:

- (1) "Affiliated EMS Provider" means the firm, corporation, agency, organization, or association identified with a specific county EMS system as a condition for EMS Provider Licensing as required by Rule .0204 of this Subchapter.
- (2) "Affiliated Hospital" means a non-trauma center hospital that is owned by the Trauma Center or there is a contract or other agreement to allow for the acceptance or transfer of the Trauma Center's patient population to the non-trauma center hospital.
- (3) "Affiliate" or "Affiliation" means a reciprocal agreement and association that includes active participation, collaboration, and involvement in a process or system between two or more parties.
- (4) "Alternative Practice Setting" means a practice setting that utilizes credentialed EMS personnel that may not be affiliated with or under the oversight of an EMS System or EMS System Medical Director.
- (5) "Air Medical Ambulance" means an aircraft configured and medically equipped to transport patients by air. The patient care compartment of air medical ambulances shall be staffed by medical crew members approved for the mission by the Medical Director.
- (6) "Air Medical Program" means a SCTP or EMS System utilizing rotary-wing or fixed-wing aircraft configured and operated to transport patients.
- (7) "Assistant Medical Director" means a physician, EMS-PA, or EMS-NP who assists the Medical Director with the medical aspects of the management of a practice setting utilizing credentialed EMS personnel or medical crew members.
- (8) "Bypass" means a decision made by the patient care technician to transport a patient from the scene of an accident or medical emergency past a receiving facility for the purposes of accessing a facility with a higher level of care, or a hospital of its own volition reroutes a patient from the scene of an accident or medical emergency or referring hospital to a facility with a higher level of care.
- (9) "Community Paramedicine" means an EMS System utilizing credentialed personnel who

- have received additional training as determined by the EMS system Medical Director to provide knowledge and skills for the community needs beyond the 911 emergency response and transport operating guidelines defined in the EMS system plan.
- (10) "Contingencies" mean conditions placed on a designation that, if unmet, may result in the loss or amendment of a designation.
- (11) "Convalescent Ambulance" means an ambulance used on a scheduled basis solely to transport patients having a known non-emergency medical condition. Convalescent ambulances shall not be used in place of any other category of ambulance defined in this Subchapter.
- (12) "Deficiency" means the failure to meet essential criteria for a designation that can serve as the basis for a focused review or denial of a designation.
- (13) "Department" means the North Carolina Department of Health and Human Services.
- (14) "Diversion" means the hospital is unable to accept a patient due to a lack of staffing or resources.
- (15) "Educational Medical Advisor" means the physician responsible for overseeing the medical aspects of approved EMS educational programs.
- (16) "EMS Care" means all services provided within each EMS System by its affiliated EMS agencies and personnel that relate to the dispatch, response, treatment, and disposition of any patient.
- (17) "EMS Educational Institution" means any agency credentialed by the OEMS to offer EMS educational programs.
- (18) "EMS Non-Transporting Vehicle" means a motor vehicle operated by a licensed EMS provider dedicated and equipped to move medical equipment and EMS personnel functioning within the scope of practice of an AEMT or Paramedic to the scene of a request for assistance. EMS nontransporting vehicles shall not be used for the transportation of patients on the streets, highways, waterways, or airways of the state.
- (19) "EMS Peer Review Committee" means a committee as defined in G.S. 131E-155(6b).
- (20) "EMS Performance Improvement Self-Tracking and Assessment of Targeted Statistics" means one or more reports generated from the State EMS data system analyzing the EMS service delivery, personnel performance, and patient care provided by an EMS system and its associated EMS agencies and personnel. Each EMS Performance Improvement Self-Tracking and Assessment of Targeted Statistics focuses on a topic of care such as trauma, cardiac arrest, EMS response times, stroke, STEMI (heart attack), and pediatric care.
- (21) "EMS Provider" means those entities defined in G.S. 131E-155(13a) that hold a current license issued by the Department pursuant to G.S. 131E-155.1.
- (22) "EMS System" means a coordinated arrangement of local resources under the authority of the county government (including all agencies, personnel, equipment, and facilities) organized to respond to medical emergencies and integrated with other health care providers and networks including public health, community health monitoring activities, and special needs populations.
- (23) "Essential Criteria" means those items that are the requirements for the respective level of trauma center designation (I, II, or III), as set forth in Rule .0901 of this Subchapter.
- (24) "Focused Review" means an evaluation by the OEMS of corrective actions to remove contingencies that are a result of deficiencies following a site visit.
- (25) "Ground Ambulance" means an ambulance used to transport patients with traumatic or medical conditions or patients for whom the need for specialty care, emergency, or non-emergency medical care is anticipated either at the patient location or during transport.
- (26) "Hospital" means a licensed facility as defined in G.S. 131E-176 or an acute care in-patient diagnostic and treatment facility located within the State of North Carolina that is owned and operated by an agency of the United States government.
- (27) "Immediately Available" means the physical presence of the health professional or the hospital resource within the trauma center to evaluate and care for the trauma patient.
- (28) "Inclusive Trauma System" means an organized, multi-disciplinary, evidence-based approach to provide quality care and to improve measurable outcomes for all defined injured patients. EMS, hospitals, other health systems, and clinicians shall participate in a structured manner through leadership, advocacy, injury prevention, education, clinical care, performance improvement, and research resulting in integrated trauma care.
- (29) "Infectious Disease Control Policy" means a written policy describing how the EMS system will protect and prevent its patients and EMS professionals from exposure and illness associated with contagions and infectious disease.
- (30) "Lead RAC Agency" means the agency (comprised of one or more Level I or II trauma centers) that provides staff support and serves as the coordinating entity for trauma planning.

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| <p>(31) "Level I Trauma Center" means a hospital that has the capability of providing guidance, research, and total care for every aspect of injury from prevention to rehabilitation.</p> <p>(32) "Level II Trauma Center" means a hospital that provides trauma care regardless of the severity of the injury, but may lack the comprehensive care as a Level I trauma center, and does not have trauma research as a primary objective.</p> <p>(33) "Level III Trauma Center" means a hospital that provides assessment, resuscitation, emergency operations, and stabilization, and arranges for hospital transfer as needed to a Level I or II trauma center.</p> <p>(34) "Licensed Health Care Facility" means any health care facility or hospital licensed by the Department of Health and Human Services, Division of Health Service Regulation.</p> <p>(35) "Medical Crew Member" means EMS personnel or other health care professionals who are licensed or registered in North Carolina and are affiliated with a SCTP.</p> <p>(36) "Medical Director" means the physician responsible for the medical aspects of the management of a practice setting utilizing credentialed EMS personnel or medical crew members, or a Trauma Center.</p> <p>(37) "Medical Oversight" means the responsibility for the management and accountability of the medical care aspects of a practice setting utilizing credentialed EMS personnel or medical crew members. Medical Oversight includes physician direction of the initial education and continuing education of EMS personnel or medical crew members; development and monitoring of both operational and treatment protocols; evaluation of the medical care rendered by EMS personnel or medical crew members; participation in system or program evaluation; and directing, by two-way voice communications, the medical care rendered by the EMS personnel or medical crew members.</p> <p>(38) "Mobile Integrated Healthcare" means utilizing credentialed personnel who have received additional training as determined by the Alternative Practice Setting medical director to provide knowledge and skills for the healthcare provider program needs.</p> <p>(39) "Off-line Medical Control" means medical supervision provided through the EMS System Medical Director or SCTP Medical Director who is responsible for the day-to-day medical care provided by EMS personnel. This includes EMS personnel education, protocol development, quality management, peer review activities, and EMS administrative responsibilities related to assurance of quality medical care.</p> | <p>(40) "Office of Emergency Medical Services" means a section of the Division of Health Service Regulation of the North Carolina Department of Health and Human Services located at 1201 Umstead Drive, Raleigh, North Carolina 27603.</p> <p>(41) "On-line Medical Control" means the medical supervision or oversight provided to EMS personnel through direct communication in-person, via radio, cellular phone, or other communication device during the time the patient is under the care of an EMS professional.</p> <p>(42) "Operational Protocols" means the administrative policies and procedures of an EMS System or that provide guidance for the day-to-day operation of the system.</p> <p>(43) "Participating Hospital" means a hospital that supplements care within a larger trauma system by the initial evaluation and assessment of injured patients for transfer to a designated trauma center if needed.</p> <p>(44) "Physician" means a medical or osteopathic doctor licensed by the North Carolina Medical Board to practice medicine in the state of North Carolina.</p> <p>(45) "Regional Advisory Committee" means a committee comprised of a lead RAC agency and a group representing trauma care providers and the community, for the purpose of regional planning, establishing, and maintaining a coordinated trauma system.</p> <p>(46) "Request for Proposal" means a State document that must be completed by each hospital seeking initial or renewal trauma center designation.</p> <p>(47) "Significant Failure to Comply" means a degree of non-compliance determined by the OEMS during compliance monitoring to exceed the ability of the local EMS System to correct, warranting enforcement action pursuant to Section .1500 of this Subchapter.</p> <p>(48) "State Medical Asset and Resource Tracking Tool" means the Internet web-based program used by the OEMS both in its daily operations and during times of disaster to identify, record, and monitor EMS, hospital, health care, and sheltering resources statewide, including facilities, personnel, vehicles, equipment, and pharmaceutical and supply caches.</p> <p>(49) "Specialty Care Transport Program" means a program designed and operated for the transportation of a patient by ground or air requiring specialized interventions, monitoring, and staffing by a paramedic who has received additional training as determined by the program Medical Director beyond the minimum training prescribed by the OEMS, or by one or more other healthcare professional(s)</p> |
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- qualified for the provision of specialized care based on the patient's condition.
- (50) "Specialty Care Transport Program Continuing Education Coordinator" means a Level I EMS Instructor within a SCTP who is responsible for the coordination of EMS continuing education programs for EMS personnel within the program.
- (51) "Stretcher" means any wheeled or portable device capable of transporting a person in a recumbent position and may only be used in an ambulance vehicle permitted by the Department.
- (52) "Stroke" means an acute cerebrovascular hemorrhage or occlusion resulting in a neurologic deficit.
- (53) "System Continuing Education Coordinator" means the Level I EMS Instructor designated by the local EMS System who is responsible for the coordination of EMS continuing education programs.
- (54) "System Data" means all information required for daily electronic submission to the OEMS by all EMS Systems using the EMS data set, data dictionary, and file format as specified in "North Carolina College of Emergency Physicians: Standards for Medical Oversight and Data Collection," incorporated herein by reference including subsequent amendments and editions. This document is available from the OEMS, 2707 Mail Service Center, Raleigh, North Carolina 27699-2707, at no cost and online at www.ncems.org at no cost.
- (55) "Trauma Center" means a hospital designated by the State of North Carolina and distinguished by its ability to manage, on a 24-hour basis, the severely injured patient or those at risk for severe injury.
- (56) "Trauma Center Criteria" means essential criteria to define Level I, II, or III trauma centers.
- (57) "Trauma Center Designation" means a process of approval in which a hospital voluntarily seeks to have its trauma care capabilities and performance evaluated by experienced on-site reviewers.
- (58) "Trauma Diversion" means a trauma center of its own volition declines to accept an acutely injured patient due to a lack of staffing or resources.
- (59) "Trauma Guidelines" mean standards for practice in a variety of situations within the trauma system.
- (60) "Trauma Minimum Data Set" means the basic data required of all hospitals for submission to the Trauma Registry.
- (61) "Trauma Patient" means any patient with an ICD-CM discharge diagnosis as defined in the "North Carolina Trauma Registry Data Dictionary," incorporated herein by reference, including subsequent amendments and editions. This document is available from the OEMS, 2707 Mail Service Center, Raleigh, North Carolina 27699-2707, at no cost and online at <https://www.ncdhhs.gov/dhsr/EMS/trauma/traumaregistry.html> at no cost.
- (62) "Trauma Program" means an administrative entity that includes the trauma service and coordinates other trauma-related activities. It shall also include the trauma Medical Director, trauma program manager/trauma coordinator, and trauma registrar. This program's reporting structure shall give it the ability to interact with at least equal authority with other departments in the hospital providing patient care.
- (63) "Trauma Registry" means a disease-specific data collection composed of a file of uniform data elements that describe the injury event, demographics, pre-hospital information, diagnosis, care, outcomes, and costs of treatment for injured patients collected and electronically submitted as defined by the OEMS. The elements of the Trauma Registry can be accessed at <https://www.ncdhhs.gov/dhsr/EMS/trauma/traumaregistry.html> at no cost.
- (64) "Treatment Protocols" means a document approved by the Medical Directors of the local EMS System, Specialty Care Transport Program, Alternative Practice Setting, or Trauma Center and the OEMS specifying the diagnostic procedures, treatment procedures, medication administration, and patient-care-related policies that shall be completed by EMS personnel or medical crew members based upon the assessment of a patient.
- (65) "Triage" means the assessment and categorization of a patient to determine the level of EMS and healthcare facility based care required.
- (66) "Water Ambulance" means a watercraft specifically configured and medically equipped to transport patients.

History Note: Authority G.S. 131E-155(6b); 131E-162; 143-508(b), 143-508(d)(1); 143-508(d)(2); 143-508(d)(3); 143-508(d)(4); 143-508(d)(5); 143-508(d)(6); 143-508(d)(7); 143-508(d)(8); 143-508(d)(13); 143-518(a)(5); Temporary Adoption Eff. January 1, 2002; Eff. April 1, 2003; Amended Eff. March 3, 2009 pursuant to E.O. 9, Beverly Perdue, March 3, 2009; Pursuant to G.S. 150B-21.3(c), a bill was not ratified by the General Assembly to disapprove this rule; Readopted Eff. January 1, 2017; Amended Eff. July 1, 2018.

10A NCAC 13P .0201 EMS SYSTEM REQUIREMENTS

(a) County governments shall establish EMS Systems. Each EMS System shall have:

- (1) a defined geographical service area for the EMS System. The minimum service area for an EMS System shall be one county. There may be multiple EMS Provider service areas within an EMS System. The highest level of care offered within any EMS Provider service area shall be available to the citizens within that service area 24 hours a day, seven days a week;
- (2) a defined scope of practice for all EMS personnel functioning in the EMS System within the parameters set forth by the North Carolina Medical Board pursuant to G.S. 143-514;
- (3) written policies and procedures describing the dispatch, coordination, and oversight of all responders that provide EMS care, specialty patient care skills, and procedures as set forth in Rule .0301 of this Subchapter, and ambulance transport within the system;
- (4) at least one licensed EMS Provider;
- (5) a listing of permitted ambulances to provide coverage to the service area 24 hours a day, seven days a week;
- (6) personnel credentialed to perform within the scope of practice of the system and to staff the ambulance vehicles as required by G.S. 131E-158. There shall be a written plan for the use of credentialed EMS personnel for all practice settings used within the system;
- (7) written policies and procedures specific to the utilization of the EMS System's EMS Care data for the daily and on-going management of all EMS System resources;
- (8) a written Infectious Disease Control Policy as defined in Rule .0102 of this Subchapter and written procedures that are approved by the EMS System Medical Director that address the cleansing and disinfecting of vehicles and equipment that are used to treat or transport patients;
- (9) a listing of resources that will provide online medical direction for all EMS Providers operating within the EMS System;
- (10) an EMS communication system that provides for:
 - (A) public access to emergency services by dialing 9-1-1 within the public dial telephone network as the primary method for the public to request emergency assistance. This number shall be connected to the PSAP with immediate assistance available such that no caller will be instructed to hang up the telephone and dial another telephone number. A person calling for emergency assistance shall not be required to speak with more than two persons to request emergency medical assistance;
 - (B) a PSAP operated by public safety telecommunicators with training in the management of calls for medical assistance available 24 hours a day, seven days a week;
 - (C) dispatch of the most appropriate emergency medical response unit or units to any caller's request for assistance. The dispatch of all response vehicles shall be in accordance with a written EMS System plan for the management and deployment of response vehicles including requests for mutual aid; and
 - (D) two-way radio voice communications from within the defined service area to the PSAP and to facilities where patients are transported. The PSAP shall maintain all required FCC radio licenses or authorizations;
- (11) written policies and procedures for addressing the use of SCTP and Air Medical Programs resources utilized within the system;
- (12) a written continuing education program for all credentialed EMS personnel, under the direction of a System Continuing Education Coordinator, developed and modified based on feedback from EMS Care system data, review, and evaluation of patient outcomes and quality management peer reviews, that follows the criteria set forth in Rule .0501 of this Subchapter;
- (13) written policies and procedures to address management of the EMS System that includes:
 - (A) triage and transport of all acutely ill and injured patients with time-dependent or other specialized care issues including trauma, stroke, STEMI, burn, and pediatric patients that may require the bypass of other licensed health care facilities and that are based upon the expanded clinical capabilities of the selected healthcare facilities;
 - (B) triage and transport of patients to facilities outside of the system;
 - (C) arrangements for transporting patients to identified facilities when diversion or bypass plans are activated;
 - (D) reporting, monitoring, and establishing standards for system response times using system data;
 - (E) weekly updating of the SMARTT EMS Provider information;
 - (F) a disaster plan;

- (G) a mass-gathering plan that includes how the provision of EMS standby coverage for the public-at-large will be provided;
- (H) a mass-casualty plan;
- (I) a weapons plan for any weapon as set forth in Rule .0216 of this Section;
- (J) a plan on how EMS personnel shall report suspected child abuse pursuant to G.S. 7B-301;
- (K) a plan on how EMS personnel shall report suspected abuse of the disabled pursuant to G.S. 108A-102; and
- (L) a plan on how each responding agency is to maintain a current roster of its personnel providing EMS care within the county under the provider number issued pursuant to Paragraph (c) of this Rule, in the OEMS credentialing and information database;

- (14) affiliation as defined in Rule .0102 of this Subchapter with a trauma RAC as required by Rule .1101(b) of this Subchapter; and
- (15) medical oversight as required by Section .0400 of this Subchapter.

(b) Each EMS System that utilizes emergency medical dispatching agencies applying the principles of EMD or offering EMD services, procedures, or programs to the public shall have:

- (1) a defined service area for each agency;
- (2) appropriate personnel within each agency, credentialed in accordance with the requirements set forth in Section .0500 of this Subchapter, to ensure EMD services to the citizens within that service area are available 24 hours per day, seven days a week; and
- (3) EMD responsibilities in special situations, such as disasters, mass-casualty incidents, or situations requiring referral to specialty hotlines.

(c) The EMS System shall obtain provider numbers from the OEMS for each entity that provides EMS Care within the county.

(d) An application to establish an EMS System shall be submitted by the county to the OEMS for review. When the system is comprised of more than one county, only one application shall be submitted. The proposal shall demonstrate that the system meets the requirements in Paragraph (a) of this Rule. System approval shall be granted for a period of six years. Systems shall apply to OEMS for reapproval no more than 90 days prior to expiration.

History Note: Authority G.S. 131E-155(1); 131E-155(6); 131E-155(7); 131E-155(8); 131E-155(9); 131E-155(13a); 131E-155(15); 143-508(b); 143-508(d)(1); 143-508(d)(2); 143-508(d)(3); 143-508(d)(5); 143-508(d)(8); 143-508(d)(9); 143-508(d)(10); 143-508(d)(13); 143-517; 143-518;
Temporary Adoption Eff. January 1, 2002;
Eff. August 1, 2004;
Amended Eff. January 1, 2009;
Readopted Eff. January 1, 2017;
Amended Eff. July 1, 2018.

10A NCAC 13P .0222 TRANSPORT OF STRETCHER BOUND PATIENTS

(a) Any person transported on a stretcher as defined in Rule .0102 of this Subchapter meets the definition of patient as defined in G.S. 131E-155(16).

(b) Stretchers may only be utilized for patient transport in an ambulance permitted by the OEMS in accordance with G.S. 131E-156 and Rule .0211 of this Section.

(c) The Medical Care Commission exempts wheeled chair devices used solely for the transportation of mobility impaired persons in non-permitted vehicles from the definition of stretcher.

History Note: Authority G.S. 131E-156; 131E-157; 143-508(d)(8);
Eff. January 1, 2017;
Amended Eff. July 1, 2018.

10A NCAC 13P .0301 SPECIALTY CARE TRANSPORT PROGRAM CRITERIA

(a) EMS Providers seeking designation to provide specialty care transports shall submit an application for program approval to the OEMS at least 60 days prior to field implementation. The application shall document that the program has:

- (1) a defined service area that identifies the specific transferring and receiving facilities the program is intended to service;
- (2) written policies and procedures implemented for medical oversight meeting the requirements of Section .0400 of this Subchapter;
- (3) service available on a 24 hour a day, seven days a week basis;
- (4) the capability to provide the patient care skills and procedures as specified in "North Carolina College of Emergency Physicians: Standards for Medical Oversight and Data Collection;"
- (5) a written continuing education program for EMS personnel, under the direction of the Specialty Care Transport Program Continuing Education Coordinator, developed and modified based upon feedback from program data, review and evaluation of patient outcomes, and quality management review that follows the criteria set forth in Rule .0501 of this Subchapter;
- (6) a communication system that provides two-way voice communications for transmission of patient information to medical crew members anywhere in the service area of the program. The SCTP Medical Director shall verify that the communications system is satisfactory for on-line medical direction;
- (7) medical crew members that have completed training conducted every six months regarding:
 - (A) operation of the EMS communications system used in the program; and
 - (B) the medical and patient safety equipment specific to the program;

- (8) written operational protocols for the management of equipment, supplies, and medications. These protocols shall include:
- (A) a listing of all standard medical equipment, supplies, and medications, approved by the Medical Director as sufficient to manage the anticipated number and severity of injury or illness of the patients, for all vehicles used in the program based on the treatment protocols and approved by the OEMS; and
 - (B) a methodology to ensure that each ground vehicle and aircraft contains the required equipment, supplies, and medications on each response; and
- (9) written policies and procedures specifying how EMS Systems will dispatch and utilize the ground ambulances and aircraft operated by the program.
- (b) When transporting patients, staffing for the ground ambulance and aircraft used in the SCTP shall be approved by the SCTP Medical Director as medical crew members, using any of the following as determined by the transferring physician who is responsible for the medical aspects of the mission to manage the anticipated severity of injury or illness of the patient:
- (1) paramedic;
 - (2) nurse practitioner;
 - (3) physician;
 - (4) physician assistant;
 - (5) registered nurse; or
 - (6) respiratory therapist.

(c) SCTP as defined in Rule .0102 of this Subchapter are exempt from the staffing requirements defined in G.S. 131E-158(a).

(d) SCTP approval is valid for a period to coincide with the EMS Provider License that is issued by OEMS and is valid for six years. Programs shall apply to the OEMS for reapproval no more than 90 days prior to expiration.

History Note: Authority G.S. 131E-155.1(b); 131E-158; 143-508;
Temporary Adoption Eff. January 1, 2002;
Eff. January 1, 2004;
Amended Eff. January 1, 2004;
Amended Eff. March 3, 2009 pursuant to E.O. 9, Beverly Perdue, March 3, 2009;
Pursuant to G.S. 150B-21.3(c), a bill was not ratified by the General Assembly to disapprove this rule;
Readopted Eff. January 1, 2017;
Amended Eff. July 1, 2018.

10A NCAC 13P .0505 SCOPE OF PRACTICE FOR EMS PERSONNEL

EMS Personnel educated in approved programs, credentialed by the OEMS, and functioning under physician medical oversight may perform acts and administer intravenous fluids and medications as allowed by the North Carolina Medical Board pursuant to G.S. 143-514.

History Note: Authority G.S. 143-508(d)(6); 143-514;
Temporary Adoption Eff. January 1, 2002;
Eff. April 1, 2003;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. February 2, 2016;
Amended Eff. July 1, 2018.

10A NCAC 13P .0506 PRACTICE SETTINGS FOR EMS PERSONNEL

(a) Credentialed EMS Personnel may function in the following practice settings in accordance with the protocols approved by the OEMS and by the Medical Director of the EMS System or Specialty Care Transport Program with which they are affiliated:

- (1) at the location of a physiological or psychological illness or injury;
- (2) at public or community health facilities in conjunction with public and community health initiatives;
- (3) in hospitals and clinics;
- (4) in residences, facilities, or other locations as part of wellness or injury prevention initiatives within the community and the public health system;
- (5) at mass gatherings or special events; and
- (6) community paramedicine programs.

(b) Individuals functioning in an alternative practice setting as defined in Rule .0102 of this Subchapter consistent with the areas identified in Subparagraphs (a)(1) through (a)(5) of this Rule that are not affiliated with an EMS System shall:

- (1) be under the medical oversight of a physician licensed by the North Carolina Medical Board that is associated with the practice setting where the individual will function; and
- (2) be restricted to performing within the scope of practice as defined by the North Carolina Medical Board pursuant to G.S. 143-514 for the individual's level of EMS credential.

(c) Individuals holding a valid EMR or EMT credential that are not affiliated with an approved first responder program or EMS agency and that do not administer medications or utilize advanced airway devices are approved to function as a member of an industrial or corporate first aid safety team without medical oversight or EMS System affiliation.

History Note: Authority G.S. 143-508(d)(7);
Temporary Adoption Eff. January 1, 2002;
Eff. April 1, 2003;
Amended Eff. January 1, 2004;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. February 2, 2016;
Amended Eff. July 1, 2018; January 1, 2017.

10A NCAC 13P .0904 INITIAL DESIGNATION PROCESS

(a) For initial Trauma Center designation, the hospital shall request a consult visit by OEMS and the consult shall occur within one year prior to submission of the RFP.

(b) A hospital interested in pursuing Trauma Center designation shall submit a letter of intent 180 days prior to the submission of

an RFP to the OEMS. The letter shall define the hospital's primary trauma catchment area. Simultaneously, Level I or II applicants shall also demonstrate the need for the Trauma Center designation by submitting one original and three copies of documents that include:

- (1) the population to be served and the extent that the population is underserved for trauma care with the methodology used to reach this conclusion;
- (2) geographic considerations, to include trauma primary and secondary catchment area and distance from other Trauma Centers; and
- (3) evidence the Trauma Center will admit at least 1200 trauma patients annually or show that its trauma service will be taking care of at least 240 trauma patients with an ISS greater than or equal to 15 yearly. These criteria shall be met without compromising the quality of care or cost effectiveness of any other designated Level I or II Trauma Center sharing all or part of its catchment area or by jeopardizing the existing Trauma Center's ability to meet this same 240-patient minimum.

(c) The hospital shall be participating in the State Trauma Registry as defined in Rule .0102 of this Subchapter, and submit data to the OEMS weekly a minimum of 12 months prior to application that includes all the Trauma Center's trauma patients as defined in Rule .0102 of this Subchapter who are:

- (1) diverted to an affiliated hospital;
- (2) admitted to the Trauma Center for greater than 24 hours from an ED or hospital;
- (3) die in the ED;
- (4) are DOA; or
- (5) are transferred from the ED to the OR, ICU, or another hospital (including transfer to any affiliated hospital).

(d) OEMS shall review the regional Trauma Registry data from both the applicant and the existing trauma center(s), and ascertain the applicant's ability to satisfy the justification of need information required in Paragraph (b) of this Rule. The OEMS shall notify the applicant's primary RAC of the application and provide the regional data submitted by the applicant in Paragraph (b) of this Rule for review and comment. The RAC shall be given 30 days to submit written comments to the OEMS.

(e) OEMS shall notify the respective Board of County Commissioners in the applicant's primary catchment area of the request for initial designation to allow for comment during the same 30 day comment period.

(f) OEMS shall notify the hospital in writing of its decision to allow submission of an RFP. If approved, the RAC and Board of County Commissioners in the applicant's primary catchment area shall also be notified by the OEMS that an RFP will be submitted.

(g) Once the hospital is notified that an RFP will be accepted, the hospital shall complete and submit an electronic copy of the completed RFP with signatures to the OEMS at least 45 days prior to the proposed site visit date.

(h) The RFP shall demonstrate that the hospital meets the standards for the designation level applied for as found in Rule .0901 of this Section.

(i) If OEMS does not recommend a site visit based upon failure to comply with Rule .0901 of this Section, the OEMS shall send the written reasons to the hospital within 30 days of the decision. The hospital may reapply for designation within six months following the submission of an updated RFP. If the hospital fails to respond within six months, the hospital shall reapply following the process outlined in Paragraphs (a) through (h) of this Rule.

(j) If after review of the RFP, the OEMS recommends the hospital for a site visit, the OEMS shall notify the hospital within 30 days and the site visit shall be conducted within six months of the recommendation. The hospital and the OEMS shall agree on the date of the site visit.

(k) Except for OEMS representatives, any in-state reviewer for a Level I or II visit shall be from outside the local or adjacent RAC, unless mutually agreed upon by the OEMS and the trauma center seeking designation where the hospital is located. The composition of a Level I or II state site survey team shall be as follows:

- (1) one out-of-state trauma surgeon who is a Fellow of the ACS, experienced as a site surveyor, who shall be the primary reviewer;
- (2) one in-state emergency physician who currently works in a designated trauma center, is a member of the American College of Emergency Physicians or American Academy of Emergency Medicine, and is boarded in emergency medicine by the American Board of Emergency Medicine or the American Osteopathic Board of Emergency Medicine;
- (3) one in-state trauma surgeon who is a member of the North Carolina Committee on Trauma;
- (4) for Level I designation, one out-of-state trauma program manager with an equivalent license from another state;
- (5) for Level II designation, one in-state program manager who is licensed to practice nursing in North Carolina in accordance with the Nursing Practice Act, Article 9A, Chapter 90 of the North Carolina General Statutes; and
- (6) OEMS Staff.

(l) All site team members for a Level III visit shall be from in-state, and, except for the OEMS representatives, shall be from outside the local or adjacent RAC where the hospital is located. The composition of a Level III state site survey team shall be as follows:

- (1) one trauma surgeon who is a Fellow of the ACS, who is a member of the North Carolina Committee on Trauma and shall be the primary reviewer;
- (2) one emergency physician who currently works in a designated trauma center, is a member of the North Carolina College of Emergency Physicians or American Academy of Emergency Medicine, and is boarded in emergency medicine by the American Board of Emergency Medicine or the American Osteopathic Board of Emergency Medicine;
- (3) one trauma program manager who is licensed to practice nursing in North Carolina in

accordance with the Nursing Practice Act, Article 9A, Chapter 90 of the North Carolina General Statutes; and

(4) OEMS Staff.

(m) On the day of the site visit, the hospital shall make available all requested patient medical charts.

(n) The primary reviewer of the site review team shall give a verbal post-conference report representing a consensus of the site review team. The primary reviewer shall complete and submit to the OEMS a written consensus report within 30 days of the site visit.

(o) The report of the site survey team and the staff recommendations shall be reviewed by the State Emergency Medical Services Advisory Council at its next regularly scheduled meeting following the site visit. Based upon the site visit report and the staff recommendation, the State Emergency Medical Services Advisory Council shall recommend to the OEMS that the request for Trauma Center designation be approved or denied.

(p) All criteria defined in Rule .0901 of this Section shall be met for initial designation at the level requested.

(q) Hospitals with a deficiency(ies) resulting from the site visit shall be given up to 12 months to demonstrate compliance. Satisfaction of deficiency(ies) may require an additional site visit. The need for an additional site visit shall be determined on a case-by-case basis based on the type of deficiency. If compliance is not demonstrated within the time period set by OEMS, the hospital shall submit a new application and updated RFP and follow the process outlined in Paragraphs (a) through (h) of this Rule.

(r) The final decision regarding Trauma Center designation shall be rendered by the OEMS.

(s) The OEMS shall notify the hospital in writing of the State Emergency Medical Services Advisory Council's and OEMS' final recommendation within 30 days of the Advisory Council meeting.

(t) If a trauma center changes its trauma program administrative structure such that the trauma service, trauma Medical Director, trauma program manager, or trauma registrar are relocated on the hospital's organizational chart at any time, it shall notify OEMS of this change in writing within 30 days of the occurrence.

(u) Initial designation as a trauma center shall be valid for a period of three years.

History Note: Authority G.S. 131E-162; 143-508(d)(2);

Temporary Adoption Eff. January 1, 2002;

Eff. April 1, 2003;

Amended Eff. January 1, 2009;

Readopted Eff. January 1, 2017;

Amended Eff. July 1, 2018.

10A NCAC 13P .1502 LICENSED EMS PROVIDERS

(a) The OEMS shall deny an initial or renewal EMS Provider license for any of the following reasons:

- (1) significant failure to comply, as defined in Rule .0102 of this Subchapter, with the applicable licensing requirements in Rule .0204 of this Subchapter;
- (2) making false statements or representations to the OEMS or willfully concealing information in connection with an application for licensing;

(3) tampering with or falsifying any record used in the process of obtaining an initial license or in the renewal of a license; or

(4) disclosing information as defined in Rule .0223 of this Subchapter that is determined by OEMS staff, based upon review of documentation, to disqualify the applicant from licensing.

(b) The Department shall amend any EMS Provider license by amending it to reduce the license from a full license to a provisional license whenever the Department finds that:

- (1) the licensee failed to comply with the provisions of G.S. 131E, Article 7, and the rules adopted under that Article;
- (2) there is a probability that the licensee can take corrective measures to resolve the issue of non-compliance with Rule .0204 of this Subchapter, and be able to remain in compliance within a reasonable length of time determined by OEMS staff on a case-by-case basis; and
- (3) there is a probability, determined by OEMS staff using their professional judgment, based upon analysis of the licensee's ability to take corrective measures to resolve the issue of non-compliance with the licensure rules, that the licensee will be able thereafter to remain in compliance with the licensure rules.

(c) The Department shall give the licensee written notice of the amendment of the EMS Provider license. This notice shall be given personally or by certified mail and shall set forth:

- (1) the duration of the provisional EMS Provider license;
- (2) the factual allegations;
- (3) the statutes or rules alleged to be violated; and
- (4) notice of the EMS provider's right to a contested case hearing, as set forth in Rule .1509 of this Subchapter, on the amendment of the EMS Provider license.

(d) The provisional EMS Provider license is effective upon its receipt by the licensee and shall be posted in a location at the primary business location of the EMS Provider, accessible to public view, in lieu of the full license. Pursuant to G.S. 131E-155.1(d), the provisional license remains in effect until the Department:

- (1) restores the licensee to full licensure status; or
- (2) revokes the licensee's license.

(e) The Department shall revoke or suspend an EMS Provider license whenever the Department finds that the licensee:

- (1) failed to comply with the provisions of G.S. 131E, Article 7, and the rules adopted under that Article and it is not probable that the licensee can remedy the licensure deficiencies within 12 months or less;
- (2) failed to comply with the provisions of G.S. 131E, Article 7, and the rules adopted under that Article and, although the licensee may be able to remedy the deficiencies, it is not probable that the licensee will be able to remain in compliance with licensure rules;

- (3) failed to comply with the provision of G.S. 131E, Article 7, and the rules adopted under that Article that endanger the health, safety, or welfare of the patients cared for or transported by the licensee;
- (4) obtained or attempted to obtain an ambulance permit, EMS nontransporting vehicle permit, or EMS Provider license through fraud or misrepresentation;
- (5) continues to repeat the same deficiencies placed on the licensee in previous compliance site visits;
- (6) has recurring failure to provide emergency medical care within the defined EMS service area in a manner as determined by the EMS System;
- (7) failed to disclose or report information in accordance with Rule .0223 of this Subchapter;
- (8) was deemed by OEMS to place the public at risk because the owner, any officer, or agent was convicted in any court of a crime involving fiduciary misconduct or a conviction of a felony;
- (9) altered, destroyed, attempted to destroy, withheld, or delayed release of evidence, records, or documents needed for a complaint investigation being conducted by the OEMS; or
- (10) continues to operate within an EMS System after a Board of County Commissioners terminated its affiliation with the licensee, resulting in a violation of the licensing requirement set forth in Rule .0204 of this Subchapter.

(f) The Department shall give the EMS Provider written notice of revocation. This notice shall be given personally or by certified mail and shall set forth:

- (1) the factual allegations;
- (2) the statutes or rules alleged to be violated; and
- (3) notice of the EMS Provider's right to a contested case hearing, as set forth in Rule .1509 of this Section, on the revocation of the EMS Provider's license.

(g) The issuance of a provisional EMS Provider license is not a procedural prerequisite to the revocation or suspension of a license pursuant to Paragraph (e) of this Rule.

History Note: Authority G.S. 131E-155.1(d); 143-508(d)(10); Eff. January 1, 2013;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. February 2, 2016;

Amended Eff. July 1, 2018; January 1, 2017.

10A NCAC 13P .1505 EMS EDUCATIONAL INSTITUTIONS

(a) For the purpose of this Rule, "focused review" means an evaluation by the OEMS of an educational institution's corrective actions to remove contingencies that are a result of deficiencies identified in the initial or renewal application process.

(b) The Department shall deny the initial or renewal designation, without first allowing a focused review, of an EMS Educational Institution for any of the following reasons:

- (1) significant failure to comply with the provisions of Section .0600 of this Subchapter; or
- (2) attempting to obtain an EMS Educational Institution designation through fraud or misrepresentation.

(c) When an EMS Educational Institution is required to have a focused review, it shall demonstrate compliance with the provisions of Section .0600 of this Subchapter within 12 months or less.

(d) The Department shall revoke an EMS Educational Institution designation at any time whenever the Department finds that the EMS Educational Institution has significant failure to comply, as defined in Rule .0102 of this Subchapter, with the provisions of Section .0600 of this Subchapter, and:

- (1) it is not probable that the EMS Educational Institution can remedy the deficiencies within 12 months or less as determined by OEMS staff based upon analysis of the educational institution's ability to take corrective measures to resolve the issue of non-compliance with Section .0600 of this Subchapter;
- (2) although the EMS Educational Institution may be able to remedy the deficiencies, it is not probable that the EMS Educational Institution shall be able to remain in compliance with credentialing rules;
- (3) failure to produce records upon request as required in Rule .0601(b)(6) of this Subchapter;
- (4) the EMS Educational Institution failed to meet the requirements of a focused review within 12 months, as set forth in Paragraph (c) of this Rule;
- (5) the failure to comply endangered the health, safety, or welfare of patients cared for as part of an EMS educational program as determined by OEMS staff in their professional judgment based upon a complaint investigation, in consultation with the Department and Department of Justice, to verify the results of the investigations are sufficient to initiate enforcement action pursuant to G.S. 150B; or
- (6) the EMS Educational Institution altered, destroyed, or attempted to destroy evidence needed for a complaint investigation.

(e) The Department shall give the EMS Educational Institution written notice of revocation and denial. This notice shall be given personally or by certified mail and shall set forth:

- (1) the factual allegations;
- (2) the statutes or rules alleged to be violated; and
- (3) notice of the EMS Educational Institution's right to a contested case hearing, set forth in Rule .1509 of this Section, on the revocation of the designation.

(f) Focused review is not a procedural prerequisite to the revocation of a designation as set forth in Rule .1509 of this Section.

(g) If determined by the educational institution that suspending its approval to offer EMS educational programs is necessary, the EMS Educational Institution may voluntarily surrender its credential without explanation by submitting a written request to the OEMS stating its intention. The voluntary surrender shall not affect the original expiration date of the EMS Educational Institution's designation. To reactivate the designation:

- (1) the institution shall provide OEMS written documentation requesting reactivation; and
- (2) the OEMS shall verify the educational institution is compliant with all credentialing requirements set forth in Section .0600 of this Subchapter prior to reactivation of the designation by the OEMS.

(h) If the institution fails to resolve the issues that resulted in a voluntary surrender, the Department shall revoke the EMS Educational Institution designation.

(i) In the event of a revocation or voluntary surrender, the Department shall provide written notification to all EMS Systems within the EMS Educational Institution's defined service area. The Department shall provide written notification to all EMS Systems within the EMS Educational Institution's defined service area when the voluntary surrender reactivates to full credential.

(j) When an accredited EMS Educational Institution as defined in Rule .0605 of this Subchapter has administrative action taken against its accreditation, the OEMS shall determine if the cause of action is sufficient for revocation of the EMS Educational Institution designation or imposing a focused review pursuant to Paragraphs (b) and (c) of this Rule is warranted.

History Note: Authority G.S. 143-508(d)(4); 143-508(d)(10); Eff. January 1, 2013;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. February 2, 2016;
Amended Eff. July 1, 2018; January 1, 2017.

10A NCAC 21A .0301 NOTICE

In cases involving termination or modification of assistance, no action shall become effective until ten business days after the notice is mailed, except that it may be effective immediately upon the mailing of notice when:

- (1) modification results in an increase in benefits to the applicant or beneficiary; or
- (2) permitted pursuant to 42 C.F.R. 431.213, which is adopted and incorporated by reference with subsequent changes or amendments and available free of charge at <https://www.ecfr.gov/>.

History Note: Authority G.S. 108A-54; 108A-54.1B; 108A-79(b); 42 C.F.R. 431.211; 42 C.F.R. 431.213;
Eff. September 1, 1984;
Amended Eff. August 1, 1990;
Readopted Eff. July 1, 2018.

10A NCAC 21A .0302 GOOD CAUSE FOR DELAYED HEARINGS

(a) A local appeal hearing under G.S. 108A-79 shall be delayed as provided in G.S. 108-79(e) for good cause.

(b) A State appeal hearing under G.S. 108A-79 may be delayed when there is good cause. The postponement shall not exceed 30 calendar days.

(c) For purposes of this Rule, good cause exists when:

- (1) there is a death in the appellant's family;
- (2) the appellant or someone in his or her family is ill;
- (3) the appellant is unable to obtain representation;
- (4) the appellant's representative has a conflict with the scheduled date;
- (5) the appellant receives a notice of action proposing a reduction or termination of assistance after the ten business day notice expires;
- (6) the appellant is unable to obtain transportation; or
- (7) the hearing officer determines that the hearing should be delayed for some other reason in the interests of justice or to promote judicial economy.

History Note: Authority G.S. 108A-54; 108A-54.1B; 108A-79;
Eff. September 1, 1984;
Amended Eff. August 1, 1990;
Readopted Eff. July 1, 2018.

10A NCAC 21A .0303 APPEAL DECISION

(a) The hearing officer shall make a tentative decision on the appeal that shall be served upon the county department, the appellant, and representatives by mail. Decisions reversing the county department's action shall be sent by certified mail to the county department. Decisions affirming the county department's actions shall be sent by certified mail to the appellant. Decisions shall be sent by regular mail to representatives. The tentative decision shall contain a notification of the right to present oral and written argument for and against the decision as set out in this Rule.

(b) The county and the appellant may present oral and written argument, for and against the decision by contacting the Chief Hearing Officer.

(c) If a written argument, a request for a time extension to submit a written argument, or a request for oral argument is not received by the Chief Hearing Officer within 10 calendar days of the date the notice of the tentative decision is signed, the tentative decision shall become final.

(d) If a request for a time extension to submit a written argument or a request for an oral argument is received by the Chief Hearing Officer within 10 calendar days of the date the notice of the tentative decision is signed, an extension shall be granted and a letter shall be mailed stating the date the written argument is due or the date and time the oral argument shall be heard.

(e) If the party that requested oral argument fails to appear for the scheduled oral argument, the tentative decision shall become final.

(f) If arguments are presented within the timeframes established pursuant to Paragraphs (c) and (d) of this Rule, then all such arguments shall be considered and a final decision shall be rendered.

(g) The final decision shall be served upon the appellant and the county department by certified mail. Decisions shall be sent by regular mail to representatives.

(h) A decision upholding the appellant shall be put into effect within two weeks after the county department's receipt of the final decision by certified mail.

(i) As provided for in 42 C.F.R. 431.245 and G.S. 108A-79(k), the decision shall contain the appellant's right to seek judicial review.

History Note: Authority G.S. 108A-54; 108A-54.1B; 108A-79; 42 C.F.R. 431.244; 42 C.F.R. 431.245; 42 C.F.R. 431.246;

Eff. September 1, 1984;

Amended Eff. September 1, 1992;

Readopted Eff. July 1, 2018.

10A NCAC 21B .0204 EFFECTIVE DATE OF ASSISTANCE

(a) The first month of Medicaid coverage shall be:

- (1) the month of application, or for SSI recipients, the month of application for SSI;
- (2) as much as three months prior to the month of application when the client received medical services covered by the program and was eligible during the month or months of medical need; or
- (3) if the client applies prior to meeting a non-financial requirement, no earlier than the calendar month in which all non-financial requirements are met.

(b) Assistance shall be authorized beginning on the first day of the month except when:

- (1) the client's income exceeds the income level and he or she must spenddown the excess income for medical care. The assistance shall be authorized on the day his or her incurred medical care costs equal the amount of the excess income; or
- (2) otherwise stated in the Medicaid State Plan.

(c) Medicaid coverage shall end on the last day of the last month of eligibility except for those individuals eligible for emergency conditions only as described in 10A NCAC 23E .0102. The last month of eligibility shall be the month in which the notice of termination period described in 10A NCAC 21A .0301 expires.

History Note: Authority G.S. 108A-54; 108A-54.1B; 42 C.F.R. 435.915;

Eff. September 1, 1984;

Amended Eff. January 1, 1995; October 1, 1991; August 1, 1990;

Temporary Amendment Eff. March 1, 2003;

Amended Eff. August 1, 2004;

Readopted Eff. July 1, 2018.

10A NCAC 21B .0311 TRANSFER OF RESOURCES

History Note: Authority G.S. 108A-54; 108A-58; P.L. 100-360; P.L. 100-485; 42 U.S.C. 1396p(c); 42 C.F.R. 435.121; 42 C.F.R. 435.840; 42 C.F.R. 435.841; 42 C.F.R. 435.845; S.L. 2002-126;

Eff. September 1, 1984;

Amended Eff. December 1, 1991; August 1, 1990;

Temporary Amendment Eff. April 21, 2003; March 1, 2003;

Amended Eff. August 1, 2004;

Repealed Eff. July 1, 2018.

10A NCAC 21D .0101 NOTICE OF ESTATE RECOVERY

10A NCAC 21D .0102 PERMANENTLY INSTITUTIONALIZED

10A NCAC 21D .0103 AGE 55 AND OVER

History Note: Authority G.S. 108A-70.5; 42 U.S.C. 1396p.; Temporary Adoption Eff. May 6, 1996 to expire on July 1, 1996, or the last day of the 1996 session of the General Assembly, whichever is later;

Temporary Rule Expired on July 1, 1996;

Eff. July 1, 1996;

Repealed Eff. July 1, 2018.

10A NCAC 21D .0201 RECONSIDERATION REVIEW

History Note: Authority G.S. 108A-70.5; 42 U.S.C. 1396p.; Temporary Adoption Eff. May 6, 1996 to expire on July 1, 1996, or the last day of the 1996 session of the General Assembly, whichever is later;

Temporary Rule Expired on July 1, 1996;

Eff. July 1, 1996;

Repealed Eff. July 1, 2018.

10A NCAC 21D .0301 PERMANENTLY INSTITUTIONALIZED

10A NCAC 21D .0302 AGE 55 AND OVER

History Note: Authority G.S. 108A-70.5; 42 U.S.C. 1396p.; Temporary Adoption Eff. May 6, 1996 to expire on July 1, 1996, or the last day of the 1996 session of the General Assembly, whichever is later;

Temporary Rule Expired on July 1, 1996;

Eff. July 1, 1996;

Repealed Eff. July 1, 2018.

10A NCAC 21D .0401 FILING CLAIM AGAINST ESTATE

10A NCAC 21D .0402 COLLECTION OF CLAIMS

History Note: Authority G.S. 108A-70.5; 42 U.S.C. 1396p.; Temporary Adoption Eff. May 6, 1996 to expire on July 1, 1996, or the last day of the 1996 session of the General Assembly, whichever is later;

Temporary Rule Expired on July 1, 1996;

Eff. July 1, 1996;

Repealed Eff. July 1, 2018.

SECTION .0500 - WAIVER OF RECOVERY

10A NCAC 21D .0501 RECOVERY NOT COST EFFECTIVE
10A NCAC 21D .0502 UNDUE HARDSHIP
10A NCAC 21D .0503 DETERMINATION OF HARDSHIP

History Note: Authority G.S. 108A-70.5; 42 U.S.C. 1396p.; Temporary Adoption Eff. May 6, 1996 to expire on July 1, 1996, or the last day of the 1996 session of the General Assembly, whichever is later; Temporary Rule Expired on July 1, 1996; Eff. July 1, 1996; Repealed Eff. July 1, 2018.

10A NCAC 22B .0101 INSTITUTIONAL HEALTH SERVICES

No provider shall be enrolled in the Medicaid Program to provide any new institutional health service for which a Certificate of Need is required under G.S. 131E, Article 9 without first obtaining a Certificate of Need and meeting the conditions imposed by it.

History Note: Authority G.S. 108A-25(b); 108A-54; Eff. March 1, 1993; Recodified from 10 NCAC 26B .0124 Eff. October 1, 1993; Recodified from 10 NCAC 26B .0125 Eff. April 1, 1994; Recodified from 10 NCAC 26B .0126 Eff. January 1, 1998; Readopted Eff. July 1, 2018.

10A NCAC 22B .0102 COORDINATION WITH TITLE XVIII

The entire range of benefits under Part B of Title XVIII of the Social Security Act, which is adopted and incorporated by reference with subsequent changes or amendments and available free of charge at <http://uscode.house.gov/>, to Medicare-eligible persons shall be provided through a buy-in agreement with the Secretary of Health and Human Services. This agreement shall cover all persons eligible under the Medicaid State Plan.

History Note: Authority G.S. 108A-25(b); 108A-54; Eff. February 1, 1976; Readopted Eff. October 31, 1977; Amended Eff. June 1, 1998; Readopted Eff. July 1, 2018.

10A NCAC 22B .0103 INSTITUTIONAL STANDARDS

Institutions shall meet standards prescribed for participation in Titles XVIII, XIX, and XXI of the Social Security Act, which is adopted and incorporated by reference with subsequent changes or amendments and available free of charge at <http://uscode.house.gov/>. These standards are set forth in North Carolina licensing law and federal regulations, and are kept on file in the Department of Health and Human Services, Division of Health Services Regulation and available on request.

History Note: Authority G.S. 108A-25(b); 108A-54; 131-E; 42 C.F.R. 440.10; 42 C.F.R. Part 442; 42 C.F.R. 457.990; Eff. February 1, 1976; Readopted Eff. October 31, 1977; Readopted Eff. July 1, 2018.

10A NCAC 22B .0104 TIME LIMITATION

(a) To receive payment, claims shall be filed either:

- (1) within 365 days of the date of service for services other than inpatient hospital, home health, or nursing home services;
- (2) within 365 days of the date of discharge for inpatient hospital services and the last date of service in the month for home health and nursing home services, not to exceed the limitations as specified in 42 C.F.R. 447.45, which is adopted and incorporated by reference with subsequent changes or amendments and available free of charge at <https://www.ecfr.gov/>; or
- (3) within 180 days of the Medicare or other third party payment or final denial, when the date of the third party payment or denial exceeds the filing limits in Subparagraphs (1) or (2) of this Paragraph, if it is shown that:
 - (A) a claim was filed with a prospective third-party payor within the filing limits in Subparagraph (1) or (2) of this Paragraph;
 - (B) payment from the third party payor with whom the claim was filed is pending; and
 - (C) documented efforts were made to achieve either payment or final denial of the third-party claim.

(b) Providers shall file requests for payment adjustments or requests for reconsideration of a denied claim no later than 18 months after the date of payment or denial of a claim.

(c) The time limitation specified in Paragraph (a) of this Rule shall be waived by the Division when there is a correction of an administrative error in determining eligibility by the county or application of court order or hearing decision that grants eligibility with less than 60 days for providers to submit claims for eligible dates of service, provided the claim is received for processing within 180 days after the date the county department of social services approves the eligibility.

(d) In cases where claims or adjustments were not filed within the time limitations specified in Paragraphs (a) and (b) of this Rule, and the provider shows good cause for the failure to do so, the provider may request a reconsideration review by the Director of the Division. "Good cause" is an action outside the control of the provider. The Director of the Division shall be the final authority for reconsideration reviews. If the provider wishes to contest this decision, he may do so by filing a petition for a contested case hearing in conformance with G.S. 150B-23.

History Note: Authority G.S. 108A-25(b); 108A-54; 42 C.F.R. 447.45; Eff. February 1, 1976;

*Amended Eff. October 1, 1977;
Readopted Eff. October 31, 1977;
Amended Eff. June 1, 1993; June 1, 1988; November 1, 1986; July 1, 1985;
Readopted Eff. July 1, 2018.*

10A NCAC 22B .0105 OVERUTILIZER IDENTIFICATION

*History Note: Authority G.S. 108A-25(b);
Eff. January 1, 1978;
Amended Eff. May 1, 1990; October 4, 1979;
Repealed Eff. July 1, 2018.*

**10A NCAC 22C .0101 COST SHARING
10A NCAC 22C .0102 MEDICALLY NEEDY
10A NCAC 22C .0103 CATEGORICALLY NEEDY**

*History Note: Authority G.S. 108A-25(b); S.L. 1985, c. 479, s. 86; 34 C.F.R. 447.50; 42 C.F.R. 440.210; 42 C.F.R. 440.220; 42 C.F.R. 440.240;
Eff. February 1, 1976;
Readopted Eff. October 31, 1977;
Amended Eff. May 1, 1990;
Repealed Eff. July 1, 2018.*

10A NCAC 22D .0101 CO-PAYMENT

*History Note: Authority G.S. 108A-25(b); S.L. 1985, c. 479, s. 86; 42 C.F.R. 440.230(d);
Tax Equity and Fiscal Responsibility Act of 1982, Subtitle B; Section 95 of Chapter 689, 1991 Session Laws;
Eff. January 1, 1984;
Temporary Amendment Eff. August 15, 1991 For a Period of 180 Days to Expire on February 15, 1992;
Amended Eff. February 1, 1992;
Temporary Amendment Eff. September 15, 1992 For a Period of 180 Days or Until the Permanent Rule Becomes Effective, Whichever is Sooner;
Amended Eff. February 1, 1993;
Temporary Amendment Eff. January 1, 2002;
Amended Eff. April 1, 2003;
Repealed Eff. July 1, 2018.*

10A NCAC 22F .0105 DETECTION

*History Note: Authority G.S. 108A-25(b); 108A-63; 108A-64; 42 C.F.R. Part 455; 42 C.F.R. 455.12–23;
Eff. May 1, 1984;
Repealed Eff. July 1, 2018.*

10A NCAC 22F .0106 CONFIDENTIALITY

All investigations by the Division concerning allegations of provider fraud, abuse, over-utilization, or inadequate quality of care shall be confidential, and the information contained in the files of such investigations shall be confidential, except as permitted by State or Federal law or regulation.

*History Note: Authority G.S. 108A-25(b); 108A-63; 108A-64; 132-1.3; 42 C.F.R. Part 455; 42 C.F.R. 455.21;
Eff. May 1, 1984;
Amended Eff. May 1, 1990;
Readopted Eff. July 1, 2018.*

10A NCAC 22F .0107 RECORD RETENTION

All Title XIX and Title XXI providers shall keep and maintain all Medicaid and NC Health Choice financial, medical, or other records necessary to disclose the nature and extent of services furnished to Medicaid and NC Health Choice recipients and claimed for reimbursement. These records shall be retained for a period of not less than five full years from the date of service, unless a longer retention period is required by applicable federal or state law, regulations, or data retention agreements. Upon notification of an audit or upon receipt of a request for records, all records related to the audit or records request shall be retained until notification that the investigation has been concluded.

*History Note: Authority G.S. 108A-25(b); 108A-54; 108A-63; 108A-64; 42 C.F.R. Part 455; 42 C.F.R. 455.12–23; 42 C.F.R. 431.107;
Eff. April 1, 1988;
Readopted Eff. July 1, 2018.*

10A NCAC 22F .0201 DEFINITION OF PROVIDER FRAUD

*History Note: Authority G.S. 108A-25(b); 108A-63; 150B-21.6; 42 U.S.C. 1396(b) et seq.; 42 C.F.R. Part 455;
Eff. April 15, 1977;
Readopted Eff. October 31, 1977;
Amended Eff. May 1, 1990; May 1, 1984;
Repealed Eff. July 1, 2018.*

10A NCAC 22F .0202 INVESTIGATION

(a) The Division shall conduct a preliminary investigation of all complaints received or allegations of fraud, waste, abuse, error, or practices not conforming to state and federal Medicaid laws and regulations, clinical coverage policies, or the Medicaid State Plan until it is determined:

- (1) whether there are sufficient findings to warrant a full investigation, as set out in Paragraph (b) of this Rule;
- (2) whether there is sufficient evidence to warrant referring the case for civil fraud investigation, criminal fraud investigation, or both; or
- (3) whether there is insufficient evidence to support the allegation(s) and the case may be closed.

(b) There shall be a full investigation if the preliminary findings support a credible allegation of possible fraud until:

- (1) the case is found to be one of program abuse subject to administrative action, pursuant to Rule .0602 of this Subchapter;
- (2) the case is closed for insufficient evidence of fraud or abuse; or
- (3) the provider is found not to have abused or defrauded the program.

History Note: Authority G.S. 108A-25(b); 108A-63; 42 U.S.C. 1396(b) et seq.; 42 C.F.R. Part 455, Subpart A; Eff. April 15, 1977; Readopted Eff. October 31, 1977; Amended Eff. May 1, 1984; Readopted Eff. July 1, 2018.

10A NCAC 22F .0203 REFERRAL TO LAW ENFORCEMENT AGENCY

The Division shall refer credible allegations of provider fraud, defined as provided by 42 C.F.R. 455.2, which is adopted and incorporated by reference with subsequent changes or amendments and available free of charge at <https://www.ecfr.gov/>, or suspected physical abuse of recipients to the State Medicaid Fraud Control Unit or other law enforcement agency.

History Note: Authority G.S. 108A-25(b); 108A-63; P.L. 95-142; 42 C.F.R. 455.2; 42 C.F.R. 455.14; 42 C.F.R. 455.15; Eff. April 15, 1977; Readopted Eff. October 31, 1977; Amended Eff. May 1, 1984; Readopted Eff. July 1, 2018.

10A NCAC 22F .0401 PURPOSE

History Note: Authority G.S. 108A-25(b); 42 C.F.R. 456; Eff. December 1, 1982; Transferred and Recodified from 10 NCAC 26I .0201 Eff. July 1, 1995; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22, 2015; Repealed Eff. July 1, 2018.

10A NCAC 22F .0402 RECONSIDERATION REVIEW FOR PROGRAM ABUSE

(a) The Division shall notify the provider in writing by certified mail of the tentative decision made pursuant to Rule .0302 of this subchapter and the opportunity for a reconsideration of the tentative decision.

(b) The provider shall be instructed to submit to the Division in writing a request for a Reconsideration Review within 30 business days from the date of receipt of the notice. Failure to request a Reconsideration Review in the specified time shall result in the implementation of the tentative decision as the Division's final decision.

(c) The Notice of Reconsideration Review shall be sent to the provider within 30 business days from receipt of the request. The provider shall be notified in writing to appear at a specified day, time, and place. The provider may be accompanied by legal counsel if the provider so desires.

(d) The provider shall provide a written statement to the Hearing Unit prior to the Reconsideration Review identifying any claims that the provider wishes to dispute and setting forth the provider's specific reasons for disputing the determination on those claims.

(e) The purpose of the Reconsideration Review includes:

- (1) clarification formulation, and simplification of issues;

- (2) exchange and full disclosure of information and materials;
- (3) review of the investigative findings;
- (4) resolution of matters in controversy;
- (5) consideration of mitigating and extenuating circumstances;
- (6) reconsideration of the administrative measures to be imposed; and
- (7) reconsideration of the restitution of overpayments.

(f) The Reconsideration Review decision shall be sent to the provider, in writing by certified mail, within 30 business days following the date the review record is closed. The review record is closed when all arguments and documents for review have been received by the Hearing Unit. The decision shall state that the provider may request a contested case hearing in accordance with G.S. 150B, Article 3 and 26 NCAC 03 .0103. Pursuant to G.S. 150B-23(f), the provider shall have 60 days from receipt of the Reconsideration Review decision to request a contested case hearing in the Office of Administrative Hearings. Unless the request is received within the time provided, the Reconsideration Review decision shall become the Division's final decision and no further appeal shall be permitted.

History Note: Authority G.S. 108A-25(b); 108A-54; 150B, Article 3; S.L. 2011-375, s. 2; 42 C.F.R. Part 455.512; Eff. April 15, 1977; Readopted Eff. October 31, 1977; ARRC Objection October 22, 1987; Amended Eff. November 1, 1988; March 1, 1988; May 1, 1984; Readopted Eff. July 1, 2018.

10A NCAC 22F .0601 RECOUPMENT

(a) The Division shall seek full restitution of improper payments, as defined by 42 C.F.R. 431.958, which is adopted and incorporated by reference with subsequent changes or amendments and available free of charge at <https://www.ecfr.gov/>, made to providers by the Medicaid Program. Recovery may be by lump sum payment, by a negotiated payment schedule, or by withholding from the provider's pending claims the total or a portion of the recoupment amount.

(b) A provider may seek reconsideration review of a recoupment imposed by the division under Rule .0402 of this Subchapter.

History Note: Authority G.S. 108A-25(b); 108C-5(g); 42 C.F.R. Part 431, Subpart Q; 42 C.F.R. Part 455, Subpart F; 42 C.F.R. Part 456; Eff. February 1, 1982; Amended Eff. May 1, 1984; Readopted Eff. July 1, 2018.

10A NCAC 22F .0605 TERMINATION

History Note: Authority G.S. 108A-25(b); 42 C.F.R. Part 431; 42 C.F.R. Part 455; Eff. May 1, 1984; Repealed Eff. July 1, 2018.

**10A NCAC 22F .0606 TECHNIQUE FOR PROJECTING
MEDICAID OVERPAYMENTS**

History Note: Authority G.S. 108A-25(b); 108A-54; 108A-63;
42 C.F.R. Part 455, Subpart F;
Eff. October 1, 1987;
Temporary Amendment Eff. November 8, 1996;
Amended Eff. August 1, 1998;
Repealed Eff. July 1, 2018.

**10A NCAC 22F .0704 RECIPIENT MANAGEMENT
LOCK-IN SYSTEM**

(a) The Division shall have methods and procedures for the control of recipient overutilization of Medicaid benefits. These methods and procedures shall include Lock-In of a recipient, shown to be an overutilizer, to specified providers of health care and services, as set out in 42 C.F.R. 440.230, 440.260, and 431.54(e), which are adopted and incorporated by reference with subsequent changes or amendments and available free of charge at <https://www.ecfr.gov/>.

(b) Prior to implementing Lock-In, the following steps shall be taken:

- (1) Recipient's utilization pattern shall be documented as inappropriate;
- (2) Recipient shall be notified that the State is imposing a Lock-In procedure;
- (3) Recipient shall be offered the opportunity to select a provider;
- (4) In the event the recipient fails to select a provider, a provider shall be selected for him or her by the Division; and
- (5) Recipient shall receive an eligibility card indicating the selected providers.

(c) Recipient utilization patterns shall be reviewed to determine if changes have occurred. If the utilization pattern has been corrected, the Lock-In status shall end; if the utilization pattern remains inappropriate Lock-In status shall continue.

(d) The Division may Lock-In a recipient provided:

- (1) the recipient is given notice and an opportunity for a hearing before imposing restriction, pursuant to G.S. 150B-23; and
- (2) the Division assures that the recipient has reasonable access to Medicaid care and services of adequate quality, as set out in 42 C.F.R. 440.230, 440.260, and 431.54, which are adopted and incorporated by reference with subsequent changes or amendments and available free of charge at <https://www.ecfr.gov/>.

History Note: Authority G.S. 108A-25(b); 108A-64; 108A-79;
42 C.F.R. 440.230; 42 C.F.R. 440.260; 42 C.F.R. Part 431; 42
C.F.R. 431.54; 42 C.F.R. Part 455; 42 C.F.R. Part 456;
Eff. May 1, 1984;
Readopted Eff. July 1, 2018.

**10A NCAC 22F .0706 RECOUPMENT OF RECIPIENT
OVERPAYMENTS**

The Division requires that:

- (1) counties recover recipient responsible overpayments as a debt to the participating local governments;
- (2) counties accept payments from each recipient and give the recipient a receipt for each transaction;
- (3) counties keep a separate accounting for Medicaid repayments on each recipient;
- (4) repayments shall be forwarded to the Division of Medical Assistance utilizing the DMA 7050 form. This shall be done on a monthly basis;
- (5) the recoupment monies that are apportioned to the repayment of federal, State, and county funds shall be made by the State;
- (6) Medical Assistance overpayments shall not be recouped through the reduction of Temporary Assistance for Needy Families (TANF) checks; and
- (7) the Division receives its prorated share of recoupments of recipient overpayments involving multiple programs.

History Note: Authority G.S. 108A-25(b); 108A-64; 42 C.F.R.
Part 431; 42 C.F.R. Part 455; 42 C.F.R. Part 456;
Eff. May 1, 1984;
Readopted Eff. July 1, 2018.

**10A NCAC 22G .0108 REIMBURSEMENT METHODS
FOR STATE-OPERATED FACILITIES**

The Division's reimbursement methodology is set forth in the Medicaid State Plan. Any payments in excess of costs shall be refunded to the Division. Any costs in excess of payments shall be paid to the provider.

History Note: Authority G.S. 108A-25(b); 108A-54; 108A-55;
S.L. 1985, c. 479, s. 86; 42 C.F.R. 447, Subpart C;
Eff. January 1, 1992;
Temporary Amendment Eff. August 3, 2004;
Amended Eff. January 1, 2005;
Readopted Eff. July 1, 2018.

**10A NCAC 22G .0109 NURSING HOME PROVIDER
ASSESSMENT**

(a) In accordance with 42 USC 1396b(w) and 42 CFR, Part 433, Subpart B, which are adopted and incorporated by reference with subsequent changes or amendments; and consistent with the CMS Federal Waiver approved April 5, 2004 with an effective date of October 1, 2003, which is adopted and incorporated by reference with subsequent changes or amendments, a monthly nursing facility assessment based on all occupied nursing facility bed days of service shall be imposed on all nursing bed days in licensed nursing facilities, except:

- (1) any nursing facility bed day of service provided by a Continuing Care Retirement Community (CCRC), as defined by G.S. 58-64 and licensed by the North Carolina Department of Insurance; or

- (2) any nursing facility bed day of service paid for under the Medicare program established under Title XVIII of the Social Security Act.

A copy of the CMS Federal Waiver may be obtained by contacting the Division of Medical Assistance, 2501 Mail Service Center, Raleigh, North Carolina 27699-2501, (919) 855-4000. Copies of 42 USC 1396b(w) and 42 CFR, Part 433, Subpart B are available free of charge at <http://uscode.house.gov/> and <https://www.ecfr.gov/>, respectively.

(b) The assessment is payable monthly and due to the Department of Health and Human Services or designee of the Department within 15 days of the last day of the reporting month. Facilities shall submit payment and an account of all actual patient days during the month. Failure to provide accurate reporting of days, and payment of assessment within 15 days of the last day of the reporting month shall result in a 10% reduction in facility rates for Medicaid participating facilities and recoupment.

History Note: Authority G.S. 108A-25(b); 108A-54; 108A-55; S.L. 2003-284, Sec. 10.28; CMS Waiver approved April 5, 2004; 42 CFR Part 433, Subpart B; 42 USC 1396b(w); Temporary Adoption Eff. August 3, 2004; Eff. January 1, 2005; Readopted Eff. July 1, 2018.

10A NCAC 22G .0208 ADMINISTRATIVE RECONSIDERATION REVIEWS

History Note: Authority G.S. 108A-25(b); 108A-54; 108A-55; 42 C.F.R. 447, Subpart C; Eff. February 1, 1995; Repealed Eff. July 1, 2018.

10A NCAC 22G .0502 MENTAL HEALTH CLINIC SERVICES

History Note: Authority G.S. 108A-25(b); S.L. 1985, c. 479, s. 86; Eff. February 1, 1984; Repealed Eff. July 1, 2018.

10A NCAC 22G .0504 HEALTH MAINTENANCE ORGANIZATIONS AND PREPAID HEALTH PLANS

Reimbursement to Health Maintenance Organizations and Prepaid Health Plans for services rendered shall be paid as a monthly capitation fee developed by the Division and set out in contract with the Health Maintenance Organization or Prepaid Health Plan.

History Note: Authority G.S. 108A-25(b); 108A-54; 108A-55; S.L. 1985, c. 479, s. 86; 42 C.F.R. Part 434; 42 C.F.R. Part 438.6; Eff. August 1, 1984; Amended Eff. February 1, 1985; Readopted Eff. July 1, 2018.

10A NCAC 22G .0509 REIMBURSEMENT PRINCIPLES, HEARING AIDS/ACCESSORIES/BATTERIES

History Note: Authority G.S. 108A-25(b); 108A-54; Eff. January 4, 1993; Recodified from 10 NCAC 26H .0509 Eff. January 1, 1994; Repealed Eff. July 1, 2018.

10A NCAC 22H .0101 APPEALS BY MEDICAID BENEFICIARIES

Appeals by Medicaid beneficiaries of determinations by the Division to deny, terminate, suspend, or reduce a Medicaid service or an authorization for a Medicaid service are governed by G.S. 108A-70.9A and G.S. 108A-70.9B.

History Note: Authority G.S. 108A-25(b); 108A-70.9A; 108A-70.9B; 42 C.F.R. 431; 42 C.F.R. 456; Eff. April 13, 1979; Amended Eff. May 1, 1990; November 1, 1983; October 4, 1979; RRC objection due to lack of Authority and ambiguity Eff. October 18, 1995; Amended Eff. December 11, 1995; Readopted Eff. July 1, 2018.

10A NCAC 22H .0102 REQUESTS FOR FORMAL AND INFORMAL APPEALS

10A NCAC 22H .0103 TIME LIMITS ON REQUESTS FOR RECIPIENT/APPLICANT INFORMAL APPEALS

History Note: Authority G.S. 108A-25(b); 42 C.F.R. 431; 42 C.F.R. 456; Eff. April 13, 1979; Amended Eff. December 1, 1995; May 1, 1990; November 1, 1983; October 4, 1979; RRC objection to Rule .0103 due to lack of Authority and ambiguity Eff. October 18, 1995; Amended Eff. December 11, 1995; Repealed Eff. July 1, 2018.

10A NCAC 22H .0104 PAYMENT PENDING APPEALS

If a final decision rendered in accordance with G.S. 108A-70.9B(g) upholds the adverse determination, as defined in G.S. 108A-70.9A(a), the Division may institute recovery procedures against the beneficiary to recoup the cost of any services furnished resulting from the appeal process.

History Note: Authority G.S. 108A-25(b); 108A-70.9A; 108A-70.9B; 42 C.F.R. 431.230(b); Eff. April 13, 1979; Amended Eff. December 1, 1995; October 4, 1979; Readopted Eff. July 1, 2018.

10A NCAC 22H .0105 DISMISSAL OF APPEAL

History Note: Authority G.S. 108A-25(b); 42 C.F.R. Part 431; Eff. April 13, 1979; Amended Eff. December 1, 1995; May 1, 1990; Repealed Eff. July 1, 2018.

10A NCAC 22H .0201 DEFINITIONS

The following definitions shall apply throughout this Section:

- (1) "Division" means the North Carolina Division of Medical Assistance, Department of Health and Human Services.
- (2) "Hearing Officer" means the person designated by the Chief Hearing Officer of the Division's Hearing Unit to preside over hearings between a resident and a nursing facility provider regarding transfers and discharges.
- (3) "Hearing Unit" means the Chief Hearing Officer and his or her staff in the Division of Medical Assistance, Department of Health and Human Services.
- (4) "Notice of Transfer or Discharge form" means the form developed by the Division containing the elements described at 42 C.F.R. 483.15(c)(5), which is adopted and incorporated by reference with subsequent changes or amendments and available free of charge at <https://www.ecfr.gov/>.
- (5) "Request for Hearing" means a written request by the resident, family member, or legal representative of the resident that the resident wants to appeal the facility's decision to transfer or discharge.
- (6) The "Nursing Home Hearing Request Form" means the form developed by the Division containing:
 - (a) the resident's name;
 - (b) the facility's name;
 - (c) the date of the Notice of Transfer or Discharge form;
 - (d) the date of the scheduled transfer or discharge;
 - (e) the requestor's preference for a telephone hearing or in-person hearing in Raleigh, North Carolina;
 - (f) the requestor's name, address, telephone number, and signature; and
 - (g) the telephone number, fax number, mailing address, and email address of the Division's Hearing Unit.

History Note: Authority G.S. 108A-25(b); 42 USCS 1396r(e)(3), (f)(3); 42 C.F.R. Part 483; Eff. April 1, 1994;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22, 2015;
Amended Eff. July 1, 2018.

10A NCAC 22H .0202 TRANSFER AND DISCHARGE REQUIREMENTS

- (a) To transfer or discharge a resident, a facility shall comply with all of the requirements of 42 C.F.R. 483.15, which is adopted and incorporated by reference with subsequent changes or amendments and available free of charge at <https://www.ecfr.gov/>.
- (b) In addition to the requirements in Paragraph (a) of this Rule, a resident and, if contact information is available, a family member or legal representative of the resident, shall be notified in

writing of a facility's decision to transfer or discharge the resident. The Notice of Transfer or Discharge form shall be used by a facility when giving notice of a transfer or discharge.

- (c) Failure to complete the Notice of Transfer or Discharge form shall result in the notice of the transfer or discharge being invalid.
- (d) The resident shall be handed the Notice of Transfer or Discharge form on the same day that it is dated.
- (e) A copy of the notice of Transfer or Discharge form shall be mailed to the family member or legal representative, if contact information is available, on the same day that it is dated.
- (f) The facility shall provide a Nursing Home Hearing Request Form to the resident and to the family member or legal representative, if contact information is available, at the same time as providing the Notice of Transfer or Discharge form.

History Note: Authority G.S. 108A-25(b); 150B-21.6; 42 USCS 1396r(e)(3), (f)(3); 42 C.F.R. 483; Eff. April 1, 1994;
Readopted Eff. July 1, 2018.

10A NCAC 22H .0203 INITIATING A HEARING

- (a) In order to initiate an appeal of a facility's intent to transfer or discharge, a resident, family member, or legal representative shall submit a written request for a hearing to the Hearing Unit. The request for hearing shall be received by the Hearing Unit within 11 calendar days from the date of the facility's notice of transfer or discharge. If the eleventh day falls on a Saturday, Sunday, or legal holiday, then the period during which an appeal may be requested shall run until the end of the next business day which is not a Saturday, Sunday, or legal holiday.
- (b) The request for hearing shall be submitted to the Hearing Unit by mail, facsimile, or hand delivery.

History Note: Authority G.S. 108A-25(b); 42 USCS 1396r(e)(3), (f)(3); 42 C.F.R. Part 483, Subpart E; Eff. April 1, 1994;
Readopted Eff. July 1, 2018.

10A NCAC 22H .0204 HEARING PROCEDURES

- (a) Upon timely receipt of a request for a hearing of a transfer or discharge by a nursing facility as set out in Rule .0203 of this Section, the Hearing Unit shall notify the parties of the request.
- (b) The parties shall be notified by certified mail of the date, time, and place of the hearing. Hearings shall be conducted by telephone, unless an in-person hearing is requested. If the hearing is to be conducted in person, it shall be held in Raleigh, North Carolina.
- (c) The facility shall make available to the resident all documents and records to be used at the hearing, to be received at least five business days prior to the hearing. The facility administrator shall forward identical information to the Hearing Unit, to be received at least five business days prior to the hearing.
- (d) The hearing officer may grant continuances for good cause. For purposes of this Rule, circumstances beyond the control of the party constitute good cause.
- (e) The hearing officer shall dismiss a request for hearing if the resident or family member or legal representative of the resident fails to appear at a scheduled hearing, unless good cause is shown.

(f) The hearing officer shall proceed to conduct a scheduled hearing if a facility representative fails to appear at a scheduled hearing.

(g) The Rules of Civil Procedures as contained in G.S. 1A-1 and the General Rules of Practice for the Superior and District Courts as authorized by G.S. 7A-34 and found in the Rules Volume of the North Carolina General Statutes shall not apply in any hearings held by a Division Hearing Officer. Division hearings are not contested case hearings within the meaning of G.S. 150B and shall not be governed by the provisions of that Chapter unless otherwise stated in these Rules. Parties may be represented by counsel or other representative at the hearing.

History Note: Authority G.S. 108A-25(b); 42 USCS 1396r(e)(3), (f)(3); 42 C.F.R. Part 431, Subpart E; 42 C.F.R. Part 483, Subpart E;

Eff. April 1, 1994;

Readopted Eff. July 1, 2018.

10A NCAC 22H .0205 HEARING OFFICER'S FINAL DECISION

(a) The Hearing Officer's final decision shall uphold or reverse the facility's decision regarding the transfer or discharge of a resident. Copies of the final decision shall be mailed via certified mail to the parties.

(b) A party may appeal the Hearing Officer's final decision by filing a petition for judicial review in Wake County Superior Court or in the superior court of the county where the petitioner resides within 30 days of the date of the decision letter. The Department as the decision maker in the appeal to the Hearing Unit shall not be a party of record.

History Note: Authority G.S. 108A-25(b); 42 USCS 1396r(e)(3), (f)(3); 42 C.F.R. Part 483, Subpart E;

Eff. April 1, 1994;

Readopted Eff. July 1, 2018.

10A NCAC 22H .0301 DEFINITIONS

The following definitions shall apply throughout this Section:

- (1) "Division" means the North Carolina Division of Medical Assistance, Department of Health and Human Services.
- (2) "Hearing Officer" means the person designated by the Chief Hearing Officer of the Division's Hearing Unit to preside over hearings regarding Preadmission Screening and Resident Review (PASRR) determinations.
- (3) "Hearing Unit" means the Chief Hearing Officer and his or her staff in the Division of Medical Assistance, Department of Health and Human Services.
- (4) "Preadmission Screening and Resident Review (PASRR) Notice of Determination" means the form developed by the Division, containing the elements described at 42 C.F.R. 483.130(k), which is adopted and incorporated by reference with subsequent changes or amendments and available free of charge at <https://www.ecfr.gov/>.

(5) "Request for Hearing" means a written request on a Hearing Request Form by the evaluated individual or family member or legal representative of the evaluated individual, that the evaluated individual wants to appeal the (PASRR) determination.

(6) The "Hearing Request Form" means the form developed by the Division containing:

- (a) the individual's name;
- (b) the facility name, if the individual is residing in a facility;
- (c) the requestor's preference for a telephone hearing or in-person hearing in Raleigh, North Carolina; and
- (d) the requestor's name, address, telephone number, and signature.

(7) The "North Carolina PASRR II Screening Form" means both the North Carolina PASRR-MI Psychiatric Screening form and the North Carolina Dual Psychiatric and Intellectual Developmental Disabilities/Related Conditions PASRR II Screening Data form developed by the Division, containing the elements described at 42 C.F.R. 483.128(i)–(j), which is adopted and incorporated by reference with subsequent changes or amendments and available free of charge at <https://www.ecfr.gov/>.

History Note: Authority G.S. 108A-25(b); 42 U.S.C.S. 1395i-3(e)(3), (f)(3); 1396r(e)(3), (e)(7)(F), (f)(3); 42 C.F.R. 483.5; 42 C.F.R. Part 483, Subparts C and E; 42 C.F.R. 483.128; 42 C.F.R. 483.130;

Eff. October 1, 1994;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22, 2015;

Amended Eff. July 1, 2018.

10A NCAC 22H .0302 PASRR REQUIREMENTS

(a) The evaluated individual and family member or legal representative shall be notified in writing of the Division of MH/DD/SAS' PASRR determination under the provisions of 42 CFR 483.130 which is incorporated by reference with subsequent changes or amendments and available free of charge at <https://www.ecfr.gov/>.

(b) The PASRR Notice of Determination form shall be used by Division of MH/DD/SAS when giving notice of a PASRR determination.

(c) The Division of MH/DD/SAS shall provide a Hearing Request form, PASRR II Screening form, and PASRR Notice of Determination form to the evaluated individual and legal representative under the provisions of 42 CFR 483.128(1) which is incorporated by reference with subsequent changes or amendments and available free of charge at <https://www.ecfr.gov/>.

History Note: Authority G.S. 108A-25(b); 42 U.S.C.S. 1395i-3(e)(3), (f)(3); 1396r(e)(3), (e)(7)(F), (f)(3); 42 C.F.R. 483.5; 42 C.F.R. Part 483, Subparts C and E;

Eff. October 1, 1994;

Readopted July 1, 2018.

10A NCAC 22H .0303 INITIATING A HEARING

(a) In order to initiate an appeal of a PASRR determination, the evaluated individual, family member, or legal representative shall submit a Hearing Request Form to the Hearing Unit. The form shall be received by the Hearing Unit within 11 calendar days from the date of the PASRR Notice of Determination. If the 11th day falls on a Saturday, Sunday, or legal holiday, then the period during which an appeal may be requested shall run until the end of the next business day which is not a Saturday, Sunday, or legal holiday.

(b) The Hearing Request Form shall be submitted to the Hearing Unit by mail, facsimile, or hand delivery.

History Note: Authority G.S. 108A-25(b); 42 U.S.C.S. 1395i-3(e)(3) and - (f)(3); 1396r(e)(3), (e)(7)(F), and (f)(3); 42 C.F.R. 431.200; 42 C.F.R. 483.5; 42 C.F.R. Part 483, Subpart E; Eff. October 1, 1994; Readopted Eff. July 1, 2018.

10A NCAC 22H .0304 HEARING PROCEDURES

(a) Upon receipt of a Hearing Request Form to appeal a PASRR determination, the Hearing Unit shall notify the Division of MH/DD/SAS of the request.

(b) The parties shall be notified by certified mail of the date, time, and place of the hearing. Hearings shall be conducted by telephone, unless an in-person hearing is requested. If the hearing is to be conducted in person, it shall be held in Raleigh, North Carolina.

(c) The Division of MH/DD/SAS shall mail all documents and records to be used at the hearing to the person requesting the hearing by certified mail and forward identical information to the Hearing Unit, to be received by both the requestor and the Hearing Unit at least five business days prior to the hearing.

(d) The hearing officer may grant continuances for good cause. For purposes of this Rule, circumstances beyond the control of the party constitute good cause.

(e) The hearing officer shall dismiss a request for a hearing if the evaluated individual or legal representative fails to appear at a scheduled hearing, unless good cause is shown.

(f) The hearing officer shall proceed to conduct a scheduled hearing if the Division of MH/DD/SAS fails to appear at a scheduled hearing.

(g) The Rules of Civil Procedure as contained in G.S. 1A-1 and the General Rules of Practice for the Superior and District Courts as authorized by G.S. 7A-34 and found in the Rules Volume of the North Carolina General Statutes shall not apply in any hearings held by the Division Hearing Officer. Division hearings are not contested case hearings within the meaning of G.S. 150B and shall not be governed by the provisions of that chapter unless otherwise stated in these Rules. Parties may be represented by counsel or other representative at the hearing.

History Note: Authority G.S. 108A-25(b); 42 U.S.C.S. 1395i-3(e)(3), (f)(3); 42 C.F.R. 431, Subpart E; 42 C.F.R. Part 483, Subpart E; Eff. October 1, 1994; Readopted Eff. July 1, 2018.

10A NCAC 22H .0305 HEARING OFFICER'S FINAL DECISION

(a) The Hearing Officer's final decision shall uphold or reverse the Division of MH/DD/SAS' PASRR decision. Copies of the final decision shall be mailed via certified mail to the parties.

(b) A party may appeal the Hearing Officer's final decision by filing a petition for judicial review in Wake County Superior Court or in the superior court of the county where the petitioner resides within 30 days of the date of the decision letter. The Division as the decision maker in the appeal to the Hearing Unit shall not be a party of record.

History Note: Authority G.S. 108A-25(b); 42 U.S.C.S. 1395i-3(e)(3), (f)(3); 42 U.S.C.S. 1396r(e)(3), (e)(7)(F), (f)(3); 42 C.F.R. 431.200; 42 C.F.R. Part 483, Subpart E; Eff. October 1, 1994; Readopted Eff. July 1, 2018.

10A NCAC 22I .0102 EXIT CONFERENCE

At the conclusion of the audit, the provider may request an exit conference to discuss the audit findings with the provider that shall be held by personnel of the unit conducting the audit.

History Note: Authority G.S. 108A-25(b); Eff. September 24, 1980; Readopted Eff. July 1, 2018.

10A NCAC 22I .0104 RECONSIDERATION REVIEW

History Note: Authority G.S. 108A-25(b); Eff. September 24, 1980; Amended Eff. January 1, 1988; Repealed Eff. July 1, 2018.

10A NCAC 22J .0102 PETITION FOR RECONSIDERATION REVIEW

(a) A provider may request a reconsideration review within 30 calendar days from receipt of final notification of payment, payment denial, disallowances, payment adjustment, notice of program reimbursement, and adjustments. A provider may request a reconsideration review within 60 calendar days from receipt of notice of an institutional reimbursement rate. Final notification of payment, payment denial, disallowances and payment adjustment means that all administrative actions necessary to have a claim paid have been taken by the provider and the Division or the fiscal agent has issued a final adjudication. If no request is received within the respective 30 or 60 day periods, the Division's action shall become final.

(b) A request for reconsideration review shall be in writing and signed by the provider or the provider's representative and contain the provider's name, address, and telephone number. It shall state the specific dissatisfaction with the Division's action and should be mailed to: Appeals, Division of Medical Assistance, 2501 Mail Service Center, Raleigh, North Carolina 27699-2501.

(c) The provider may appoint another individual to represent him. A written statement setting forth the name, address, and telephone number of the representative so designated shall be sent to the address listed in Paragraph (b) of this Rule. The representative may exercise any rights given the provider in the review process.

Notice of meeting dates, requests for information, or hearing decisions shall be sent to the authorized representative. Copies of such documents shall be sent to the petitioner only if a written request is made.

History Note: Authority G.S. 108A-25(b); 108A-54; 42 U.S.C. 1396b; 42 C.F.R. 455.512;
Eff. January 1, 1988;
Readopted Eff. July 1, 2018.

10A NCAC 22J .0103 RECONSIDERATION REVIEW PROCESS

- (a) Upon receipt of a request for a reconsideration review that is submitted timely pursuant to Rule .0102 of this Subchapter, the Deputy Director shall appoint a reviewer or panel to conduct the review. The Division shall arrange with the provider a time and date of the hearing. The provider shall reduce his arguments to writing and submit them to the Division no later than 14 calendar days prior to the review. Failure to submit written arguments within this time frame shall be grounds for dismissal of the reconsideration, unless the Division within the 14 calendar day period agrees to a delay for good cause. For purposes of this Rule, "good cause" is an action outside the control of the provider.
- (b) The provider shall be entitled to an in-person review meeting unless the provider agrees to a review of documents only or a discussion by telephone.
- (c) Following the review, the Division shall, within 30 calendar days or such additional time thereafter as specified in writing during the 30 day period, render a decision in writing and send it by certified mail to the provider or his representative.

History Note: Authority G.S. 108A-25(b); 108A-54; 42 U.S.C. 1396b; 42 C.F.R. 455.512;
Eff. January 1, 1988;
Pursuant to G.S. 150B-33(b)(9), Administrative Law Judge Augustus B. Elkins, II declared this rule void as applied in Psychiatric Solutions, Inc., d/b/a/ Holly Hill Hospital v. Division of Medical Assistance, North Carolina Department of Health and Human Services (02 DHR 1499);
Readopted Eff. July 1, 2018.

10A NCAC 22J .0104 PETITION FOR A CONTESTED CASE HEARING

If the provider disagrees with the reconsideration review decision, the provider may request a contested case hearing in accordance with G.S. 150B, Article 3 and 26 NCAC 03 .0103.

History Note: Authority G.S. 108A-25(b); 108A-54; 42 U.S.C. 1396b; 42 C.F.R. 455.512;
Eff. January 1, 1988;
Readopted Eff. July 1, 2018.

10A NCAC 22K .0101 DEFINITION

A provider qualified to make presumptive determinations of Medicaid eligibility for pregnant women shall meet the conditions required by Section 1920 of the Social Security Act, which is adopted and incorporated by reference with subsequent changes or amendments and available free of charge at

<http://uscode.house.gov/>, and sign a written agreement with the Division of Medical Assistance (Division).

History Note: Authority G.S. 108A-25(b); 42 U.S.C. 1396r-1; 42 C.F.R. 435.1103;
Eff. June 1, 1998;
Readopted Eff. July 1, 2018.

10A NCAC 22K .0102 AGREEMENT

- (a) The provider shall participate in training offered by the Division or its agents and make presumptive eligibility determinations in accordance with 42 C.F.R. 435.1103, which is adopted and incorporated by reference with subsequent changes or amendments and available free of charge at <https://www.ecfr.gov/>, and the Medicaid State Plan.
- (b) The Division shall terminate the provider's Medicaid Participation agreement and authority to make presumptive determinations if the provider fails to make required notifications to the county department of social services in the pregnant woman's county of residency within five business days or fails to follow procedures set forth in the Medicaid State Plan, resulting in eligibility denials for a majority of the provider's referrals.
- (c) Termination of the agreement shall occur 30 calendar days following notification when termination is initiated by the Division.

History Note: Authority G.S. 108A-25(b); 42 U.S.C. 1396r-1; 42 C.F.R. 435.1103;
Eff. June 1, 1988;
Readopted Eff. July 1, 2018.

10A NCAC 22K .0103 PRESUMPTIVE DETERMINATIONS

- (a) Presumptive determinations of eligibility shall apply only to pregnant women whose family income does not exceed the federal poverty guidelines issued in the Federal Register by the US Department of Health and Human Services and revised annually, which are adopted and incorporated by reference with subsequent changes or amendments and available free of charge at <https://aspe.hhs.gov/poverty-guidelines>.
- (b) Only one presumptive determination of eligibility during a single pregnancy shall be made by the same qualified provider.
- (c) A presumptive determination of eligibility may be made by a different qualified provider if the provider has no knowledge of a prior determination.

History Note: Authority G.S. 108A-25(b); 42 U.S.C. 1396r-1; 42 CFR 435.1103;
Eff. June 1, 1988;
Readopted Eff. July 1, 2018.

10A NCAC 22L .0101 PROGRAM DEFINITION

The Division's primary care case management contractor shall contract with primary care physicians in participating counties to deliver and coordinate the health care of certain categories of Medicaid beneficiaries listed in 10A NCAC 22L .0104.

History Note: Authority G.S. 108A-25(b);
Eff. August 3, 1992;

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22, 2015;
Amended Eff. July 1, 2018.*

10A NCAC 22L .0102 COORDINATION FEE

In addition to normal Medicaid payments, the Division may pay participating physicians a monthly fee to provide case management for providing or coordinating the health care services of enrollees who have selected them as their primary care physician.

*History Note: Authority G.S. 108A-25(b);
Eff. August 3, 1992.
Readopted Eff. July 1, 2018.*

10A NCAC 22L .0103 ACCESS TO CARE

The Division's primary care case management enrollees shall be eligible to receive health care services that Medicaid beneficiaries are eligible for. Beneficiaries receive services through their primary care physician who either provides or coordinates health care.

*History Note: Authority G.S. 108A-25(b);
Eff. August 3, 1992;
Readopted July 1, 2018.*

10A NCAC 22L .0104 ENROLLMENT

(a) All Medicaid beneficiaries in participating counties who are eligible for primary care case management shall enroll. Eligible Medicaid beneficiaries include AFDC-related, MIC, Aged, Blind and Disabled categories, unless exempt due to institutional placement. Institutional placement includes nursing home, mental institutions, and domiciliary care.

(b) The following beneficiaries have the option to enroll in primary care case management:

- (1) Medicaid for Pregnant Women;
- (2) benefit diversion beneficiaries;
- (3) beneficiaries with end stage renal disease; and
- (4) Native Americans/Alaska Natives.

*History Note: Authority G.S. 108A-25(b);
Eff. August 3, 1992;
Readopted July 1, 2018.*

10A NCAC 22L .0201 PROGRAM DEFINITION

*History Note: Authority G.S. 108A-25(b);
Eff. August 3, 1992;
Amended Eff. April 1, 1999;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22, 2015;
Repealed Eff. July 1, 2018.*

10A NCAC 22L .0203 ACCESS TO CARE

*History Note: Authority G.S. 108A-25(b); 42 U.S.C. 1396u-2(b)(2)(B),(C);
Eff. August 3, 1992;
Amended Eff. April 1, 1999;*

Repealed Eff. July 1, 2018.

10A NCAC 22N .0101 DEFINITIONS

(a) For the purpose of this Subchapter, a "provider" is defined as in G.S. 108C-2(10).

(b) For the purpose of this Subchapter, an "owner" is defined as in G.S. 108C-2(9).

*History Note: Authority G.S. 108A-54; 108C-2(9),(10); 143B-139.1; 42 C.F.R. 400.203; 42 C.F.R. 455.101;
Eff. July 1, 2004;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22, 2015;
Amended Eff. July 1, 2018.*

10A NCAC 22N .0102 SIGNED AGREEMENTS

Each provider shall sign a Provider Administrative Participation Agreement with the Department and shall not be reimbursed for services rendered prior to the effective date of the participation agreement.

*History Note: Authority G.S. 108A-54; 143B-139.1; 42 C.F.R. Part 455, Subpart E;
Eff. July 1, 2004;
Readopted Eff. July 1, 2018.*

10A NCAC 22N .0201 DEFINITIONS

*History Note: Authority G.S. 108A-54; 143B-139.1;
Eff. July 1, 2004;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22, 2015;
Repealed Eff. July 1, 2018.*

10A NCAC 22N .0202 DISCLOSURE OF OWNERSHIP

Providers who undergo a change in ownership as defined in G.S. 108C-10 shall comply with the following disclosure conditions:

- (1) when applying to participate in the North Carolina Medicaid program, the provider shall supply the legal name and social security number of each individual who is an owner;
- (2) an enrolled provider shall notify the Division in writing of a change in the legal name of any owner. The notification shall be received within 30 calendar days of the effective date of any change;
- (3) an enrolled provider shall notify the Division in writing if a new owner joins the provider. The notification shall include the new owner's legal name and social security number. The notification shall be received within 30 calendar days of the effective date of any change; and
- (4) an enrolled provider shall notify the Division in writing if an owner withdraws his ownership interest in the provider. The notification shall include the name of the departing owner and shall be received within 30 calendar days of the effective date of any change.

History Note: Authority G.S. 108A-54; 108C-10; 143B-139.1; 42 C.F.R. 455.104; 42 C.F.R. 455.106; Eff. July 1, 2004; Readopted Eff. July 1, 2018.

10A NCAC 22N .0203 ENROLLMENT RESTRICTIONS

(a) The Department shall deny enrollment, including enrollment for new or additional services in accordance with G.S. 122C-23(e1) and G.S. 131D-10.3(h).

(b) The Department may deny enrollment when an applicant meets any of the following conditions:

- (1) if the Department has initiated revocation or summary suspension proceedings against any facility licensed pursuant to G.S. 122C, Article 2, G.S. 131D, Articles 1 or 1A, or G.S. 110, Article 7 that was previously held by the applicant and the applicant voluntarily relinquished the license;
- (2) there is a pending appeal of a denial, revocation, or summary suspension of any facility licensed pursuant to G.S. 122C, Article 2, G.S. 131D, Articles 1 or 1A, or G.S. 110, Article 7 that is owned by the applicant;
- (3) the applicant had an individual as part of their governing body or management who previously held a license that was revoked or summarily suspended under G.S. 122C, Article 2, G.S. 131D, Articles 1 or 1A, and G.S. 110, Article 7 and the rules adopted under these laws; or
- (4) the applicant is an individual who has a finding or pending investigation by the Health Care Personnel Registry in accordance with G.S. 131E -256.

(c) When an application for enrollment of a new service is denied:

- (1) pursuant to G.S. 150B-22, the applicant shall be given an opportunity to provide reasons why the enrollment should be granted or the matter otherwise settled;
- (2) the Division shall give the applicant written notice of the denial, the reasons for the denial and advise the applicant of the right to request a contested case hearing pursuant to G.S. 150B; and
- (3) the provider shall not provide the new service until a decision is made to enroll the provider, despite an appeal action.

(d) If the denial is reversed on appeal, the provider may re-apply for enrollment in accordance with 42 C.F.R. 455, Subpart E, which is adopted and incorporated by reference with subsequent changes or amendments and available free of charge at <https://www.ecfr.gov/>.

History Note: Authority G.S. 108A-54; 122C-23(e1),(e3); 131E-256; 143B-139.1; 42 C.F.R. 455.422; 42 C.F.R. 1002.213; Eff. July 1, 2004; Readopted Eff. July 1, 2018.

10A NCAC 22N .0301 DEFINITIONS

History Note: Authority G.S. 108A-54; 143B-139.1; Eff. July 1, 2004; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22, 2015; Repealed Eff. July 1, 2018.

**10A NCAC 22N .0302 DISCLOSURE OF OWNERSHIP
10A NCAC 22N .0303 ENROLLMENT RESTRICTIONS**

History Note: Authority G.S. 108A-54; 143B-139.1; Eff. July 1, 2004; Repealed Eff. July 1, 2018.

**10A NCAC 22O .0112 PSYCHIATRIC ADMISSION
CRITERIA/MEDICAID BENEFICIARIES UNDER AGE
21**

History Note: Authority G.S. 108A-25(b); 108A-54; 42 C.F.R. 441, Subpart D; 42 C.F.R. 441.151; Eff. October 1, 1993; Amended Eff. February 1, 1996; Repealed Eff. July 1, 2018.

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10A NCAC 43D .0708 AUTHORIZED VENDORS

By signing the WIC Vendor Agreement, the vendor agrees to:

- (1) Process WIC Program food instruments and cash-value vouchers in accordance with the terms of the WIC Vendor Agreement and 42 U.S.C. 1786, 7 C.F.R. 246.1-246.28, and the rules of this Subchapter;
- (2) Accept WIC Program food instruments and cash-value vouchers in exchange for WIC supplemental foods. Supplemental foods are those foods that satisfy the requirements of 10A NCAC 43D .0501;
- (3) Provide only the authorized supplemental foods listed on the printed food instrument, or authorized fruits and vegetables with a printed cash-value voucher. Determine the charges to the WIC Program and complete the "Pay Exactly" box on the printed food instrument, or printed cash-value voucher, as set forth in Item (4) of this Rule, prior to obtaining the signature of the WIC customer. When transacting EBT, the vendor shall provide to the WIC customer only the approved supplemental foods, fruits, and vegetables contained in the authorized product list (APL) after it has been determined that the WIC customer has an available balance on the date of the transaction. The WIC customer is not required to get all of the supplemental foods listed on the printed food instrument or the full dollar value of the printed cash-value voucher. However, a WIC customer may obtain more fruits and vegetables than the full dollar value of a cash-value voucher if the

- WIC customer pays the difference, as set forth in 7 C.F.R. 246.12(h)(3)(xi);
- (4) Enter in the "Pay Exactly" box on the printed food instrument or printed cash-value voucher only the total amount of the current shelf prices, or less than the current shelf prices, for the supplemental food provided and shall not charge or collect sales taxes for the supplemental food provided. Vendors that utilize EBT shall only transmit the current shelf price of all WIC-approved supplemental foods purchased in the correct sizes, quantities, and the total dollar amount of all WIC-approved supplemental foods purchased in the EBT system;
 - (5) Charge no more for supplemental food provided to a WIC customer than to a non-WIC customer or no more than the current shelf price, whichever is less;
 - (6) Accept payment from the State WIC Program only up to the maximum price set by the State agency for each supplemental food within that vendor's peer group. The maximum price for each supplemental food shall be based on the maximum prices set by the State agency for each supplemental food, as described in Sub-item (4)(a) of Rule .0707 of this Section, listed on the food instrument. A request for payment submitted over the maximum price allowed by the State agency will only be paid up to the maximum price for that supplemental food;
 - (7) Accept payment from the State WIC Program only up to the full dollar value of the cash-value voucher;
 - (8) Not charge the State WIC Program more than the maximum price set by the State agency under Item (4)(a) of Rule .0707 of this Section for each supplemental food within the vendor's peer group;
 - (9) Provide to WIC customers infant formula, exempt infant formula, and WIC eligible nutritionals purchased only from the sources specified in Item (3) of Rule .0707 of this Section. Providing infant formula, exempt infant formula, or WIC eligible nutritionals that has not been purchased from the sources specified in Item (3) of Rule .0707 of this Section shall result in termination of the WIC Vendor Agreement;
 - (10) For free-standing pharmacies, provide only exempt infant formula and WIC-eligible nutritionals;
 - (11) Excluding free-standing pharmacies, redeem at least two thousand dollars (\$2,000) annually in WIC supplemental food sales. Failure to redeem at least two thousand dollars (\$2,000) annually in WIC supplemental food sales shall result in termination of the WIC Vendor Agreement. The store must wait 180 days to reapply for authorization;
 - (12) Accept WIC Program food instruments and cash-value vouchers only on or between the "First Date to Spend" and the "Last Date to Spend" dates;
 - (13) Prior to obtaining the WIC customer's signature on the printed food instrument and cash-value voucher, enter in the "Date Transacted" box the month, day, and year the WIC food instrument or cash-value voucher is exchanged for supplemental food;
 - (14) Ensure that the WIC customer signs the food instrument or cash-value voucher in the presence of the cashier. Vendors that utilize EBT shall ensure that a personal identification number (PIN) is used by the WIC customer to complete the EBT transaction in lieu of a signature;
 - (15) Ensure that the WIC customer enters the PIN to initiate the EBT transaction. The vendor shall not enter the PIN for the WIC customer;
 - (16) Refuse to transact any food instrument or cash-value voucher that has been altered;
 - (17) Not transact food instruments or cash-value vouchers in whole or in part for cash, credit, unauthorized foods, or non-food items;
 - (18) Not provide refunds or permit exchanges for authorized supplemental foods obtained with food instruments or cash-value vouchers, except for exchanges of an identical authorized supplemental food when the original authorized supplemental food is defective, spoiled, or has exceeded its "sell by," "best if used by," or other date limiting the sale or use of the food. An "identical authorized supplemental food" means the exact brand, type and size as the original authorized supplemental food obtained and returned by the WIC customer;
 - (19) Imprint the authorized WIC vendor stamp in the "Pay the Authorized WIC Vendor Stamped Here" box on the face of the printed food instrument or cash-value voucher to enable the vendor number to be read during the WIC Program's editing process;
 - (20) Imprint the vendor's bank deposit stamp or the vendor's name, address, and bank account number in the "Authorized WIC Vendor Stamp" box in the endorsement on the printed food instrument or cash-value voucher;
 - (21) Deposit WIC program printed food instruments and cash-value vouchers in the vendor's bank. All North Carolina WIC program printed food instruments and cash-value vouchers must be deposited in the vendor's bank within 60 days of the "First Date to Spend" on the printed food instrument or cash-value voucher;
 - (22) Ensure that the authorized WIC vendor stamp is used only for the purpose and in the manner

- authorized by the Agreement and be responsible for the unauthorized use of the authorized WIC vendor stamp;
- (23) Maintain storage of the authorized WIC vendor stamp so only the staff designated by the vendor owner or manager have access to the stamp and report loss of this stamp within two business days to the local WIC agency;
- (24) Notify the local WIC agency of misuse (attempted or actual) of WIC Program food instruments or cash-value vouchers;

- (25) Maintain a minimum inventory of supplemental foods in the store for purchase. Supplemental foods that are outside of the manufacturer's expiration date do not count towards meeting the minimum inventory requirement. The following items and sizes constitute the minimum inventory of supplemental foods for vendors in Peer Groups I through III of Item (1), vendors in Vendor Peer Groups I through IV of Item (2), and vendors in Vendor Peer Group IV of Item (3) of Rule .0706 of this Section:

Food Item	Type of Inventory	Quantities Required
Milk	Whole fluid: gallon	2 gallons
	-and- Skim/lowfat fluid: gallon	6 gallons
Cheese	1 pound package	2 packages
Cereals	2 types: whole grain (minimum package size 12 ounce)	6 packages total
Eggs	Grade A, large, white: 1 dozen size carton	2 dozen
Juices	Single strength:	
	48 ounce container 64 ounce container	4 containers 4 containers
Dried Peas and Beans	1 pound package	2 packages
Peanut Butter	16 to 18 ounce container	2 containers
Tuna	5 to 6 ounce can	6 cans
Bread/Tortillas	16 ounce loaf of bread or package of tortillas	2 loaves or 2 packages OR 1 loaf and 1 package
Rice	14 to 16 ounce package	2 packages
Infant Cereal	8 ounce box	6 boxes
Infant Fruits and Vegetables	3.5 to 4 ounce container 1 type of fruit and 1 type of vegetable	64 ounces
Infant Formula	milk-based powder; 11.0 to 14.0 ounce	8 cans
	-and- soy-based powder; 11.0 to 14.0 ounce Brands must be the primary contract infant formulas	4 cans
Fruits	14 to 16 ounce can: 2 varieties	10 cans total
Vegetables (Excludes foods in Dried Peas and Beans category)	14 to 16 ounce can: 2 varieties	10 cans total

All vendors in Vendor Peer Groups I through III of Item (1), Peer Groups I through IV of Item (2), and Vendor Peer Groups IV and V of Item (3) of Rule .0706 of this Section shall supply milk, soy-based or lactose-free infant formula in 32 ounce ready-to-feed or lactose-free powder within 48 hours of request by the State or local WIC agency;

- (26) Ensure that all supplemental foods in the store for purchase are within the manufacturer's expiration date;
- (27) Permit the purchase of supplemental food without requiring other purchases;
- (28) Comply with the following EBT provisions:
 - (a) Sign the WIC Vendor Agreement of the EBT Processor selected by the State WIC Program or a third-party processor that has been certified according to criteria established by the EBT Processor selected by the State WIC Program. Failure by a vendor to sign and retain a WIC Vendor Agreement with the State WIC Program's EBT Processor or a third-party processor that has been certified by the State WIC Program's EBT Processor shall result in termination of the WIC Vendor Agreement. Vendors shall notify the WIC Program within 24 hours of any periods of time during which they do not maintain an Agreement with the State WIC Program's EBT Processor or a third-party processor that has been certified by the State WIC Program's EBT Processor;
 - (b) Process EBT transactions in accordance with the terms of the North Carolina WIC Vendor Agreement, WIC Program State Rules, federal regulations, and statutes;
 - (c) Maintain Point of Sale (POS) terminals used to support the WIC Program in accordance with the minimum lane provisions of 7 C.F.R. 246.12(z)(2);
 - (d) Maintain a North Carolina EBT Processor certified in-store EBT system that is available for WIC redemption processing during all hours the store is open;
 - (e) Request the North Carolina EBT Processor re-certify its in-store system if the vendor alters or revises the system in any manner that impacts the EBT redemption or claims processing system after initial certification is completed;
 - (f) For vendors with integrated systems, obtain EBT card readers to support EBT transactions within their store(s).

The vendor shall ensure that the EBT card readers they obtain meets all EBT and North Carolina EBT Processor requirements;

- (g) Require an owner, manager or other authorized store representative to complete training on WIC EBT procedures. The vendor shall ensure that all cashiers and staff are fully trained on WIC EBT requirements, including training in the acceptance and processing of WIC EBT transactions;
- (h) Require the WIC customer to approve the WIC transaction. Vendors shall ensure that the vendor's staff does not approve the WIC transactions for WIC customers under any circumstances;
- (i) Release supplemental food to WIC customers when the transaction has been completed to include receipt of transaction approval by the EBT processing system, printing of the receipt, and updated balance of the WIC customer's account;
- (j) Scan or manually enter Universal Product Codes (UPC) only from approved supplemental foods being purchased by the WIC customer in the types, sizes and quantities available on the WIC customer's EBT account. The vendor shall not scan codes from UPC codebooks or reference sheets;
- (k) Return any EBT card found on the vendor's property and unclaimed for 24 hours to the WIC Program. The vendor shall not hold or use a WIC customer's EBT card and PIN for any purpose whatsoever;
- (l) Connect the vendor's in-store system for each outlet covered by the WIC Vendor agreement to the State's WIC EBT system at least once each 24-hour period to download reconciliation files and the WIC Authorized Product UPC/Product Look-Up (PLU) list.
- (29) Attend, or cause a manager or other authorized store representative to attend, annual vendor training upon notification by the local WIC agency. Failure to attend annual vendor training by September 30 of each year shall result in termination of the WIC Vendor Agreement;
- (30) Inform and train vendor's cashiers and other staff on WIC Program requirements;
- (31) Be accountable for the actions of its owners, officers, managers, agents, and employees who commit vendor violations;
- (32) Allow monitoring and inspection by State and local WIC Program staff of the store premises

and procedures to ensure compliance with the agreement and State, and federal WIC Program rules, regulations, and applicable law. This includes providing access to all program-related records, including access to all WIC food instruments and cash-value vouchers at the store; vendor records pertinent to the purchase and sale of WIC supplemental foods, including invoices, receipts, copies of purchase orders, and any other proofs of purchase; federal and state corporate and individual income tax and sales and use tax returns and all records pertinent to these returns; and books and records of all financial and business transactions. These records must be retained by the vendor for a period of three years or until any audit pertaining to these records is resolved, whichever is later. Notwithstanding any other provision of this Rule and Rules .0707 and .0710 of this Section, failure or inability to provide these records for an inventory audit or providing false records for an inventory audit shall be deemed a violation of 7 C.F.R. 246.12(l)(1)(iii)(B) and Subparagraph (a)(1) of Rule .0710 of this Section. Invoices, receipts, purchase orders, and any other proofs of purchase for WIC supplemental foods shall include:

- (a) the name of the seller and be prepared entirely by the seller without alteration by the vendor or on the seller's business letterhead;
 - (b) the date of purchase and the date the authorized vendor received the WIC supplemental food at the store if different from the date of purchase; and
 - (c) a description of each WIC supplemental food item purchased, including brand name, unit size, type or form, and quantity;
- (33) Maintain a record of all SNAP-eligible food sales and provide to the State agency upon request a statement of the total amount of revenue derived from SNAP-eligible food sales and written documentation to support the amount of sales claimed by the vendor, such as sales records, financial statements, reports, tax documents or other verifiable documentation;
- (34) Submit a current completed WIC Price List when signing this agreement, and by April 1 and October 1 of each year. The vendor also agrees to submit a WIC Price List within two weeks of any written request by the State or local WIC agency;
- (35) Reimburse the State agency in full or agree to a repayment schedule with the State agency within 30 days of written notification of a claim assessed due to a vendor violation that affects

payment to the vendor or a claim assessed due to the unauthorized use of the WIC vendor stamp. Failure to reimburse the State agency in full or agree to a repayment schedule within 30 days of written notification of a claim shall result in termination of the WIC Vendor Agreement. The State agency shall deny payment or assess a claim in the amount of the full purchase price of each food instrument or cash-value voucher invalid under Subparagraphs (a)(2), (a)(5), (a)(6) or (a)(7) of Rule .0704 of this Section. Denial of payment by the State agency or payment of a claim by the vendor for a vendor violation(s) shall not absolve the vendor of the violation(s). The vendor shall also be subject to any vendor sanctions authorized under Rule .0710 of this Section for the vendor violation(s);

- (36) Not seek restitution from the WIC customer for reimbursement paid by the vendor to the State agency or for WIC food instruments or cash-value vouchers not paid or partially paid by the State agency. Additionally, the vendor shall not charge the WIC customer for authorized supplemental foods obtained with food instruments or cash-value vouchers;
- (37) Not contact a WIC customer outside the store regarding the transaction or redemption of WIC food instruments or cash-value vouchers;
- (38) Notify the local WIC agency in writing at least 30 days prior to a change of ownership, change in store location, cessation of operations, or withdrawal from the WIC Program. Change of ownership, change in store location of more than three miles from the store's previous location, cessation of operations, withdrawal from the WIC Program, or disqualification from the WIC Program shall result in termination of the WIC Vendor Agreement by the State agency. Change of ownership, change in store location, ceasing operations, withdrawal from the WIC Program, or nonrenewal of the WIC Vendor Agreement shall not stop a disqualification period applicable to the store;
- (39) Return the authorized WIC vendor stamp to the local WIC agency upon termination of the WIC Vendor Agreement or disqualification from the WIC Program;
- (40) Not discriminate on the basis of WIC participation, such as failing to offer WIC customers the same courtesies, as set forth in 7 C.F.R. 246.12(g)(3)(iii), offered to other customers or requiring separate WIC lines;
- (41) Reapply to continue to be authorized beyond the period of its current WIC Vendor Agreement. Additionally, a store shall reapply to become authorized following the expiration of a disqualification period or termination of the

- Agreement. In all cases, the vendor applicant is subject to the vendor peer group criteria of Rule .0706 of this Section and the vendor selection criteria of Rule .0707 of this Section; and
- (42) Comply with all the requirements for vendor applicants of Items (3), (4), and (7) through (17), and (19) of Rule .0707 of this Section throughout the term of authorization. The State agency may reassess a vendor at any time during the vendor's period of authorization to determine compliance with these requirements. The State agency shall terminate the WIC Vendor Agreement of any vendor that fails to comply with Items (3), (4), (8), (9), (10), (11), (12), (13), (14), (16), (17), or (19) of Rule .0707 of this Section during the vendor's period of authorization, and terminate the agreement of or sanction or both any vendor that fails to comply with Items (7), (15), (17), or (19) of Rule .0707 of this Section during the vendor's period of authorization.

History Note: Authority G.S. 130A-361; 7 C.F.R. 246; 42 U.S.C. 1786;
Eff. March 1, 2013;
Amended Eff. October 1, 2017;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 23, 2017;
Amended Eff. July 1, 2018.

TITLE 12 - DEPARTMENT OF JUSTICE

12 NCAC 09B .0209 CRIMINAL JUSTICE INSTRUCTOR TRAINING

- (a) The instructor training course required for general instructor certification shall consist of a minimum of 78 hours of instruction presented during a continuous period of not more than two weeks.
- (b) Each instructor training course shall be designed to provide the trainee with the skills and knowledge to perform the function of a criminal justice instructor.
- (c) Each instructor training course shall include the following identified topic areas and minimum instructional hours for each area:
- | | | |
|-----|---|---------|
| (1) | Orientation and Pre-Test | 3 Hours |
| (2) | Instructional Systems Design (ISD) | 6 Hours |
| (3) | Law Enforcement Instructor Liabilities and Legal Responsibilities | 3 Hours |
| (4) | Criminal Justice Instructional Leadership | 4 Hours |
| (5) | Lesson Plan Preparation: Professional Resources | 3 Hours |
| (6) | Lesson Plan Development and Formatting | 4 Hours |
| (7) | Adult Learning | 6 Hours |
| (8) | Instructional Styles and Platform Skills | 5 Hours |
| (9) | Classroom Management | 3 Hours |

- | | | |
|------|--|-------------------|
| (10) | Active Learning: Demonstration and Practical Exercises | 6 Hours |
| (11) | The Evaluation Process of Learning | 4 Hours |
| (12) | Audio Visual Aids | 4 Hours |
| (13) | Student 8-Minute Introductions and Video Critique | 5 Hours |
| (14) | Student Performance: First Presentation | 35-Minute 6 Hours |
| | Second 35-Minute Presentation | 6 Hours |
| | Final 70-Minute Presentation and Review | 8 Hours |
| (15) | Course Closing and Post-test | 2 Hours |
- (d) The "Instructor Training" manual published by the North Carolina Justice Academy shall be the curriculum for instructor training courses. Copies of this publication may be inspected at the agency:

Criminal Justice Standards Division
 North Carolina Department of Justice
 1700 Tryon Park Drive
 Post Office Drawer 149
 Raleigh, North Carolina 27602

and may be purchased at the cost of printing and postage from the Academy at the following address:
 North Carolina Justice Academy
 Post Office Drawer 99
 Salemburg, North Carolina 28385

History Note: Authority G.S. 17C-6;
Eff. January 1, 1981;
Amended Eff. July 1, 2018; April 1, 2018; January 1, 2018; January 1, 2015; December 1, 2009; August 1, 2005; November 1, 1998; January 1, 1995; March 1, 1990; July 1, 1989; January 1, 1985.

12 NCAC 09B .0406 COMPREHENSIVE WRITTEN EXAMINATION - BASIC LAW ENFORCEMENT TRAINING

- (a) Within 60 days of the conclusion of a school's offering of the Basic Law Enforcement Training Course, the Commission shall administer a comprehensive written examination to each trainee who has completed all of the required course work pursuant to Rule .0405 of this Section. A trainee shall not be administered the comprehensive written examination until such time as all of the course work is completed or he or she is granted a medical waiver by the Director of the Criminal Justice Standards Division in accordance with Paragraph (f) of this Rule.
- (b) The examination shall be comprised of six units as specified in 12 NCAC 09B .0205(b).
- (c) The Commission's representative shall submit to the school director within five business days of the administration of the examination a report of the results of the test for each trainee examined.
- (d) A trainee shall achieve a passing score on the comprehensive written examination upon answering a minimum of 70 percent of the questions correctly on each of the six units as prescribed in Paragraph (b) of this Rule.
- (e) A trainee who has participated in a scheduled delivery of an accredited training course and has achieved a passing score in

each motor-skill or performance area of the course curriculum but has failed to achieve the minimum score of 70 percent on no more than two units of the Commission's comprehensive written examination may request the Director of the Standards Division to authorize a re-examination of the trainee in only those units for which he or she failed to make a passing score of 70 percent:

- (1) The trainee's request for re-examination shall be made in writing on the Commission's Re-Examination Request form and shall be received by the Standards Division within 30 days of the examination. The Re-examination Request form is located on the agency's website:
http://ncdoj.gov/getdoc/dcb72ee9-fa01-4664-a7a0-ef33ac0941ee/Exam-Admission-Form_F-23_4-19-17.aspx. The examination request form shall include the following information:
 - (A) first-time examination training type;
 - (B) trainee information; and
 - (C) school information and appropriate signatures.
- (2) The trainee's request for re-examination shall include the favorable recommendation of the school director who administered the course(s).
- (3) A trainee shall have, within 60 days of the original examination(s), only one opportunity for re-examination and shall achieve a passing score on the subsequent unit examination.
- (4) The trainee shall be assigned in writing by the Director of the Standards Division a place, time, and date for re-examination.
- (5) Should the trainee on re-examination not achieve a minimum score of 70 percent on the examination, the trainee shall not be eligible for probationary certification, as prescribed in 12 NCAC 09C .0303(d). The trainee shall enroll and complete a subsequent offering of the Basic Law Enforcement Training Course before further examination is permitted.

(f) A trainee who sustains injury prior to the final POPAT attempt and who achieved a passing score on the last attempt, who has completed the required coursework with the exception of the final POPAT, may request from the Director of the Criminal Justice Standards Division a medical waiver to take the comprehensive written examination prior to completion of the final POPAT. The medical waiver request shall include the following information:

- (1) a memorandum from the School Director justifying a medical waiver;
- (2) copies of the last POPAT assessment; and
- (3) medical documentation from a surgeon, physician, physician assistant, or nurse practitioner showing the diagnosis of the injury and the estimated medical release date.

Upon receipt of the information contained in this Paragraph, the Director of the Criminal Justice Standards Division shall approve the medical waiver request. The School Director shall submit the medical waiver approval from the Director of the Criminal Justice Standards Division with the comprehensive examination

admission form. The trainee must complete the final POPAT attempt within 120 calendar days of the original state written examination date.

(g) A trainee who fails to achieve a passing score of 70 percent on three or more of the units as set forth in Rule .0205(b) of this Subchapter shall not be given the opportunity for re-examination on those units; and shall enroll in and complete a subsequent offering of the Basic Law Enforcement Training Course before further examination is permitted.

History Note: Authority G.S. 17C-6; 17C-10; Eff. January 1, 1981;

Amended Eff. July 1, 2018; January 1, 2015; August 1, 2000; July 1, 1989; July 1, 1985; January 1, 1983.

12 NCAC 09G .0414 INSTRUCTOR TRAINING

(a) The instructor training course required for general instructor certification shall consist of a minimum of 78 hours of instruction presented during a continuous period of not more than two weeks.

(b) Each instructor training course shall be designed to provide the trainee with the skills and knowledge to perform the function of a criminal justice instructor.

(c) Each instructor training course shall include the following identified topic areas and minimum instructional hours for each area:

- | | | |
|------|--|---------|
| (1) | Orientation and Pre-test; | 3 hours |
| (2) | Instructional Systems Design (ISD); | 6 hours |
| (3) | Law Enforcement Instructor Liabilities and Legal Responsibilities; | 3 hours |
| (4) | Criminal Justice Instructional Leadership | 4 hours |
| (5) | Lesson Plan Preparation: Professional Resources; | 3 hours |
| (6) | Lesson Plan Development and Formatting | 4 hours |
| (7) | Adult Learning; | 6 hours |
| (8) | Instructional Style and Platform Skills; | 5 hours |
| (9) | Classroom Management; | 3 hours |
| (10) | Active Learning: Demonstration and Practical Exercises; | 6 hours |
| (11) | The Evaluation Process of Learning; | 4 hours |
| (12) | Principles of Instruction: Audio-Visual Aids; | 4 hours |
| (13) | Student 8-Minute Introduction and Video Critique; and | 5 hours |
| (14) | Student Performance: First 35-Minute Presentation; | 6 hours |
| | Second 35-Minute Presentation; and | 6 hours |
| | Final 70-Minute Presentation and Review; | 8 hours |
| (15) | Course Closing and Post Test | 2 hours |

(d) The "Instructor Training Manual" published by the North Carolina Justice Academy shall be applied as the basic curriculum for instructor training courses. Copies of this publication may be inspected at the agency:

Criminal Justice Standards Division
North Carolina Department of Justice
1700 Tryon Park Drive Post Office Drawer 149
Raleigh, North Carolina 27602

and may be purchased at the cost of printing and postage from the North Carolina Justice Academy at the following address:

North Carolina Justice Academy
Post Office Drawer 99
Salemberg, North Carolina 28385

*History Note: Authority G.S. 17C-6;
Temporary Adoption Eff. January 1, 2001;
Eff. August 1, 2002;
Amended Eff. July 1, 2018; April 1, 2018; January 1, 2018;
January 1, 2015.*

TITLE 14B - DEPARTMENT OF PUBLIC SAFETY

14B NCAC 15A .0104 PAYMENT OF FEES AND FINES

(a) Payment of fees and fines owed to the Commission may be paid by certified check, cashier's check, money order, electronic payment, or Discover, Mastercard, or Visa credit cards. However, payments for permit renewals for more than nine locations shall not be made by credit card.

(b) Credit card and electronic payments may be made online through the Commission's website.

(c) All payments shall be made payable to the North Carolina ABC Commission.

*History Note: Authority G.S. 18B-100; 18B-104; 18B-206;
18B-207; 18B-902; 18B-903;
Eff. July 1, 2018.*

14B NCAC 15B .0102 APPLICATIONS FOR PERMITS: GENERAL PROVISIONS

(a) Application forms for all ABC permits may be obtained from the North Carolina Alcoholic Beverage Control Commission's office or website as set forth in 14B NCAC 15A .0102.

(b) An applicant operating noncontiguous buildings or structures, except as permitted pursuant to G.S. 18B-1120, or businesses with separate trade names, shall obtain and hold separate permits for each building or business for which he or she wants permits, and shall pay the application fees as set forth in G.S. 18B-902(d). If the applicant requests a single permit for a business that is operated in contiguous buildings or structures over which the applicant has exclusive control over the buildings and the space between buildings, the Commission shall determine if the business is operating as a single business with the same operating scheme and purpose. If so, the Commission shall issue a single permit for the business.

(c) Each individual required to qualify for an ABC permit under G.S. 18B-900(c) shall file a written application with the Commission and in the application shall state, under oath, the following information:

- (1) the name, address, email address, last four digits of social security number, and telephone number(s) of the applicant;

- (2) the name of the business and whether the business is a sole proprietorship, corporation, limited liability company, or partnership;
 - (3) the mailing address and location address of the business for which a permit is desired, and the county, and city if applicable, where the business is located;
 - (4) the trade name of business;
 - (5) the applicant's date of birth;
 - (6) if the business is a corporation or limited liability company, the name and address of the person authorized to accept service of process under G.S. 1A, Rule 4(j) of Commission notices or orders;
 - (7) if the applicant is a non-resident, the name and address of a resident of this State appointed as the applicant's attorney-in-fact in accordance with Chapter 32C of the General Statutes for purposes of G.S. 18B-900(a)(2)b.;
 - (8) an actual diagram of the premises showing:
 - (A) the entrances and exits;
 - (B) the storage area for alcoholic beverages;
 - (C) the locations where alcoholic beverages will be served or consumed; and
 - (D) the exterior areas under lease, authority, or control of the applicant;
 - (9) that the applicant is the actual owner or lessee of the premises, or controls the premises pursuant to a management agreement to operate the premises with the actual owner or lessee, where a permit is sought;
 - (10) that the applicant is an actual resident of the State of North Carolina or, as a non-resident, has appointed, by a power of attorney, a resident manager, who is an actual resident of this State, to serve as attorney-in-fact who will manage the business and accept service of process and official Commission notices or orders; and
 - (11) that the applicant is in compliance with G.S. 18B-900(a)(3) through (8).
- (d) The following documents completed, signed, notarized, and recorded, as applicable, shall be attached to and submitted with an application, and shall be incorporated as part of the application:
- (1) a Zoning and Compliance Form signed by the appropriate officials pursuant to G.S. 18B-901(c);
 - (2) for applicants for retail permits, a Proof of Alcohol Seller/Server Training Form containing the applicant's name, business name, address, and telephone number, and a certification of completion of an approved Alcohol Seller/Server training class with training date issued by the approved course provider unique to the applicant;
 - (3) the fingerprint card, Authority for Release of Information Form, and certified check, cashier's

- check, money order, electronic payment, or credit card payment made payable to the North Carolina ABC Commission in the amount of thirty-eight dollars (\$38.00) for payment of a state and national fingerprint based check pursuant to 14B NCAC 18B .0405, which is incorporated herein by reference, including subsequent amendments and editions;
- (4) payment of applicable permit fees as authorized in 14B NCAC 15A .0104;
 - (5) a certified copy of any recorded power of attorney registered in the county where the proposed licensed premises is located;
 - (6) a Recycling Compliance Form for on-premise malt beverage, fortified wine, unfortified wine, and mixed beverage permits only;
 - (7) for corporations not already holding a permit in this State, a copy of the Articles of Incorporation and notarized corporate certification of shareholders holding 25 percent or more of the shares of the corporation;
 - (8) for limited liability companies not already holding a permit in this State, a copy of Articles of Organization and notarized organizational certification of members owning 25 percent or more interest in the company. Additionally, if manager managed, a copy of the Operating Agreement;
 - (9) a black and white copy of applicant's current photo identification;
 - (10) a copy or memorandum of the lease showing the applicant as tenant, a copy of the deed showing the applicant as the grantee or owner, or a copy of a management agreement with the owner or lessee of the permitted property showing the applicant has the authority to operate the business at the permitted location;
 - (11) a diagram of the premises including the details required pursuant to Subparagraph (c)(8) of this Rule; and
 - (12) a Federal Employer Identification/Social Security Number Verification Form.

History Note: Authority 18B-100; 18B-207; 18B-900; 18B-901; 18B-902; 18B-903;

Eff. January 1, 1982;

Amended Eff. January 1, 2011; July 1, 1992; May 1, 1984;

Temporary Amendment Eff. October 25, 2013;

Amended Eff. September 1, 2014;

Transferred and Recodified from 04 NCAC 02S .0102 Eff. August 1, 2015;

Recodified Paragraphs (c)-(l) to 14B NCAC 15B .0103 Eff. July 1, 2018;

Readopted Eff. July 1, 2018.

14B NCAC 15B .0103 ADDITIONAL PERMIT LIMITATIONS AND REQUIREMENTS

(a) No permit for the possession, sale, or consumption of alcoholic beverages shall be issued to any establishment when

there are living quarters in or connected to the premises being permitted, and no permittee shall establish or maintain living quarters in or connected to the permittee's licensed premises.

(b) No permit for the on-premises possession, sale, or consumption of alcoholic beverages shall be issued to any establishment unless there are two restrooms in working order on the premises. The Commission shall waive the two-restroom requirement upon a showing by the permittee that it is not possible to have a second restroom in the existing premises due to building restrictions under historical preservation or zoning laws, or building or fire codes.

(c) In determining the areas where alcoholic beverages may be sold and consumed, the Commission shall consider the convenience of the permittee and patrons, allowing the maximum use of the premises consistent with the control of the sale and consumption of alcoholic beverages. Consumption shall not be allowed in areas open to the general public other than patrons. To be approved, any premises shall have delineated vertical boundaries that the consumer would recognize as indicating the boundaries that physically separate areas where consumption is allowed from areas open to the general public other than patrons.

(d) The sale and delivery of alcoholic beverages by permitted retail outlets located on fairgrounds, golf courses, ball parks, race tracks, and other similar public places are restricted to an enclosed establishment in a designated place. No alcoholic beverages shall be sold, served, or delivered by these outlets outside the enclosed establishment, nor in grandstands, stadiums, or bleachers at public gatherings, except as provided in Paragraph (g) of this Rule. As used in this Paragraph, the term "enclosed establishment" includes a temporary structure or structures constructed and used for the purpose of dispensing food and beverages at events to be held on fairgrounds, golf courses, ball parks, race tracks, and other similar places. Sales of alcoholic beverages may be made in box seats only under the following conditions:

- (1) table service of food and non-alcoholic beverages are available to patrons in box seats;
- (2) no alcoholic beverages are delivered to the box seats area until after orders have been taken; and
- (3) box seat areas have been designated as part of the permittee's premises on a diagram submitted by the permittee, and the Commission has granted written approval of alcoholic beverage sales in these seating areas.

(e) If one permittee has more than one location within a single terminal of an airport boarding at least 150,000 passengers annually and that permittee leases space from the airport authority, the permittee in such a situation may:

- (1) obtain a single permit for all its locations in the terminal;
- (2) use one central facility for storing the alcoholic beverages it sells at its locations; and
- (3) pool the gross receipts from all its locations for determining whether it meets the requirements of G.S. 18B-1000(6) and 14B NCAC 15B .0514.

(f) Unless the business otherwise qualifies as a wine shop primarily engaged in selling wines for off-premise consumption, a food business qualifies for an off-premise fortified wine permit

only if it maintains an inventory of staple foods worth at least one thousand five hundred dollars (\$1,500) at retail value. Staple foods include meat, poultry, fish, bread, cereals, vegetables, fruits, vegetable and fruit juices, and dairy products. Staple foods do not include coffee, tea, cocoa, soft drinks, candy, condiments, and baked goods ingredients, except for ingredients also listed as staple foods in this Paragraph.

(g) Notwithstanding Paragraph (d) of this Rule, holders of a retail permit pursuant to G.S. 18B-1001(1) may have in-stand sales pursuant to G.S. 18B-1009, provided that:

- (1) the permittee or the permittee's employee shall not wear or display alcoholic beverage branded advertising;
- (2) the permittee or the permittee's employee shall not use branded carrying trays, coolers, or other equipment to transport malt beverage products;
- (3) the permittee or the permittee's employee may display the malt beverage product names and prices provided that all of the product names are displayed with the same font size and font style; and
- (4) in-stand sales shall cease, whichever is earlier, upon the cessation of other malt beverage sales otherwise in the sports facility or upon the commencement of:
 - (A) the eighth inning during baseball games. However, if a single ticket allows entry to more than one baseball game, then the eighth inning of the final game;
 - (B) the fourth quarter during football and basketball games;
 - (C) the sixtieth minute during soccer games;
 - (D) the third period during hockey games;
 - (E) the final 25 percent of the distance scheduled for automotive races; and
 - (F) the final hour of the anticipated conclusion of a contest or event for all other events.

History Note: Authority G.S. 18B-100; 18B-207; 18B-900; 18B-901; 18B-902; 18B-903; 18B-1000(3); 18B-1001; 18B-1008; 18B-1009;

Existing rule text was recodified to 14B NCAC 15B .0109, and current rule text was transferred from 14B NCAC 15B .0102(c)-(l) Eff. July 1, 2018;

Readopted Eff. July 1, 2018.

14B NCAC 15B .0113 ALCOHOL SELLER/SERVER TRAINING

(a) All applicants applying for retail ABC permits shall submit as part of the application proof of responsible alcohol seller/server training prior to obtaining an ABC permit.

(b) The Commission shall accept documentation provided by an approved course provider or approved corporate, partnership, or limited liability company business permittee, such as a certificate of training or transcript. In the event the approved course provider did not issue a document reflecting completion of training, the

applicant may have the course provider sign a form provided by the ABC Commission attesting to completion of this training.

(c) Minimum course content requirements for an approved responsible alcohol seller/server training course shall include North Carolina-specific laws including:

- (1) age requirements for possessing, purchasing, and consuming alcoholic beverages;
- (2) age requirements for selling and serving alcoholic beverages;
- (3) acceptable forms of identification;
- (4) methods to detect fake, altered, and imposter forms of identification;
- (5) State Dram Shop laws;
- (6) sales to intoxicated persons, including:
 - (A) penalties;
 - (B) prevention;
 - (C) typical signs of intoxication; and
 - (D) methods of detecting intoxication in customers;
- (7) sales to underage persons, including:
 - (A) penalties;
 - (B) prevention; and
 - (C) methods of identifying potentially underage customers;
- (8) hours of sale and consumption, including clearing of tables;
- (9) prohibited conduct on the ABC licensed premises, including:
 - (A) drug use; and
 - (B) gambling; and
- (10) amounts of alcohol that may be purchased by customers in accordance with G.S. 18B-303.

(d) Responsible alcohol seller/server training courses and providers shall be approved by the Commission before a certificate of training or transcript will be accepted by the Commission for purposes of this Rule. A person seeking to become an approved vendor for alcohol education in North Carolina and a business permittee that provides training for its own employees shall submit the course provider's name, mailing, physical and email addresses, telephone numbers and the contract person's name and contact information, together with a copy of its responsible alcohol seller/server training program course content, to the Commission for approval. The Commission shall approve courses and providers that meet the minimum course content requirements set forth in Paragraph (c) of this Rule. Course approval shall be valid for three years. A course provider's course content shall be submitted to the Commission for approval at least once every three years in order to maintain approved status.

(e) An approved course provider shall update their responsible alcohol seller/server training course content within 30 days of notice from the Commission to the course provider of changes needed in the alcohol education training curriculum to reflect changes in current ABC laws or rules.

History Note: Authority G.S. 18B-100; 18B-122; 18B-207; Eff. July 1, 2018.

14B NCAC 15B .1003 PROHIBITED STATEMENTS IN ADVERTISING OR ON LABELS

(a) General Restrictions. An advertisement or product label on any alcoholic product sold or distributed in this State shall not contain any statement, design, device, or representation that:

- (1) is contrary to the Federal Alcohol Administration Act, 27 C.F.R. Sections 4.39, 4.64, 5.42, 5.65, 7.29, or 7.54, as interpreted by the Commission. The provisions of 27 C.F.R. Sections 4.39, 4.64, 5.42, 5.65, 7.29, and 7.54 referenced in this Rule are hereby incorporated, including subsequent amendments and editions, and may be accessed for free at <https://www.gpo.gov>;
- (2) depicts the use of alcoholic beverages in a scene that is determined by the Commission to be undignified, immodest, or in bad taste;
- (3) offers a prize or award upon the completion of any contest in which there is a requirement to purchase the advertised product, except as otherwise permitted pursuant to 14B NCAC 15C .0714, provided that no advertisement shall promote a game of chance or a lottery;
- (4) promotes or encourages the sale to, or use by, persons under 21 years of age of alcoholic beverages, including any representation portraying a person under 21 years of age consuming alcoholic beverages;
- (5) is inconsistent with the State laws of public safety or safe driving.
- (6) is contrary to State laws and rules governing sale, storage, or consumption of alcoholic beverages; or
- (7) is otherwise prohibited pursuant to a rule in this Chapter.

History Note: Authority G.S. 18B-100; 18B-105; 18B-206; 18B-207;

Eff. January 1, 1982;

Amended Eff. July 1, 1992; May 1, 1984;

Pursuant to G.S. 150B-33(b)(9), Administrative Law Judge James L. Conner II, declared Rule 04 NCAC 02S .1005(a)(3) void as applied in Daniel W. Shelton t/a Shelton Broers v. NC Alcoholic Beverage Control Commission (99 ABC 1641);

Transferred and Recodified from 04 NCAC 02S .1005 Eff. August 1, 2015;

Readopted Eff. July 1, 2018.

14B NCAC 15B .1104 ADMINISTRATIVE FINES: PAYMENT

When the Commission orders a permittee to pay a fine as part of a penalty, payment shall be received in the Commission offices in Raleigh no later than 21 days following the meeting at which the Commission orders the fine. The Commission shall include, as part of the order, what penalty will be imposed if the fine has not been received by the Commission by the prescribed deadline. Payment shall be made in accordance with 14B NCAC 15A .0104.

History Note: Authority G.S. 18B-100; 18B-104; 18B-207;

Eff. January 1, 1982;

Amended Eff. May 1, 1984;

Transferred and Recodified from 04 NCAC 02S .1104 Eff. August 1, 2015;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016;

Amended Eff. July 1, 2018.

TITLE 15A - DEPARTMENT OF ENVIRONMENTAL QUALITY

15A NCAC 02D .1001 PURPOSE

This Section sets forth motor vehicle emission control standards in areas where a motor vehicle inspection and maintenance program is implemented pursuant to State law.

History Note: Authority G.S. 143-215.3(a)(1); 143-215.107(a)(3); 143-215.107(a)(6); 143-215.107(a)(7);

Eff. December 1, 1982;

Amended Eff. August 1, 2002;

Readopted Eff. July 1, 2018.

15A NCAC 02D .1002 APPLICABILITY

(a) Until the events described in Paragraph (b) of this Rule occur, 15A NCAC 02D .1002 through .1006 shall be applicable to all light-duty gasoline vehicles for model years 1996 or more recent model years, excluding vehicles from the three most recent model years with less than 70,000 miles on their odometers, and shall apply to all vehicles that are:

- (1) required to be registered by the North Carolina Division of Motor Vehicles in the counties identified in Paragraph (d) of this Rule;
- (2) part of a fleet primarily operated within the counties identified in Paragraph (d) of this Rule; or
- (3) otherwise required under G.S. 20-183.2(b)(5).

(b) On the first day of the month that is 60 days after the Secretary of the Department of Environmental Quality certifies to the Revisor of Statutes that the United States Environmental Protection Agency has approved an amendment to the North Carolina State Implementation Plan, 15A NCAC 02D .1002 through .1006 shall apply to all light-duty gasoline vehicles that are a model year within 20 years of the current year, excluding vehicles from the three most recent model years with less than 70,000 miles on their odometers, and to all vehicles that are:

- (1) required to be registered by the North Carolina Division of Motor Vehicles in the counties identified in Paragraph (d) of this Rule;
- (2) part of a fleet primarily operated within the counties identified in Paragraph (d) of this Rule; or
- (3) otherwise required under G.S. 20-183.2(b)(5).

(c) 15A NCAC 02D .1002 through .1006 shall not apply to motorcycles, plug-in electric vehicles or fuel cell electric vehicles as specified in G.S. 20-183.2(b).

(d) The emission control standards of this Section shall become effective in the counties identified in G.S. 143-215.107A.

History Note: Authority G.S. 20-128.2(a); 20-183.2; 143-215.3(a)(1); 143-215.107(a)(3); 143-215.107(a)(6); 143-215.107(a)(7); 143-215.107A;

Eff. December 1, 1982;

Amended Eff. July 1, 1992; April 1, 1991;

Temporary Amendment Eff. January 1, 1993 for a period of 180 days or until the permanent rule becomes effective, whichever is sooner;

Amended Eff. January 1, 2014; August 1, 2002; July 1, 1994; July 1, 1993;

Readopted Eff. July 1, 2018.

15A NCAC 02D .1003 DEFINITIONS

The following definitions of terms apply to 15A NCAC 02D .1002 through .1006 regulating either gasoline-powered or hybrid-powered motor vehicles:

- (1) "Fuel Cell Electric Vehicle" means as defined in G.S. 20-4.01.
- (2) "Gasoline-powered Motor Vehicle" means a four-wheeled motor vehicle designed primarily to be propelled by the burning of gasoline in an internal combustion engine.
- (3) "Heavy-duty Gasoline Vehicle" means either a gasoline-powered or hybrid-powered motor vehicle which is designed primarily for:
 - (a) transportation of property and has a Gross Vehicle Weight Rating (GVWR) of more than 8,500 pounds but less than 14,001 pounds;
 - (b) transportation of persons and has a capacity of more than 12 persons; or
 - (c) use as a recreational motor vehicle that is designed primarily to provide temporary or permanent living quarters for travel, camping, or other recreational use and has a GVWR of more than 8,500 pounds.
- (4) "Hybrid-powered Motor Vehicle" means a four-wheeled motor vehicle designed to be propelled by a combination of one or more electric motors and the burning of gasoline in an internal combustion engine.
- (5) "Light-duty Gasoline Vehicle" means either a gasoline-powered or hybrid-powered motor vehicle which is designed primarily for:
 - (a) transportation of property and has a GVWR of 8,500 pounds or less; or
 - (b) transportation of persons and has a capacity of 12 persons or less.
- (6) "Model year" means the year used to designate a discrete vehicle model, irrespective of the calendar year in which the vehicle was actually produced, provided that the production period does not exceed 24 months.
- (7) "Motorcycle" means as defined in G.S. 20-4.01.
- (8) "Motor Vehicle" means as defined in G.S. 20-4.01.
- (9) "Plug-in Electric Vehicle" means as defined in G.S. 20-4.01.

- (10) "Three most recent model years." For the purposes of 15A NCAC 02D .1002 through .1006, the term "three most recent model years" shall be calculated by adding three years to the vehicle's Vehicle Identification Number (VIN) or the registration card model year to determine the first calendar year an emissions inspection is required.

- (11) "Vendor" means any person who sells or leases equipment to inspection stations that is used to perform on-board diagnostic tests to show compliance with 15A NCAC 02D .1005.

History Note: Authority G.S. 20-4.01; 143-215.3(a)(1);

Eff. December 1, 1982;

Amended Eff. February 1, 2014;

Readopted Eff. July 1, 2018.

15A NCAC 02D .1005 ON-BOARD DIAGNOSTIC STANDARDS

(a) This Rule shall apply to vehicles as set forth in 15A NCAC 02D 1002.

(b) Vehicles covered under this Rule shall pass annually the on-board diagnostic test described in 40 CFR 85.2222. The vehicle shall fail the on-board diagnostic test if any of the conditions of 40 CFR 85.2207 are met. Equipment used to perform on-board diagnostic tests shall meet the requirements of 40 CFR 85.2231.

(c) The tester shall provide the owner of a vehicle that fails the on-board diagnostic test described in Paragraph (b) of this Rule a report of the test results. This report shall include the codes retrieved per 40 CFR 85.2223(a), the status of the malfunction indicator light illumination command, and the customer alert statement described in 40 CFR 85.2223(c).

(d) Persons performing on-board diagnostic tests shall provide the Division of Air Quality the data required by 40 CFR 51.365, Data Collection; 40 CFR 51.366, Data Analysis and Reporting; and 40 CFR 51.358, Test Equipment.

(e) Federal regulations cited in this Rule are incorporated by reference, including subsequent amendments and editions. All federal regulations referenced in this Rule can be accessed free of charge at <http://www.gpo.gov/fdsys/browse/collectionCfr.action?collectionCode=CFR>.

History Note: Authority G.S. 20-128.2(a); 143-215.3(a)(1); 143-215.107(a)(6); 143-215.107(a)(7); 143-215.107A(b);

Eff. December 1, 1982;

Amended Eff. January 1, 2014; August 1, 2002; July 1, 1998; April 1, 1991; November 1, 1986;

Readopted Eff. July 1, 2018.

15A NCAC 02D .1006 SALE AND SERVICE OF ANALYZERS

(a) Requirements. A vendor shall not sell or lease equipment unless it meets the requirements of 40 CFR 85.2231 Onboard Diagnostic Test Equipment Requirements, and has the software necessary to record and transmit the data required by the Division of Motor Vehicles and the Division of Air Quality to determine

compliance with the inspection and maintenance program requirements of this Section.

(b) Hardware repair. When equipment hardware fails to meet the requirements of Paragraph (a) of this Rule for a particular analyzer, the vendor, after receiving a call from an inspection station to its respective service call center, shall communicate with the affected station within 24 hours and:

- (1) If the hardware problem is stopping 20 percent or more inspections for a particular analyzer or is compromising the security of the inspection system, the vendor shall repair the problem within 48 hours after the initial call to its respective service call center.
- (2) If the hardware problem is stopping less than 20 percent of all inspections for a particular analyzer and is not compromising the security of the inspection system, the vendor shall repair the problem within 72 hours after the initial call to its respective service call center.
- (3) If the hardware problem is not stopping inspections and is not compromising the security of the inspection system, the vendor shall repair the problem within 96 hours after the initial call to its respective service call center.

(c) Software repair revisions. If analyzer software fails to meet the requirements of Paragraph (a) of this Rule, the vendor, after receiving a call from an inspection station to its respective service call center, shall communicate with the station within 24 hours. The vendor shall identify and characterize the software problem within five days. The vendor shall, within that same five-day period, inform the station owner and the Division as to the nature of the problem and the proposed corrective course of action; and:

- (1) If the software problem is stopping 20 percent or more inspections for a particular analyzer or is compromising the security of the inspection system, the vendor shall submit a new revision of the software to the Division for approval within 19 days after receiving the initial call to its service call center.
- (2) If the software problem is stopping less than 20 percent of all inspections for a particular analyzer and is not compromising the security of the inspection system, the vendor shall submit a new revision of the software to the Division for approval within 33 days after receiving the initial call to its service call center.
- (3) The vendor shall distribute the new revision of the software to all affected stations within 14 days after the vendor receives written notification from the Division that the software has been approved as meeting the requirements of Paragraph (a) of this Rule.

(d) Documentation of the initial service call. The vendor's service call center shall assign a unique service response number to every reported new hardware or software problem. The time and date of the initial call shall be recorded and identified with the service response number. The service response number shall be

communicated to the inspection station operator at the time of the initial contact.

History Note: Authority G.S. 143-215.3(a)(1); 143-215.107(a)(6),(14); Eff. January 1, 2007; Amended Eff. January 1, 2014; Readopted Eff. July 1, 2018.

15A NCAC 02D .1008 HEAVY DUTY DIESEL ENGINE REQUIREMENTS

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

- (1) "Heavy duty diesel engine," means any diesel engine used in a vehicle with a gross vehicle weight rating of 14,001 pounds and greater.
- (2) "Model year" means model year as defined in 40 CFR Section 85.2302.

(b) Requirement. No model year 2005 or 2006 heavy duty diesel engine may be sold, leased, or registered within North Carolina unless it has been certified by the California Air Resources Board as meeting the requirements of Title 13 of the California Code of Regulations, Section 1956.8.

(c) Referenced Regulation. Title 13, Section 1956.8 of the California Code of Regulation is incorporated by reference, including subsequent amendments and editions. A copy of Title 13 of the California Code of Regulations, Section 1956.8, may be obtained free of charge via the internet from the Office of Administrative Law California Code of Regulations website at <http://ccr.oal.ca.gov/>, or a hard copy may be obtained at a cost of five dollars (\$5.00) from the Public Information Office, California Air Resources Board, P.O. Box 2815, Sacramento, CA, 95812.

History Note: Authority G.S. 143-215.3(a)(1); 143-215.107(a)(6)-(7); Eff. December 31, 2001 by Exec. Order No. 15; Amended Eff. July 18, 2002; Readopted Eff. July 1, 2018.

15A NCAC 02D .1101 PURPOSE

This Section sets forth the rules for the control of toxic air pollutants to protect human health.

History Note: Authority G.S. 143-215.3(a)(1); 143-215.107(a)(1),(3),(4),(5); 143B-282; S.L. 1989, c. 168, s. 45; Eff. May 1, 1990; Readopted Eff. July 1, 2018.

15A NCAC 02D .1102 APPLICABILITY

(a) 15A NCAC 02D .1103 through .1108 apply to all facilities that emit a toxic air pollutant that are required to have a permit pursuant to 15A NCAC 02Q .0700. All other rules in this Section apply as specified therein.

(b) Sources at facilities subject to this Section shall comply with the requirements of this Section as well as with all applicable requirements in 15A NCAC 02D .0500, .0900, and .1200 with such exceptions as may be allowed pursuant to 15A NCAC 02Q .0700.

History Note: Authority G.S. 143-215.3(a)(1); 143-215.107(a)(1),(3),(4),(5); 143B-282; S.L. 1989, c. 168, s. 45; Eff. May 1, 1990;
Amended Eff. July 1, 1998; December 1, 1991;
Readopted Eff. July 1, 2018.

15A NCAC 02D .1103 DEFINITION

For the purpose of this Section, the following definitions apply:

- (1) "Asbestos" means asbestos fibers as defined in 40 CFR 61.141.
- (2) "Bioavailable chromate pigments" means the group of chromium (VI) compounds consisting of calcium chromate (CAS No.13765-19-0), calcium dichromate (CAS No. 14307-33-6), strontium chromate (CAS No. 7789-06-2), strontium dichromate (CAS No. 7789-06-2), zinc chromate (CAS No. 13530-65-9), and zinc dichromate (CAS No. 7789-12-0).
- (3) "CAS Number" means the Chemical Abstract Service registry number identifying a particular substance.
- (4) "Chromium (VI) equivalent" means the molecular weight ratio of the chromium (VI) portion of a compound to the total molecular weight of the compound multiplied by the associated compound emission rate or concentration at the facility.
- (5) "Non-specific chromium (VI) compounds" means the group of compounds consisting of any chromium (VI) compounds not specified in this Section as a bioavailable chromate pigment or a soluble chromate compound.
- (6) "Cresol" means o-cresol, p-cresol, m-cresol or any combination of these compounds.
- (7) "GACT" means any generally available control technology emission standard applied to an area source or facility pursuant to Section 112 of the federal Clean Air Act.
- (8) "Hexane isomers except n-hexane" means 2-methyl pentane, 3-methyl pentane, 2,2-dimethyl butane, 2,3-dimethyl butane, or any combination of these compounds.

- (9) "MACT" means any maximum achievable control technology emission standard applied to a source or facility pursuant to Section 112 of the federal Clean Air Act.
- (10) "Nickel, soluble compounds" means the soluble nickel salts of chloride (NiCl₂, CAS No. 7718-54-9), sulfate (NiSO₄, CAS No. 7786-81-4), and nitrate (Ni(NO₃)₂, CAS No. 13138-45-9).
- (11) "Polychlorinated biphenyls" means any chlorinated biphenyl compound or mixture of chlorinated biphenyl compounds.
- (12) "Soluble chromate compounds" means the group of chromium (VI) compounds consisting of ammonium chromate (CAS No. 7788-98-9), ammonium dichromate (CAS No. 7789-09-5), chromic acid (CAS No. 7738-94-5), potassium chromate (CAS No. 7789-00-6), potassium dichromate (CAS No. 7778-50-9), sodium chromate (CAS No. 7775-11-3), and sodium dichromate (CAS No. 10588-01-9).
- (13) "Toxic air pollutant" means any of those carcinogens, chronic toxicants, acute systemic toxicants, or acute irritants listed in 15A NCAC 02D .1104.

History Note: Authority G.S. 143-213; 143-215.3(a)(1); 143B-282; S.L. 1989, c. 168, s. 45; Eff. May 1, 1990;
Amended Eff. April 1, 2001; July 1, 1998;
Readopted Eff. July 1, 2018.

15A NCAC 02D .1104 TOXIC AIR POLLUTANT GUIDELINES

A facility shall not emit any of the following toxic air pollutants in such quantities that may cause or contribute beyond the facility's premises to any significant ambient air concentration that may adversely affect human health, except as allowed pursuant to 15A NCAC 02Q .0700. In determining these significant ambient air concentrations, the Division shall be governed by the following list of acceptable ambient levels in milligrams per cubic meter at 77° F (25° C) and 29.92 inches (760 mm) of mercury pressure, except for asbestos:

Acceptable Ambient Levels (AAL) in Milligrams per Cubic Meter (mg/m ³) Except Where Noted				
Pollutant (CAS Number)	Annual (Carcinogens)	24-hour (Chronic Toxicants)	1-hour (Acute Systemic Toxicants)	1-hour (Acute Irritants)
acetaldehyde (75-07-0)				27
acetic acid (64-19-7)				3.7
acrolein (107-02-8)				0.08
acrylonitrile (107-13-1)		0.03	1	
ammonia (7664-41-7)				2.7
aniline (62-53-3)			1	
arsenic and inorganic arsenic compounds	2.1 x 10 ⁻⁶			

Acceptable Ambient Levels (AAL) in Milligrams per Cubic Meter (mg/m ³) Except Where Noted				
Pollutant (CAS Number)	Annual (Carcinogens)	24-hour (Chronic Toxicants)	1-hour (Acute Systemic Toxicants)	1-hour (Acute Irritants)
asbestos (1332-21-4)	2.8 x 10 ⁻⁶ fibers/ml			
aziridine (151-56-4)		0.006		
benzene (71-43-2)	1.2 x 10 ⁻⁴			
benzidine and salts (92-87-5)	1.5 x 10 ⁻⁸			
benzo(a)pyrene (50-32-8)	3.3 x 10 ⁻⁵			
benzyl chloride (100-44-7)			0.5	
beryllium (7440-41-7)	4.1 x 10 ⁻⁶			
beryllium chloride (7787-47-5)	4.1 x 10 ⁻⁶			
beryllium fluoride (7787-49-7)	4.1 x 10 ⁻⁶			
beryllium nitrate (13597-99-4)	4.1 x 10 ⁻⁶			
bioavailable chromate pigments, as chromium (VI) equivalent	8.3 x 10 ⁻⁸			
bis-chloromethyl ether (542-88-1)	3.7 x 10 ⁻⁷			
bromine (7726-95-6)				0.2
1,3-butadiene (106-99-0)	4.4 x 10 ⁻⁴			
cadmium (7440-43-9)	5.5 x 10 ⁻⁶			
cadmium acetate (543-90-8)	5.5 x 10 ⁻⁶			
cadmium bromide (7789-42-6)	5.5 x 10 ⁻⁶			
carbon disulfide (75-15-0)		0.186		
carbon tetrachloride (56-23-5)	6.7 x 10 ⁻³			
chlorine (7782-50-5)		0.0375		0.9
chlorobenzene (108-90-7)		2.2		
chloroform (67-66-3)	4.3 x 10 ⁻³			
chloroprene (126-99-8)		0.44	3.5	
cresol (1319-77-3)			2.2	
p-dichlorobenzene (106-46-7)				66
di(2-ethylhexyl)phthalate (117-81-7)		0.03		
dimethyl sulfate (77-78-1)		0.003		
1,4-dioxane (123-91-1)		0.56		
epichlorohydrin (106-89-8)	8.3 x 10 ⁻²			
ethyl acetate (141-78-6)			140	
ethylenediamine (107-15-3)		0.3	2.5	
ethylene dibromide (106-93-4)	4.0 x 10 ⁻⁴			
ethylene dichloride (107-06-2)	3.8 x 10 ⁻³			
ethylene glycol monoethyl ether (110-80-5)		0.12	1.9	
ethylene oxide (75-21-8)	2.7 x 10 ⁻⁵			
ethyl mercaptan (75-08-1)			0.1	
fluorides		0.016	0.25	
formaldehyde (50-00-0)				0.15
hexachlorocyclopentadiene (77-47-4)		0.0006	0.01	
hexachlorodibenzo-p-dioxin (57653-85-7)	7.6 x 10 ⁻⁸			
n-hexane (110-54-3)		1.1		
hexane isomers except n-hexane				360
hydrazine (302-01-2)		0.0006		
hydrogen chloride (7647-01-0)				0.7
hydrogen cyanide (74-90-8)		0.14	1.1	
hydrogen fluoride (7664-39-3)		0.03		0.25

Acceptable Ambient Levels (AAL) in Milligrams per Cubic Meter (mg/m ³) Except Where Noted				
Pollutant (CAS Number)	Annual (Carcinogens)	24-hour (Chronic Toxicants)	1-hour (Acute Systemic Toxicants)	1-hour (Acute Irritants)
hydrogen sulfide (7783-06-4)		0.12		
maleic anhydride (108-31-6)		0.012	0.1	
manganese and compounds		0.031		
manganese cyclopentadienyl tricarbonyl (12079-65-1)		0.0006		
manganese tetroxide (1317-35-7)		0.0062		
mercury, alkyl		0.00006		
mercury, aryl and inorganic compounds		0.0006		
mercury, vapor (7439-97-6)		0.0006		
methyl chloroform (71-55-6)		12		245
methylene chloride (75-09-2)	2.4 x 10 ⁻²		1.7	
methyl ethyl ketone (78-93-3)		3.7		88.5
methyl isobutyl ketone (108-10-1)		2.56		30
methyl mercaptan (74-93-1)			0.05	
nickel carbonyl (13463-39-3)		0.0006		
nickel metal (7440-02-0)		0.006		
nickel, soluble compounds, as nickel		0.0006		
nickel subsulfide (12035-72-2)	2.1 x 10 ⁻⁶			
nitric acid (7697-37-2)				1
nitrobenzene (98-95-3)		0.06	0.5	
n-nitrosodimethylamine (62-75-9)	5.0 x 10 ⁻⁵			
non-specific chromium (VI) compounds, as chromium (VI) equivalent	8.3 x 10 ⁻⁸			
pentachlorophenol (87-86-5)		0.003	0.025	
perchloroethylene (127-18-4)	1.9 x 10 ⁻¹			
phenol (108-95-2)			0.95	
phosgene (75-44-5)		0.0025		
phosphine (7803-51-2)				0.13
polychlorinated biphenyls (1336-36-3)	8.3 x 10 ⁻⁵			
soluble chromate compounds, as chromium (VI) equivalent		6.2 x 10 ⁻⁴		
styrene (100-42-5)			10.6	
sulfuric acid (7664-93-9)		0.012	0.1	
tetrachlorodibenzo-p-dioxin (1746-01-6)	3.0 x 10 ⁻⁹			
1,1,2,2-tetrachloroethane (79-34-5)	6.3 x 10 ⁻³			
toluene (108-88-3)		4.7		56
toluene diisocyanate, 2,4- (584-84-9) and 2,6- (91-08-7) isomers		0.0002		
trichloroethylene (79-01-6)	5.9 x 10 ⁻²			
vinyl chloride (75-01-4)	3.8 x 10 ⁻⁴			
vinylidene chloride (75-35-4)		0.12		
xylene (1330-20-7)		2.7		65

History Note: Authority G.S. 143-215.3(a)(1); 143-215.107(a)(3),(4),(5); 143B-282;
 Eff. May 1, 1990;
 Amended Eff. September 1, 1992; March 1, 1992;

Temporary Amendment Eff. July 20, 1997;

Amended Eff. July 7, 2014; May 1, 2014; March 1, 2010; June 1, 2008; April 1, 2005; April 1, 2001; July 1, 1998;

Readopted Eff. July 1, 2018.

15A NCAC 02D .1105 FACILITY REPORTING, RECORDKEEPING

The Director may require, pursuant to 15A NCAC 02D .0600, the owner or operator of a source subject to this Section to monitor emissions of toxic air pollutants, to maintain records of these emissions, and to report these emissions. The owner or operator of any toxic air pollutant emission source subject to the requirements of this Section shall comply with the monitoring, recordkeeping, and reporting requirements in 15A NCAC 02D .0600.

History Note: Authority G.S. 143-215.3(a)(1); 143-215.107(a)(4),(5); 143B-282;

Eff. May 1, 1990;

Amended Eff. April 1, 1999; October 1, 1991;

Readopted Eff. July 1, 2018.

15A NCAC 02D .1106 DETERMINATION OF AMBIENT AIR CONCENTRATION

(a) Modeling shall not be used for enforcement. Modeling shall be used to determine process operational and air pollution control parameters and emission rates for toxic air pollutants to place in the air quality permit for that facility that will prevent any of the acceptable ambient levels in 15A NCAC 02D .1104 from being exceeded, except as allowed pursuant to 15A NCAC 2Q .0700. Enforcing these permit stipulations and conditions shall be the mechanism used to ensure that the requirements of 15A NCAC 02D .1104, except as allowed by 15A NCAC 2Q .0700, are met.

(b) The owner or operator of the facility may provide a modeling analysis or may request the Division to perform a modeling analysis of the facility. If the owner or operator of the facility requests the Division to perform the modeling analysis, the owner or operator shall provide emissions rates, stack parameters, and other information that the Division needs to conduct the modeling. The data that the owner or operator of the facility provides the Division to use in the model or in deriving the data used in the model shall be the process, operational, and air pollution control equipment parameters and emission rates that will be contained in the facility's permit. If the Division's initial review of the modeling request indicates extensive or inappropriate use of state resources, or if the Division's modeling analysis fails to show compliance with the acceptable ambient levels in 15A NCAC 02D .1104, the modeling demonstration shall become the responsibility of the owner or operator of the facility.

(c) When the owner or operator of the facility is responsible for providing the modeling demonstration and the data used in the modeling, the owner or operator of the facility shall use in the model or in deriving data used in the model the process operational and air pollution control equipment parameters and emission rates that will be contained in his or her permit. Sources that are not required to be included in the model shall not be included in the permit to emit toxic air pollutants.

(d) For the following pollutants, modeled emission rates shall be based on the highest emissions occurring in any 15-minute period. The resultant modeled one-hour concentrations shall then be

compared to the applicable one-hour acceptable ambient levels to determine compliance:

- (1) acetaldehyde (75-07-0);
- (2) acetic acid (64-19-7);
- (3) acrolein (107-02-8);
- (4) ammonia (7664-41-7);
- (5) bromine (7726-95-6);
- (6) chlorine (7782-50-5);
- (7) formaldehyde (50-00-0);
- (8) hydrogen chloride (7647-01-0);
- (9) hydrogen fluoride (7664-39-3); and
- (10) nitric acid (7697-37-2).

(e) The owner or operator of the facility and the Division may use any model allowed by 40 CFR Part 51, Appendix W, if the model is appropriate for the facility being modeled. The owner or operator or the Division may use a model other than one allowed by 40 CFR Part 51, Appendix W if the model is equivalent to the model allowed by 40 CFR Part 51, Appendix W.

(f) Ambient air concentrations shall be evaluated for annual periods over a calendar year, for 24-hour periods from midnight to midnight, and for one-hour periods beginning on the hour.

(g) The owner or operator of the facility shall identify each toxic air pollutant emitted and its corresponding emission rate using mass balancing analysis, source testing, or other methods that provides an equivalently accurate estimate of the emission rate.

(h) The owner or operator of the facility shall either submit a modeling plan prior to submitting modeling or submit a model protocol checklist with modeling to the Director. The modeling plan or protocol checklist shall include:

- (1) a diagram of the plant site, including locations of all stacks and associated buildings;
- (2) on-site building dimensions;
- (3) a diagram showing property boundaries, including a scale, key, and north indicator;
- (4) the location of the site on a United States Geological Survey (USGS) map;
- (5) discussion of good engineering stack height and building wake effects for each stack;
- (6) discussion of cavity calculations, impact on rolling and complex terrain, building wake effects, and urban or rural considerations;
- (7) discussion of reasons for model selection;
- (8) discussion of meteorological data to be used;
- (9) discussion of sources emitting the pollutant that are not to be included in the model with an explanation of why they are being excluded, including why the source will not affect the modeling analysis; and
- (10) any other pertinent information.

History Note: Authority G.S. 143-215.3(a)(1); 143-215.107(a)(3),(5); 143B-282; S.L. 1989, c. 168, s. 45;

Eff. May 1, 1990;

Amended Eff. July 1, 1998;

Readopted Eff. July 1, 2018.

15A NCAC 02D .1107 MULTIPLE FACILITIES

(a) If an acceptable ambient level in 15A NCAC 02D .1104 is exceeded because of emissions of two or more facilities and if public exposure is such that human health may be adversely affected, the Commission shall require the subject facilities to apply additional controls or to otherwise reduce emissions. In considering whether human health may be adversely affected, the Commission shall consider one or more of the following:

- (1) an emission inventory;
- (2) ambient monitoring;
- (3) modeling; or
- (4) an epidemiological study.

(b) The allocation to the facilities of additional controls or reductions shall be based on their relative contributions to the pollutant concentrations unless the owners or operators agree otherwise.

(c) The owner or operator of a facility shall not be required to conduct the multi-facility ambient impact analysis described in Paragraph (a) of this Rule. This type of analysis shall be done by the Division. In performing its analysis, the Division shall:

- (1) develop a modeling plan that includes the elements set out in 15A NCAC 02D .1106(h);
- (2) use for the source modeling parameters:
 - (A) the modeling parameters used by the owner or operator of the source in his or her modeling demonstration; or
 - (B) parameters contained in or derived from data contained in the source's permit if a modeling demonstration has not been done or if a needed parameter has not been used in the modeling demonstration;
- (3) use a model allowed by 15A NCAC 02D .1106(e);
- (4) use the time periods required by 15A NCAC 02D .1106(f); and
- (5) only consider impacts of a facility's emissions beyond the premises of that facility.

History Note: Authority G.S. 143-215.3(a)(1); 143-215.107(a)(3),(5); 143B-282; Eff. May 1, 1990; Amended Eff. July 1, 1998; Readopted Eff. July 1, 2018.

15A NCAC 02D .1108 MULTIPLE POLLUTANTS

If the Commission has evidence that two or more toxic air pollutants being emitted from a facility or combination of facilities act in the same way to affect human health so that their effects may be additive or enhanced and that public exposure is such that human health may be adversely affected, then the Commission shall consider developing acceptable ambient levels for the combination of toxic air pollutants or other appropriate control measures.

History Note: Authority G.S. 143-215.3(a)(1); 143-215.107(a)(3),(5); 143B-282; Eff. May 1, 1990; Readopted Eff. July 1, 2018.

15A NCAC 02D .1109 112(J) CASE-BY-CASE**MAXIMUM ACHIEVABLE CONTROL TECHNOLOGY**

(a) Applicability. This Rule shall apply only to sources of hazardous air pollutants required to have a permit pursuant to 15A NCAC 02Q .0500 and as described in 40 CFR 63.50. This Rule does not apply to research or laboratory activities as defined in Paragraph (b) of this Rule.

(b) Definitions. For the purposes of this Rule, the definitions in 40 CFR 63.2, 63.51, 15A NCAC 02Q .0526, and the following apply:

- (1) "Affected source" means the collection of equipment, activities, or both within a single contiguous area and under common control that is in a Section 112(c) source category or subcategory for which the Administrator has failed to promulgate an emission standard by the Section 112(j) deadline, and that is addressed by an applicable MACT emission limitation established pursuant to 40 CFR Part 63 Subpart B.
- (2) "Control technology" means measures, processes, methods, systems, or techniques to limit the emission of hazardous air pollutants including measures that:
 - (A) reduce the quantity or eliminate the emissions of such pollutants through process changes, substitution of materials, or other modifications;
 - (B) enclose systems or processes to eliminate emissions;
 - (C) collect, capture, or treat such pollutants when released from a process, stack, storage, or fugitive emission point;
 - (D) are design, equipment, work practice, or operational standards, including requirements for operator training or certification, as provided in 42 USC 7412(h); or
 - (E) are a combination of Parts (A) through (D) of this definition.
- (3) "EPA" means the United States Environmental Protection Agency or its Administrator.
- (4) "Hazardous air pollutant" means any pollutant listed pursuant to Section 112(b) of the federal Clean Air Act.
- (5) "MACT" means maximum achievable control technology.
- (6) "Maximum achievable control technology" means:
 - (A) for existing sources,
 - (i) a MACT standard that EPA has proposed or promulgated for a particular category of facility or source;
 - (ii) the average emission limitation achieved by the best performing 12 percent of the existing facilities or

- sources for which EPA has emissions information if the particular category of source contains 30 or more sources; or
 - (iii) the average emission limitation achieved by the best performing five facilities or sources for which EPA has emissions information if the particular category of source contains fewer than 30 sources; or
 - (B) for new sources, the maximum degree of reduction in emissions that is deemed achievable but not less stringent than the emission control that is achieved in practice by the best controlled similar source.
- (7) "MACT floor" means:
 - (A) for existing sources:
 - (i) the average emission limitation achieved by the best performing 12 percent of the existing sources for which EPA has emissions information, excluding those sources that have, within 18 months before the emission standard is proposed or within 30 months before such standard is promulgated, whichever is later, first achieved a level of emission rate or emission reduction that complies, or would comply if the source is not subject to such standard, with the lowest achievable emission rate, as defined in Section 171 of the federal Clean Air Act, applicable to the source category or subcategory for categories and subcategories with 30 or more sources; or
 - (ii) the average emission limitation achieved by the best performing five sources for which EPA has emissions or could reasonably obtain emissions information in the category or subcategory for categories or subcategories with fewer than 30 sources;
 - (B) for new sources, the emission limitation achieved in practice by the best controlled similar source.
- (8) "New affected source" means a collection of equipment, activities, or both that was constructed after the issuance of a Section 112(j) permit for the source pursuant to 40 CFR 63.52 and is subject to the applicable MACT emission limitation for new sources. Each permit shall define the term "new affected source" that will be the same as the "affected source" unless a different collection is warranted based on consideration of factors including:
 - (A) the emission reduction impacts of controlling individual sources versus groups of sources;
 - (B) the cost effectiveness of controlling individual equipment;
 - (C) the flexibility to accommodate common control strategies;
 - (D) the cost and benefits of emissions averaging;
 - (E) the incentives for pollution prevention;
 - (F) the feasibility and cost of controlling processes that share common equipment such as product recovery devices; and
 - (G) the feasibility and cost of monitoring.
- (9) "New facility" means a facility for which construction is commenced after the Section 112(j) deadline or after the proposal of a relevant standard pursuant to Section 112(d) or (h) of the Federal Clean Air Act, whichever comes first.
- (10) "Research or laboratory activities" means activities whose primary purpose is to conduct research and development into new processes and products if the activities are operated under the supervision of technically trained personnel and are not engaged in the manufacture of products for commercial sale in commerce, except in a de minimis manner, and if the source is not in a source category specifically addressing research or laboratory activities that is listed pursuant to Section 112(c)(7) of the Clean Air Act.
- (11) "Section 112(j) deadline" means the date 18 months after the date for which a relevant standard is scheduled to be promulgated pursuant to 40 CFR Part 63, except that for all major sources listed in the source category schedule for which a relevant standard is scheduled to be promulgated by November 15, 1994, the Section 112(j) deadline is November 15, 1996, and for all major sources listed in the source category schedule for which a relevant standard is scheduled to be promulgated by November 15, 1997, the Section 112(j) deadline is December 15, 1999.

- (12) "Similar source" means that equipment or collection of equipment that, by virtue of its structure, operability, type of emissions, and volume and concentration of emissions, is substantially equivalent to the new affected source and employs control technology for control of emissions of hazardous air pollutants that is practical for use on the new affected source.

(c) Missed promulgation dates: 112(j). If EPA fails to promulgate a standard for a category of source pursuant to Section 112 of the Federal Clean Air Act by the date established pursuant to Sections 112(e)(1) or (3) of the federal Clean Air Act, the owner or operator of any source in such category shall submit, within 18 months after such date, a permit application, in accordance with the procedures in 15A NCAC 02Q .0526, to the Director and to EPA to apply MACT to such sources. Sources subject to this Paragraph shall be in compliance with this Rule within three years after the date that the permit is issued.

(d) New facilities. The owner or operator of any new facility that is a major source of hazardous air pollutants (HAP) that is subject to this Rule shall apply MACT in accordance with the provisions of 15A NCAC 02D .1112, 15A NCAC 02Q .0528, and .0526(e)(2).

(e) Case-by-case MACT determination. The Director shall determine MACT according to 40 CFR 63.55(a).

(f) Monitoring and recordkeeping. The owner or operator of a source subject to this Rule shall install, operate, and maintain monitoring capable of detecting deviations from each applicable emission limitation or other standards with sufficient reliability and timeliness to determine continuous compliance over the applicable reporting period. Such monitoring data may be used as a basis for enforcing emissions limitations established pursuant to this Rule.

History Note: Authority G.S. 143-215.3(a)(1); 143-215.107(a)(5),(10); Temporary Adoption Eff. March 8, 1994 for a period of 180 days or until the permanent rule is effective, whichever is sooner; Eff. July 1, 1994; Amended Eff. February 1, 2004; July 1, 1998; July 1, 1996; Readopted Eff. July 1, 2018.

15A NCAC 02D .1110 NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS

(a) With the exception of Paragraph (b) of this Rule, sources subject to national emission standards for hazardous air pollutants promulgated in 40 CFR Part 61 shall comply with emission standards, monitoring and reporting requirements, maintenance requirements, notification and record keeping requirements, performance test requirements, test method and procedural provisions, and all other provisions, as required therein, rather than with any otherwise-applicable Rule in 15A NCAC 02D .0500 that would be in conflict therewith.

(b) Along with the notice appearing in the North Carolina Register for a public hearing to amend this Rule to exclude a standard from this Rule, the Director shall state whether or not the national emission standards for hazardous air pollutants promulgated in 40 CFR Part 61, or part thereof, will be enforced.

If the Commission does not adopt the amendment to this Rule to exclude or amend the standard within 12 months after the close of the comment period on the proposed amendment, the Director shall begin enforcing that standard when 12 months has elapsed after the end of the comment period on the proposed amendment.

(c) All requests, reports, applications, submittals, and other communications to the administrator required under Paragraph (a) of this Rule shall be submitted to the Director of the Division of Air Quality rather than to the Environmental Protection Agency; except that all such reports, applications, submittals, and other communications to the administrator required by 40 CFR 61.145 shall be submitted to the Director, Division of Epidemiology.

(d) In the application of this Rule, definitions contained in 40 CFR Part 61 shall apply rather than those in 15A NCAC 02D .0100.

(e) 15A NCAC 02Q .0102 shall not be applicable to any source to which this Rule applies. The owner or operator of the source shall apply for and receive a permit if required pursuant to 15A NCAC 02Q .0300 or .0500.

History Note: Authority G.S. 143-215.3(a)(1); 143-215.107(a)(5); 150B-21.6; Eff. July 1, 1996; Amended Eff. June 1, 2008; July 1, 1997; Readopted Eff. July 1, 2018.

15A NCAC 02D .1111 MAXIMUM ACHIEVABLE CONTROL TECHNOLOGY

(a) With the exception of Paragraph (b) or (c) of this Rule, sources subject to national emission standards for hazardous air pollutants for source categories promulgated in 40 CFR Part 63 shall comply with emission standards, monitoring and reporting requirements, maintenance requirements, notification and record keeping requirements, performance test requirements, test method and procedural provisions, and other provisions, as required therein, rather than with any otherwise-applicable rule in 15A NCAC 02D .0500 which would be in conflict therewith.

(b) This Rule shall not apply to:

- (1) the approval of state programs and delegation of federal authorities (40 CFR 63.90 to 63.96, Subpart E); and
- (2) the requirements for control technology determined for major sources in accordance with Clean Air Act Sections 112(g) and 112(j) (40 CFR 63.50 to 63.57, Subpart B).

(c) Along with the notice appearing in the North Carolina Register for a public hearing to amend this Rule to exclude a standard from this Rule, the Director shall state whether or not the national emission standard for hazardous air pollutants for source categories promulgated in 40 CFR Part 63, or part thereof, will be enforced. If the Commission does not adopt the amendment to this Rule to exclude or amend the standard within 12 months after the close of the comment period on the proposed amendment, the Director shall begin enforcing that standard when 12 months has elapsed after the end of the comment period on the proposed amendment.

(d) All requests, reports, applications, submittals, and other communications to the administrator required pursuant to Paragraph (a) of this Rule shall be submitted to the Director of the

Division of Air Quality rather than to the Environmental Protection Agency; except that all such reports, applications, submittals, and other communications to the administrator required by 40 CFR Part 63, Subpart M for dry cleaners covered by Chapter 143, Article 21A, Part 6 of the General Statutes shall be submitted to the Director of the Division of Waste Management.

(e) In the application of this Rule, definitions contained in 40 CFR Part 63 shall apply rather than those of Section .0100 of this Subchapter when conflict exists.

(f) 15A NCAC 02Q .0102 shall not be applicable to any source to which this Rule applies if the source is required to be permitted pursuant to 15A NCAC 02Q .0500, Title V Procedures. The owner or operator of the source shall apply for and receive a permit if required pursuant to 15A NCAC 02Q .0300 or .0500. Sources that have heretofore been exempted from permit requirements and have become subject to requirements promulgated in 40 CFR 63 shall apply for a permit in accordance to 15A NCAC 02Q .0109.

History Note: Authority G.S. 143-215.3(a)(1); 143-215.107(a)(5); 150B-21.6; Eff. July 1, 1996; Amended Eff. January 1, 2007; April 1, 1997; Readopted Eff. July 1, 2018.

**15A NCAC 02D .1112 112(G) CASE BY CASE
MAXIMUM ACHIEVABLE CONTROL TECHNOLOGY**

(a) Applicability. This Rule applies to the construction or reconstruction of major sources of hazardous air pollutants unless:

- (1) the major source has been regulated or exempted from regulation pursuant to:
 - (A) 15A NCAC 02D .1109 or .1111; or
 - (B) a standard issued pursuant to Section 112(d), 112(h), or 112(j) of the federal Clean Air Act and incorporated in another Subpart of 40 CFR Part 63; or
- (2) the owner or operator of the major source has received all necessary air quality permits for the construction or reconstruction project before July 1, 1998.

(b) Exclusions. The requirements of this Rule shall not apply to:

- (1) electric utility steam generating units unless and until such time as these units are added to the source category list pursuant to Section 112(c)(5) of the federal Clean Air Act;
- (2) stationary sources that are within a source category that has been deleted from the source category list pursuant to Section 112(c)(9) of the federal Clean Air Act; or
- (3) research and development activities.

(c) Definitions. For the purposes of this Rule, the following definitions apply:

- (1) "Affected source" means the stationary source or group of stationary sources that, when fabricated on site, erected, or installed meets the definition of "construct a major source" or the definition of "reconstruct a major source" contained in this Paragraph.

(2) "Affected States" means all States or local air pollution agencies whose areas of jurisdiction are:

- (A) contiguous to North Carolina and located less than $D=Q/12.5$ from the facility, where:
 - (i) Q = emissions of the pollutant emitted at the highest permitted rate in tons per year; and
 - (ii) D = distance from the facility to the contiguous state or local air pollution control agency in miles; or
- (B) within 50 miles of the permitted facility.

(3) "Available information" means, for purposes of identifying control technology options for the affected source, information contained in the following information sources as of the date of approval of the MACT determination by the Division:

- (A) a relevant proposed regulation, including all supporting information;
- (B) background information documents for a draft or proposed regulation;
- (C) data and information available from the Control Technology Center developed pursuant to Section 113 of the federal Clean Air Act;
- (D) data and information contained in the Aerometric Information Retrieval System including information in the MACT data base;
- (E) additional information that can be expeditiously provided by the Division and EPA; and
- (F) for the purpose of determinations by the Division, additional information provided by the applicant or others and additional information available to the Division.

(4) "Construct a major source" means:

- (A) To fabricate, erect, or install at any greenfield site a stationary source or group of stationary sources that is located within a contiguous area and under common control and that emits or has the potential to emit 10 tons per year of any HAP's or 25 tons per year of any combination of HAP; or
- (B) To fabricate, erect, or install at any developed site a new process or production unit that in and of itself emits or has the potential to emit 10 tons per year of any HAP or 25 tons per year of any combination of HAP, unless the process or production unit

satisfies Subparts (i) through (vi) of this Paragraph:

- (i) all HAP emitted by the process or production unit that would otherwise be subject to the requirements of this Rule will be controlled by emission control equipment that was previously installed at the same site as the process or production unit;
- (ii) the Division:
 - (I) has determined within a period of five years prior to the fabrication, erection, or installation of the process or production unit that the existing emission control equipment represented best available control technology (BACT) pursuant to 15A NCAC 02D .0530 or lowest achievable emission rate (LAER) pursuant to 15A NCAC 02D .0531 for the category of pollutants that includes those HAP's to be emitted by the process or production unit; or
 - (II) determines that the control of HAP emissions provided by the existing equipment will be equivalent to that level of control currently achieved by other well-controlled similar sources (i.e., equivalent to the level of control that would be provided by a current BACT, LAER, or MACT determination pursuant to 15A NCAC 02D .1109);

- (iii) the Division determines that the percent control efficiency for emissions of HAP from all sources to be controlled by the existing control equipment will be equivalent to the percent control efficiency provided by the control equipment prior to the inclusion of the new process or production unit;
- (iv) the Division has provided notice and an opportunity for public comment concerning its determination that criteria in Subparts (i), (ii), and (iii) of this Subparagraph apply and concerning the continued adequacy of any prior LAER, BACT, or MACT determination pursuant to 15A NCAC 02D .1109;
- (v) if any commenter has asserted that a prior LAER, BACT, or MACT determination pursuant to 15A NCAC 02D .1109 is no longer adequate, the Division has determined that the level of control required by that prior determination remains adequate; and
- (vi) any emission limitations, work practice requirements, or other terms and conditions upon which the above determinations by the Division are predicated will be construed by the Division as applicable requirements pursuant to Section 504(a) of the federal Clean Air Act and either have been incorporated into an existing permit issued pursuant to 15A NCAC 02Q .0500 for the affected facility or will be incorporated into such a permit upon issuance.

(5) "Control technology" means measures, processes, methods, systems, or techniques to limit the emission of hazardous air pollutants, including measures that:

- (A) reduce the quantity of, or eliminate emissions of, such pollutants through process changes, substitution of materials, or other modifications;
- (B) enclose systems or processes to eliminate emissions;

- (C) collect, capture, or treat such pollutants when released from a process, stack, storage, or fugitive emissions point;
- (D) are design, equipment, work practice, or operational standards, including requirements for operator training or certification, as provided in 42 U.S.C. 7412(h); or
- (E) are a combination of Parts (A) through (D) of this definition.
- (6) "Electric utility steam generating unit" means any fossil fuel-fired combustion unit of more than 25 megawatts that serves a generator that produces electricity for sale. A unit that co-generates steam and electricity and supplies more than one-third of its potential electric output capacity and more than 25 megawatts electric output to any utility power distribution system for sale shall be considered an electric utility steam generating unit.
- (7) "Greenfield site" means a contiguous area under common control that is an undeveloped site.
- (8) "HAP" means hazardous air pollutants.
- (9) "Hazardous air pollutant" means any pollutant listed pursuant to Section 112(b) of the federal Clean Air Act.
- (10) "List of source categories" means the source category list required by Section 112(c) of the federal Clean Air Act.
- (11) "MACT" means maximum achievable control technology.
- (12) "Maximum achievable control technology emission limitation for new sources" means the emission limitation that is not less stringent than the emission limitation achieved in practice by the best controlled similar source, and that reflects the maximum degree of reduction in emissions that the permitting authority determines is achievable by the constructed or reconstructed source, taking into consideration the cost of achieving such emission reduction, non-air quality health and environmental impacts, and energy requirements.
- (13) "Process or production unit" means any collection of structures or equipment that processes, assembles, applies, or otherwise uses material inputs to produce or store an intermediate or final product. A single facility may contain more than one process or production unit.
- (14) "Reconstruct a major source" means the replacement of components at an existing process or production unit that emits or has the potential to emit 10 tons per year of any HAP or 25 tons per year of any combination of HAP, if:
 - (A) the fixed capital cost of the new components exceeds 50 percent of the fixed capital cost that would be required to construct a comparable process or production unit; and
 - (B) it is technically and economically feasible for the reconstructed major source to meet the applicable maximum achievable control technology emission limitation for new sources established pursuant to 40 CFR Part 63, Subpart B.
- (15) "Research and development activities" means activities conducted at a research or laboratory facility whose primary purpose is to conduct research and development into new processes and products, where such source is operated under the close supervision of technically trained personnel and is not engaged in the manufacture of products for sale or exchange for commercial profit, except in a de minimis manner.
- (16) "Similar source" means a stationary source or process that has comparable emissions and is structurally similar in design and capacity to a constructed or reconstructed major source, such that the source could be controlled using the same control technology.
- (d) Principles of MACT determinations. The following general principles shall be used to make a case-by-case MACT determination concerning construction or reconstruction of a major source pursuant to this Rule:
 - (1) The MACT emission limitation or MACT requirements recommended by the applicant and approved by the Division shall not be less stringent than the emission control that is achieved in practice by the best controlled similar source, as determined by the Division.
 - (2) Based upon available information, the MACT emission limitation and control technology, including any requirements pursuant to Subparagraph (3) of this Paragraph, recommended by the applicant and approved by the Division shall achieve the maximum degree of reduction in emissions of HAP that can be achieved by using those control technologies that can be identified from the available information, taking into consideration the costs of achieving such emission reduction and any non-air quality health and environmental impacts and energy requirements associated with the emission reduction.
 - (3) The owner or operator may recommend a specific design, equipment, work practice, or operational standard, or a combination thereof, and the Director may approve such a standard if it is not feasible to prescribe or enforce an emission limitation pursuant to the criteria set

forth in Section 112(h)(2) of the federal Clean Air Act.

- (4) If the EPA has either proposed a relevant emission standard pursuant to Section 112(d) or 112(h) of the federal Clean Air Act or adopted a presumptive MACT determination for the source category that includes the constructed or reconstructed major source, the MACT requirements applied to the constructed or reconstructed major source shall have considered those MACT emission limitations and requirements of the proposed standard or presumptive MACT determination.

(e) Effective date of MACT determination. The effective date of a MACT determination shall be the date of issuance of a permit pursuant to procedures of 15A NCAC 02Q .0300 or .0500 incorporating a MACT determination.

(f) Compliance date. On and after the date of start-up, a constructed or reconstructed major source that is subject to the requirements of this Rule shall be in compliance with all applicable requirements specified in the MACT determination.

(g) Compliance with MACT determinations. The owner or operator of a constructed or reconstructed major source that:

- (1) is subject to a MACT determination shall comply with all requirements set forth in the permit issued pursuant to 15A NCAC 02Q .0300 or .0500, including any MACT emission limitation or MACT work practice standard, and any notification, operation and maintenance, performance testing, monitoring, reporting, and recordkeeping requirements; or
- (2) has obtained a MACT determination shall be deemed to be in compliance with Section 112(g)(2)(B) of the federal Clean Air Act only to the extent that the constructed or reconstructed major source is in compliance with all requirements set forth in the permit issued pursuant to 15A NCAC 02Q .0300 or .0500. Any violation of such requirements by the owner or operator shall be deemed by the Division to be a violation of the prohibition on construction or reconstruction in Section 112(g)(2)(B) of the federal Clean Air Act for whatever period the owner or operator is determined to be in violation of such requirements, and shall subject the owner or operator to appropriate enforcement action pursuant to the General Statutes and the federal Clean Air Act.

(h) Requirements for constructed or reconstructed major sources subject to a subsequently-promulgated MACT standard or MACT requirement. If EPA promulgates an emission standard pursuant to Section 112(d) or 112(h) of the federal Clean Air Act or the Division issues a determination pursuant to 15A NCAC 02D .1109 that is applicable to a stationary source or group of sources that is a constructed or reconstructed major source pursuant to this Rule:

- (1) before the date that the owner or operator has obtained a final and legally effective MACT

determination pursuant to 15A NCAC 02Q .0300 or .0500, the owner or operator of the sources shall comply with the promulgated standard or determination rather than any MACT determination pursuant to this Rule by the compliance date in the promulgated standard; or

- (2) after the source has been subject to a prior case-by-case MACT pursuant to this Rule, and the owner or operator obtained a final and legally effective case-by-case MACT determination prior to the promulgation date of such emission standard, and if the initial permit has not yet been issued pursuant to 15A NCAC 02Q .0500, the Division shall issue an initial permit that incorporates the emission standard or determination, or if the initial permit has been issued pursuant to 15A NCAC 02Q .0500, the Division shall revise the permit according to the reopening procedures in 15A NCAC 02Q .0517, Reopening for Cause, whichever is relevant, to incorporate the emission standard or determination.

(i) Compliance with subsequent 112(d), 112(h), or 112(j) standards. If EPA includes in the emission standard established pursuant to Section 112(d) or 112(h) of the federal Clean Air Act a specific compliance date for those sources that have obtained a final and legally effective MACT determination pursuant to this Rule and that have submitted the information required by 40 CFR 63.43 to EPA before the close of the public comment period for the standard established pursuant to section 112(d) of the federal Clean Air Act, the Division shall incorporate that compliance date in the permit issued pursuant to 15A NCAC 02Q .0500. If no compliance date has been established in the promulgated 112(d) or 112(h) standard or determination pursuant to 15A NCAC 02D .1109 for those sources that have obtained a final and legally effective MACT determination pursuant to this Rule, the Director shall establish a compliance date in the permit that assures that the owner or operator complies with the promulgated standard or determination as expeditiously as practicable, but not longer than eight years after the standard is promulgated or a determination is made pursuant to 15A NCAC 02D .1109.

(j) Revision of permit to incorporate less stringent control. Notwithstanding the requirements of Paragraph (h) of this Rule, if the Administrator of EPA promulgates an emission standard pursuant to Section 112(d) or Section 112(h) of the federal Clean Air Act or the Division issues a determination pursuant to 15A NCAC 02D .1109 that is applicable to a stationary source or group of sources that was deemed to be a constructed or reconstructed major source pursuant to this Rule and that is the subject of a prior case-by-case MACT determination pursuant to 40 CFR 63.43, and the level of control required by the emission standard issued pursuant to Section 112(d) or 112(h) or the determination issued pursuant to 15A NCAC 02D .1109 is less stringent than the level of control required by any emission limitation or standard in the prior MACT determination, the Division shall not be required to incorporate any less stringent terms of the promulgated standard in the permit issued pursuant to 15A NCAC 02Q .0500 applicable to such sources after considering the effects on air quality. The

Division may consider any more stringent provision of the prior MACT determination to be applicable legal requirements, as necessary to protect air quality, when issuing or revising such an operating permit.

History Note: Authority G.S. 143-215.3(a)(1); 143-215.107(a)(5),(10);
Eff. July 1, 1998;
Readopted Eff. July 1, 2018.

15A NCAC 02D .1201 PURPOSE AND SCOPE

(a) The rules in this Section shall apply to incinerators and combustor units as defined in 15A NCAC 02D .1202 or regulated pursuant to 15A NCAC 02D .1208.

(b) The rules in this Section shall not apply to:

- (1) afterburners, flares, fume incinerators, or other similar devices used to reduce the emissions of air pollutants from processes whose emissions shall be regulated as process emissions;
- (2) boilers or industrial furnaces that burn waste as a fuel, except solid waste as defined in 40 CFR 241.2;
- (3) air curtain burners, which shall comply with 15A NCAC 02D .1900; or
- (4) incinerators used to dispose of dead animals or poultry that meet all of the following requirements:
 - (A) the incinerator is located on a farm and is operated by the farm owner or by the farm operator;
 - (B) the incinerator is used solely to dispose of animals or poultry originating on the farm where the incinerator is located;
 - (C) the incinerator is not charged at a rate that exceeds its design capacity; and
 - (D) the incinerator complies with 15A NCAC 02D .0521 (visible emissions).

(c) Referenced document SW-846 "Test Methods for Evaluating Solid Waste," Third Edition, cited by rules in this Section is incorporated by reference, not including subsequent amendments or editions, and may be obtained free of charge online at <https://www.epa.gov/hw-sw846>.

History Note: Authority G.S. 143-215.3(a)(1); 143-215.107(a)(1), (3), (4), (5);
Eff. October 1, 1991;
Amended Eff. July 1, 2000; July 1, 1999; July 1, 1998; April 1, 1995; December 1, 1993;
Temporary Amendment Eff. March 1, 2002;
Amended Eff. July 1, 2007; December 1, 2005; August 1, 2002;
Readopted Eff. July 1, 2018.

15A NCAC 02D .1202 DEFINITIONS

(a) For the purposes of this Section, the definitions in 40 CFR 60.5250, 40 CFR 60.2875, and 40 CFR 60.51c shall apply in addition to the following definitions:

- (1) "Air curtain incinerator," also referred to as an "air curtain burner," means an incinerator that

operates by forcefully projecting a curtain of air across an open chamber or pit in which combustion occurs as defined in 40 CFR 60.2875.

- (2) "Commercial and industrial solid waste incinerator" (CISWI) or "commercial and industrial solid waste incineration unit" is defined in 40 CFR 60.2875.
- (3) "Co-fired combustor" is defined in 40 CFR 60.51c. For the purposes of this definition, pathological waste, chemotherapeutic waste, and low-level radioactive waste shall be deemed "other" wastes when calculating the percentage of hospital, medical, or infectious waste combusted.
- (4) "Crematory incinerator" means any incinerator located at a crematory regulated pursuant to 21 NCAC 34C that is used solely for the cremation of human remains.
- (5) "Dioxin and Furan" (also referred to as "dioxins/furans") means tetra- through octa-chlorinated dibenzo-p-dioxins and dibenzofurans.
- (6) "Hospital, medical, and infectious waste incinerator (HMIWI)" means any device that combusts any amount of hospital, medical, and infectious waste.
- (7) "Large HMIWI" means:
 - (A) a HMIWI whose maximum design waste burning capacity is more than 500 pounds per hour;
 - (B) a continuous or intermittent HMIWI whose maximum charge rate is more than 500 pounds per hour; or
 - (C) a batch HMIWI whose maximum charge rate is more than 4,000 pounds per day.
- (8) "Hospital waste" means discards generated at a hospital, except unused items returned to the manufacturer. The definition of hospital waste does not include human corpses, remains, and anatomical parts that are intended for interment or cremation.
- (9) "Medical and Infectious Waste" means any waste generated in the diagnosis, treatment, or immunization of human beings or animals, in research pertaining thereto, or in the production or testing of biologicals that is listed in Part (A)(i) through (A)(vii) of this Subparagraph.
 - (A) The definition of medical and infectious waste includes:
 - (i) cultures and stocks of infectious agents and associated biologicals, including:
 - (I) cultures from medical and pathological laboratories;

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| <p>(II) cultures and stocks of infectious agents from research and industrial laboratories;</p> <p>(III) wastes from the production of biologicals;</p> <p>(IV) discarded live and attenuated vaccines; and</p> <p>(V) culture dishes and devices used to transfer, inoculate, and mix cultures;</p> | <p>(v) animal waste, including contaminated animal carcasses, body parts, and bedding of animals that were known to have been exposed to infectious agents during research (including research in veterinary hospitals), production of biologicals, or testing of pharmaceuticals;</p> |
| <p>(ii) human pathological waste, including tissues, organs, and body parts and body fluids that are removed during surgery, autopsy, or other medical procedures, and specimens of body fluids and their containers;</p> | <p>(vi) isolation wastes, including biological waste and discarded materials contaminated with blood, excretions, exudates, or secretions from humans who are isolated to protect others from highly communicable diseases, or isolated animals known to be infected with highly communicable diseases; and</p> |
| <p>(iii) human blood and blood products including:</p> <p>(I) liquid waste human blood;</p> <p>(II) products of blood;</p> <p>(III) items saturated or dripping with human blood; or</p> <p>(IV) items that were saturated or dripping with human blood that are now caked with dried human blood, including serum, plasma, other blood components, and their containers, that were used or intended for use in either patient care, testing and laboratory analysis, or the development of pharmaceuticals. Intravenous bags are also included in this category;</p> | <p>(vii) unused sharps, including the following unused or discarded sharps;</p> <p>(I) hypodermic needles;</p> <p>(II) suture needles;</p> <p>(III) syringes; and</p> <p>(IV) scalpel blades.</p> |
| <p>(iv) sharps that have been used in animal or human patient care or treatment or in medical, research, or industrial laboratories, including hypodermic needles, syringes (with or without the attached needle), pasteur</p> | <p>(B) The definition of medical and infectious waste shall not include:</p> <p>(i) hazardous waste identified or listed in 40 CFR Part 261;</p> <p>(ii) household waste, as defined in 40 CFR 261.4(b)(1);</p> <p>(iii) ash from incineration of medical and infectious waste after the incineration process has been completed;</p> <p>(iv) human corpses, remains, and anatomical parts that are intended for interment or cremation; and</p> <p>(v) domestic sewage materials identified in 40 CFR 261.4(a)(1).</p> |
- (10) "Medium HMIWI" means:

- (A) a HMIWI whose maximum design waste burning capacity is more than 200 pounds per hour but less than or equal to 500 pounds per hour;
- (B) a continuous or intermittent HMIWI whose maximum charge rate is more than 200 pounds per hour but less than or equal to 500 pounds per hour; or
- (C) a batch HMIWI whose maximum charge rate is more than 1,600 pounds per day but less than or equal to 4,000 pounds per day.
- (11) "POTW" means a publicly owned treatment works as defined in 40 CFR 501.2.
- (12) "Sewage sludge" is defined in 40 CFR 60.5250.
- (13) "Sewage sludge incineration (SSI) unit" is defined in 40 CFR 60.5250.
- (14) "Small HMIWI" means:
 - (A) a HMIWI whose maximum design waste burning capacity is less than or equal to 200 pounds per hour;
 - (B) a continuous or intermittent HMIWI whose maximum charge rate is less than or equal to 200 pounds per hour; or
 - (C) a batch HMIWI whose maximum charge rate is less than or equal to 1,600 pounds per day.
- (15) "Small remote HMIWI" means any small HMIWI that is located more than 50 miles from the boundary of the nearest Standard Metropolitan Statistical Area (SMSA) and that burns less than 2,000 pounds per week of hospital, medical and infectious waste. The 2,000 pound per week limitation does not apply during performance tests.
- (16) "Solid waste" means the term solid waste as defined in 40 CFR 241.2.
- (17) "Standard Metropolitan Statistical Area (SMSA)" means any area listed in Office of Management and Budget (OMB) Bulletin No. 93-17, entitled "Revised Statistical Definitions for Metropolitan Areas" dated July 30, 1993, incorporated by reference not including subsequent amendments or editions. A copy of this document may be obtained through the internet at <http://www.census.gov/population/estimates/metro-city/93mfips.txt>.
- (b) Whenever reference is made to the Code of Federal Regulations in this Section, the definition in the Code of Federal Regulations shall apply unless specifically stated otherwise in a particular rule. The Code of Federal Regulations is available in electronic form free of charge at <https://www.gpo.gov/fdsys/search/home.action>.

Amended Eff. July 1, 2000; July 1, 1999; July 1, 1998; July 1, 1996; April 1, 1995; December 1, 1993; Temporary Amendment Eff. March 1, 2002; Amended Eff. July 1, 2007; August 1, 2002; Readopted Eff. July 1, 2018.

15A NCAC 02D .1203 HAZARDOUS WASTE INCINERATORS

History Note: Authority G.S. 143-215.3(a)(1); 143-215.107(a)(5); Eff. October 1, 1991; Amended Eff. June 1, 2008; August 1, 2002; July 1, 2000; July 1, 1999; July 1, 1998; April 1, 1995; Repealed Eff. July 1, 2018.

15A NCAC 02D .1205 LARGE MUNICIPAL WASTE COMBUSTORS

History Note: Authority G.S. 143-215.3(a)(1); 143-215.107(a)(3),(4),(5); 40 CFR 60.35b; 40 CFR 60.34e; 40 CFR 60.1515; Eff. October 1, 1991; Amended Eff. July 1, 2000; July 1, 1999; July 1, 1998; July 1, 1996; April 1, 1995; Temporary Amendment Eff. March 1, 2002; Amended Eff. August 1, 2002; Temporary Amendment Eff. March 1, 2003; Temporary Amendment Expired December 12, 2003; Amended Eff. July 1, 2010; April 1, 2004; Repealed Eff. July 1, 2018.

15A NCAC 02D .1206 HOSPITAL, MEDICAL, AND INFECTIOUS WASTE INCINERATORS

(a) Applicability. This Rule shall apply to any hospital, medical, and infectious waste incinerator (HMIWI), except:

- (1) a HMIWI required to have a permit pursuant to Section 3005 of the Solid Waste Disposal Act;
- (2) a pyrolysis unit;
- (3) a cement kiln firing hospital waste or medical and infectious waste;
- (4) a physical or operational change made to an existing HMIWI solely for the purpose of complying with the emission standards for HMIWIs in this Rule. These physical or operational changes shall not be deemed a modification and shall not result in an existing HMIWI becoming subject to the provisions of 40 CFR Part 60, Subpart Ec;
- (5) a HMIWI during periods when only pathological waste, low-level radioactive waste, or chemotherapeutic waste is burned, provided that the owner or operator of the HMIWI:
 - (A) notifies the Director of an exemption claim; and
 - (B) keeps records on a calendar-quarter basis of the periods of time when only pathological waste, low-level

History Note: Authority G.S. 143-213; 143-215.3(a)(1); Eff. October 1, 1991;

- radioactive waste, or
chemotherapeutic waste was burned;
or
- (6) a co-fired HMIWI, if the owner or operator of the co-fired HMIWI:
- (A) notifies the Director of an exemption claim;
 - (B) provides an estimate of the relative weight of hospital, medical, and infectious waste and other fuels or wastes to be combusted; and
 - (C) keeps records on a calendar-quarter basis of the weight of hospital, medical, and infectious waste combusted and the weight of all other fuels and wastes combusted at the co-fired HMIWI.
- (b) Definitions. For the purpose of this Rule, the definitions contained in 40 CFR 60.51c shall apply in addition to the definitions in 15A NCAC 02D .1202.
- (c) Emission Standards.
- (1) The emission standards in this Paragraph apply to all HMIWIs except if 15A NCAC 02D .0524, .1110, or .1111 applies. However, when Subparagraphs (6) or (7) of this Paragraph and 15A NCAC 02D .0524, .1110, or .1111 regulate the same pollutant, the more restrictive provision for each pollutant shall apply, notwithstanding provisions of 15A NCAC 02D .0524, .1110, or .1111 to the contrary.
 - (2) Each HMIWI for which construction was commenced on or before June 20, 1996, or for which modification is commenced on or before March 16, 1998, shall not exceed the requirements listed in Table 1B of Subpart Ce of 40 CFR Part 60.
 - (3) Each HMIWI for which construction was commenced after June 20, 1996, but no later than December 1, 2008, or for which modification is commenced after March 16, 1998, but no later than April 6, 2010, shall not exceed the more stringent of the requirements listed in Table 1B of Subpart Ce and Table 1A of Subpart Ec of 40 CFR Part 60.
 - (4) Each small remote HMIWI shall not exceed emission standards listed in Table 2B of Subpart Ce of 40 CFR Part 60.
 - (5) Visible Emissions. The owner or operator of any HMIWI shall not cause to be discharged into the atmosphere from the stack of the HMIWI any gases that exhibit greater than six percent opacity (six-minute block average).
 - (6) Toxic Air Pollutants. The owner or operator of any HMIWI subject to this Rule shall demonstrate compliance with 15A NCAC 02D .1100 according to 15A NCAC 02Q .0700.
- (d) Operational Standards.
- (1) The operational standards in this Rule shall not apply to a HMIWI if applicable operational standards in 15A NCAC 02D .0524, .1110, or .1111 apply;
- (2) Annual Equipment Inspection.
- (A) Each HMIWI shall undergo an annual equipment inspection no more than 12 months following the previous annual equipment inspection;
 - (B) The equipment inspection shall include all the elements listed in 40 CFR 60.36e(a)(1)(i) through (xvii);
 - (C) Necessary repairs found during the inspection shall be completed within 10 operating days after the inspection unless the owner or operator submits a written request to the Director for an extension of the 10 operating day period; and
 - (D) The Director shall grant an extension to a small remote HMIWI if the owner or operator submits a written request to the Director for an extension of the 10 operating day period, if the owner or operator demonstrates that achieving compliance by the time allowed under this Part is not feasible, if the Director does not extend the time allowed for compliance by more than 30 days following the receipt of the written request, and if the Director concludes that the emission control standards would not be exceeded if the repairs were delayed;
- (3) Air Pollution Control Device Inspection.
- (A) Each HMIWI shall undergo air pollution control device inspections annually, no more than 12 months following the previous annual air pollution control device inspection, to inspect air pollution control devices for proper operation, if applicable: to ensure proper calibration of thermocouples, sorbent feed systems, and all other monitoring equipment; and to observe that the equipment is maintained in good operating condition. Necessary repairs found during the inspection shall be completed within 10 operating days of the inspection unless the owner or operator submits a written request to the Director for an extension of the 10 operating day period; and
 - (B) The Director shall grant the extension if the owner or operator of the HMIWI demonstrates that achieving compliance by the 10 operating day period is not feasible, the Director does not extend the time allowed for compliance by more than 30 days

- following the receipt of the written request, and the Director concludes that the emission control standards would not be exceeded if the repairs were delayed.
- (4) Any HMIWI, except for a small HMIWI for which construction was commenced on or before June 20, 1996, or for which modification was commenced on or before March 16, 1998, and subject to the requirements listed in Table 1B of Subpart Ce of 40 CFR Part 60, shall comply with 40 CFR 60.56c except sources subject to the emissions limits pursuant to Table 1B of Subpart Ce of 40 CFR Part 60 or the more stringent of the requirements listed in Table 1B of Subpart 1B of Subpart Ce of 40 CFR Part 60 and Table 1A of Subpart Ec of 40 CFR Part 60 may elect to use CO CEMS as specified in 40 CFR 60.56c(c)(4) or bag detection systems as specified in 40 CFR 60.57c(h);
- (5) A small remote HMIWI constructed on or before June 20, 1996, or for which modification was commenced on or before March 16, 1998, shall be subject to the requirements listed in Table 2B of Subpart Ce of 40 CFR Part 60. The owner or operator shall comply with:
- (A) the compliance and performance testing requirements of 40 CFR 60.56c, excluding test methods listed in 40 CFR 60.56c(b)(7), (8), (12), (13) (Pb and Cd), and (14);
 - (B) the annual PM, CO, and HCl emissions testing requirements pursuant to 40 CFR 60.56c(c)(2);
 - (C) the annual fugitive emissions testing requirements pursuant to 40 CFR 60.56c(c)(3);
 - (D) the CO CEMS requirements pursuant to 40 CFR 60.56c(c)(4); and
 - (E) the compliance requirements for monitoring listed in 40 CFR 60.56c(c)(5) through (7), and (d) through (k).
- (6) A small remote HMIWI for which construction was commenced on or before June 20, 1996, or for which modification was commenced on or before March 16, 1998, that is subject to the requirements listed in Table 2A or 2B of Subpart Ce of 40 CFR Part 60 and not equipped with an air pollution control device shall meet the following compliance and performance testing requirements:
- (A) establish maximum charge rate and minimum secondary chamber temperature as site-specific operating parameters during the initial performance test to determine compliance with applicable emission limits. The 2,000 pounds per week limitation shall not apply during performance tests;
 - (B) the owner or operator shall not operate the HMIWI above the maximum charge rate or below the minimum secondary chamber temperature measured as three-hour rolling averages, calculated each hour as the average of the previous three operating hours, at all times. Operating parameter limits shall not apply during performance tests. Operation above the maximum charge rate or below the minimum secondary chamber temperature shall constitute a violation of the established operating parameters; and
 - (C) operation of a HMIWI above the maximum charge rate and below the minimum secondary chamber temperature, each measured on a three-hour rolling average, simultaneously shall constitute a violation of the PM, CO, and dioxin/furan emissions limits. The owner or operator of a HMIWI may conduct a repeat performance test within 30 days of violation of applicable operating parameters to demonstrate that the designated facility is not in violation of the applicable emissions limits. Repeat performance tests shall be conducted under process and control device operating conditions duplicating as nearly as possible those that indicated during the violation.
- (7) A small HMIWI for which construction was commenced after June 20, 1996, but no later than December 1, 2008, or for which modification is commenced after March 16, 1998, but no later than April 6, 2010, shall comply with:
- (A) the compliance and performance testing requirements of 40 CFR 60.56c, excluding the annual fugitive emissions testing requirements pursuant to 40 CFR 60.56c(c)(3);
 - (B) the CO CEMS requirements pursuant to 40 CFR 60.56c(c)(4); and
 - (C) the compliance requirements for monitoring listed in 40 CFR 60.56c(c)(5)(ii) through (v), (c)(6), (c)(7), (e)(6) through (10), (f)(7) through (10), and (g)(6) through (10).
- The owner or operator may elect to use CO CEMS as specified in 40 CFR 60.56c(c)(4) or bag leak detection systems as specified in 40 CFR 60.57c(h).

- (8) The owner or operator of a HMIWI equipped with selective noncatalytic reduction technology shall:

- (A) establish the maximum charge rate, the minimum secondary chamber temperature, and the minimum reagent flow rate as site-specific operating parameters during the initial performance test to determine compliance with the emissions limits;
- (B) ensure that the affected facility does not operate above the maximum charge rate or below the minimum secondary chamber temperature or the minimum reagent flow rate measured as three-hour rolling averages, calculated each hour as the average of the previous three operating hours, at all times. Operating parameter limits shall not apply during performance tests; and
- (C) operation of any HMIWI above the maximum charge rate, below the minimum secondary chamber temperature, and below the minimum reagent flow rate simultaneously shall constitute a violation of the NO_x emissions limit. The owner or operator may conduct a repeat performance test within 30 days of a violation of applicable operating parameters to demonstrate that the affected facility is not in violation of the applicable emissions limits. Repeat performance tests shall be conducted using the identical operating parameters that indicated a violation.

(e) Test Methods and Procedures.

- (1) The test methods and procedures described in 15A NCAC 02D .2600, 40 CFR Part 60 Appendix A, and 40 CFR Part 61 Appendix B shall be used to determine compliance with emission rates. Method 29 of 40 CFR Part 60 shall be used to determine emission rates for metals. However, Method 29 shall be used to sample for chromium (VI) and SW 846 Method 0060 shall be used for the analysis.
- (2) The Director shall require the owner or operator to test the HMIWI to demonstrate compliance with the emission standards listed in Paragraph (c) of this Rule if necessary to assure compliance.

(f) Monitoring, Recordkeeping, and Reporting.

- (1) The owner or operator of an HMIWI subject to the requirements of this Rule shall comply with the monitoring, recordkeeping, and reporting requirements in 15A NCAC 02D .0600.
- (2) The owner or operator of an HMIWI subject to the requirements of this Rule shall maintain and

operate a continuous temperature monitoring and recording device for the primary chamber, and if there is a secondary chamber, for the secondary chamber. The owner or operator of an HMIWI that has installed air pollution abatement equipment to reduce emissions of hydrogen chloride shall install, operate, and maintain continuous monitoring equipment to measure the pH for wet scrubber systems and the rate of alkaline injection for dry scrubber systems. The Director shall require the owner or operator of an HMIWI with a permitted charge rate of 750 pounds per hour or more to install, operate, and maintain continuous monitors for oxygen, carbon monoxide, or both as necessary to determine proper operation of the HMIWI. The Director may require the owner or operator of an HMIWI with a permitted charge rate of less than 750 pounds per hour to install, operate, and maintain monitors for oxygen or for carbon monoxide or both if necessary to determine proper operation of the HMIWI.

- (3) In addition to the requirements of Subparagraphs (1) and (2) of this Paragraph, the owner or operator of a HMIWI shall comply with the reporting and recordkeeping requirements in 40 CFR 60.58c(b) through (g), excluding 40 CFR 60.58c(b)(2)(ii) and (b)(7).

- (4) In addition to the requirements of Subparagraphs (1), (2) and (3) of this Paragraph, the owner or operator of a small remote HMIWI shall:

- (A) maintain records of the annual equipment inspections, all required maintenance, and all repairs not completed within 10 days of an inspection;
- (B) submit an annual report containing information recorded in Part (A) of this Subparagraph to the Director no later than 60 days following the year in which data were collected. Subsequent reports shall be sent no later than 12 calendar months following the previous report. The report shall be signed by the HMIWI manager; and
- (C) submit the reports required by Parts (A) and (B) of this Subparagraph to the Director semiannually if the HMIWI is subject to the permitting procedures of 15A NCAC 02Q .0500, Title V Procedures.

- (5) Waste Management Guidelines. The owner or operator of a HMIWI shall comply with the requirements of 40 CFR 60.55c for the preparation and submittal of a waste management plan.

- (6) Except as provided in Subparagraph (7) of this Paragraph, the owner or operator of any HMIWI shall comply with the monitoring requirements in 40 CFR 60.57c.
- (7) The owner or operator of a small remote HMIWI shall:
 - (A) install, calibrate, maintain, and operate a device for measuring and recording the temperature of the secondary chamber on a continuous basis, the output of which shall be recorded, at a minimum, once every minute throughout operation;
 - (B) install, calibrate, maintain, and operate a device that automatically measures and records the date, time, and weight of each charge fed into the HMIWI; and
 - (C) obtain monitoring data at all times during HMIWI operation except during periods of monitoring equipment malfunction, calibration, or repair. Valid monitoring data shall be obtained for 75 percent of the operating hours per day and for 90 percent of the operating hours per calendar quarter that the HMIWI is combusting hospital, medical, and infectious waste.
- (8) An HMIWI, except for small remote HMIWI not equipped with an air pollution control device, that is subject to the emissions requirements in Table 1B or Table 2B of Subpart Ce of 40 CFR Part 60 or the more stringent of the requirements listed in Table 1B of Subpart Ce of 40 CFR Part 60 and Table 1A of Subpart Ec of 40 CFR Part 60 shall perform the monitoring requirements listed in 40 CFR 60.57c.
- (9) The owner or operator of a small remote HMIWI, not equipped with an air pollution control device and subject to the emissions requirements in Table 2B of Subpart Ce of 40 CFR Part 60 shall:
 - (A) install, calibrate to manufacturers' specifications, maintain, and operate a device for measuring and recording the temperature of the secondary chamber on a continuous basis, the output of which shall be recorded, at a minimum, once every minute throughout operation;
 - (B) install, calibrate to manufacturers' specifications, maintain, and operate a device which automatically measures and records the date, time, and weight of each charge fed into the HMIWI; and
 - (C) obtain monitoring data at all times during HMIWI operation except during periods of monitoring equipment malfunction, calibration, or repair. Valid monitoring data shall be obtained for 75 percent of the operating hours per day for 90 percent of the operating hours per calendar quarter that the designated facility is combusting hospital, medical and infectious waste.
- (10) An HMIWI for which construction commenced on or before June 20, 1996, or for which modification was commenced on or before March 16, 1998, and is subject to requirements listed in Table 1B of Subpart Ce of 40 CFR Part 60 or any HMIWI for which construction was commenced after June 20, 1996, but no later than December 1, 2008, or for which modification is commenced after March 16, 1998, but no later than April 6, 2010, and that is subject to the requirements of Table 1B of this Subpart and Table 1A of Subpart Ec of 40 CFR Part 60 may use the results of previous emissions tests to demonstrate compliance with the emissions limits, provided that:
 - (A) previous emissions tests had been conducted using the applicable procedures and test methods listed in 40 CFR 60.56c(b);
 - (B) the HMIWI is currently operated in a manner that would be expected to result in the same or lower emissions than observed during the previous emissions test and has not been modified such that emissions would be expected to exceed; and
 - (C) the previous emissions tests had been conducted in 1996 or later.
- (11) An HMIWI, (with the exception of small remote HMIWI and HMIWIs for which construction was commenced no later than December 1, 2008, or for which modification is commenced no later than April 6, 2010, and that is subject to the requirements listed in Table 1B of Subpart Ce of 40 CFR Part 60 or the more stringent of the requirements listed in Table 1B of Subpart Ce of 40 CFR Part 60 and Table 1A of Subpart Ec), shall include the reporting and recordkeeping requirements listed in 40 CFR 60.58c(b) through (g) in Subpart Ec.
- (12) An HMIWI for which construction was commenced no later than December 1, 2008, or for which modification is commenced no later than April 6, 2010, and that is subject to the requirements listed in Table 1B or the more stringent of the requirements listed in Table 1B of Subpart Ce of 40 CFR Part 60 and Table 1A of Subpart Ec of 40 CFR Part 60 shall not be

required to maintain records required in 40 CFR 60.58c(b)(2)(xviii) (bag leak detection system alarms), (b)(2)(xix) (CO CEMS data), and (b)(7) (siting documentation).

(g) Operator Training and Certification.

- (1) The owner or operator of a HMIWI shall not allow the HMIWI to operate at any time unless a fully trained and qualified HMIWI operator is available at the facility or is available within one hour. The trained and qualified HMIWI operator may operate the HMIWI directly or be the direct supervisor of one or more HMIWI operators.
- (2) Operator training and qualification shall be obtained by completing the requirements of 40 CFR 60.53c(c) through (g).
- (3) The owner or operator of a HMIWI shall maintain, at the facility, all items required by 40 CFR 60.53c(h)(1) through (h)(10).
- (4) The owner or operator of a HMIWI shall establish a program for reviewing the information required by Subparagraph (3) of this Paragraph annually with each HMIWI operator.
- (5) The information required by Subparagraph (3) of this Paragraph shall be kept in a readily accessible location for all HMIWI operators. This information, along with records of training, shall be available for inspection by Division personnel upon request.

History Note: Authority G.S. 143-215.3(a)(1); 143-215.107(a)(5); 40 CFR 60.34e; Eff. October 1, 1991; Amended Eff. January 1, 2011; June 1, 2008; August 1, 2002; July 1, 2000; July 1, 1999; July 1, 1998; July 1, 1996; April 1, 1995; December 1, 1993; Readopted Eff. July 1, 2018.

15A NCAC 02D .1207 CONICAL INCINERATORS

History Note: Authority G.S. 143-215.3(a)(1); 143-215.107(a)(4),(5); Eff. October 1, 1991; Amended Eff. July 1, 2000; July 1, 1998; Repealed Eff. July 1, 2018.

15A NCAC 02D .1208 OTHER INCINERATORS

(a) Applicability.

- (1) This Rule shall apply to an incinerator not regulated by 15A NCAC 02D .1204, .1206, or 1210.
- (2) An incinerator shall be exempt from Subparagraphs (b)(6) through (b)(9) and Paragraph (c) of this Rule if:
 - (A) the incinerator is used solely to cremate pets; or
 - (B) the emissions of all toxic air pollutants from an incinerator subject to this Rule

and associated waste handling and storage are less than the levels listed in 15A NCAC 02Q .0711.

(b) Emission Standards.

- (1) The emission standards in this Rule shall apply to an incinerator subject to this Rule except if 15A NCAC 02D .0524, .1110, or .1111 apply. However, if Subparagraphs (8) or (9) of this Paragraph and 15A NCAC 02D .0524, .1110, or .1111 regulate the same pollutant, the more restrictive provision for each pollutant shall apply notwithstanding provisions of 15A NCAC 02D .0524, .1110, or .1111 to the contrary.
- (2) Particulate Matter. An incinerator subject to this Rule shall comply with one of the following emission standards for particulate matter:
 - (A) For refuse charge rates between 100 and 2000 pounds per hour, the allowable emissions rate for particulate matter from each stack or chimney of an incinerator subject to this Rule shall not exceed the level calculated with the equation $E=0.002P$ calculated to two significant figures, where "E" equals the allowable emission rate for particulate matter in pounds per hour and "P" equals the refuse charge rate in pounds per hour. For refuse charge rates of 0 to 100 pounds per hour the allowable emission rate shall not exceed 0.2 pounds per hour. For refuse charge rates of 2000 pounds per hour or greater the allowable emission rate shall not exceed 4.0 pounds per hour. Compliance with this Part shall be determined by averaging emissions over a three-hour block period.
 - (B) Instead of meeting the standards in Part (A) of this Subparagraph, the owner or operator of an incinerator subject to this Rule may choose to limit particulate emissions from the incinerator to 0.08 grains per dry standard cubic foot corrected to 12 percent carbon dioxide. In order to choose this option, the owner or operator of the incinerator shall demonstrate that the particulate ambient air quality standards will not be violated. To correct to 12 percent carbon dioxide, the measured concentration of particulate matter shall be multiplied by 12 and divided by the measured percent carbon dioxide. Compliance with this Part shall be determined by averaging

- emissions over a three-hour block period.
- (3) Visible Emissions. An incinerator subject to this Rule shall comply with 15A NCAC 02D .0521 for the control of visible emissions.
 - (4) Sulfur Dioxide. An incinerator subject to this Rule shall comply with 15A NCAC 02D .0516 for the control of sulfur dioxide emissions.
 - (5) Odorous Emissions. An incinerator subject to this Rule shall comply with 15A NCAC 02D .1806 for the control of odorous emissions.
 - (6) Hydrogen Chloride. An incinerator subject to this Rule shall control emissions of hydrogen chloride such that they do not exceed four pounds per hour unless they are reduced by at least 90 percent by weight or to no more than 50 parts per million by volume corrected to seven percent oxygen (dry basis). Compliance with this Subparagraph shall be determined by averaging emissions over a one-hour period.
 - (7) Mercury Emissions. Emissions of mercury and mercury compounds from the stack or chimney of an any incinerator subject to this Rule shall not exceed 0.032 pounds per hour. Compliance with this Subparagraph shall be determined by averaging emissions over a one-hour period.
 - (8) Toxic Emissions. The owner or operator of an incinerator subject to this Rule shall demonstrate compliance with 15A NCAC 02D .1100 according to 15A NCAC 02Q .0700.
 - (9) Ambient Standards.
 - (A) In addition to the ambient air quality standards in 15A NCAC 02D .0400, the following ambient air quality standards, measured by an annual average in milligrams per cubic meter at 77 degrees Fahrenheit (25 degrees Celsius) and 29.92 inches (760 mm) of mercury pressure and in increments above background concentrations, shall apply aggregately to all incinerators at a facility subject to this Rule:
 - (i) arsenic and its compounds
2.1x10⁻⁶
 - (ii) beryllium and its compounds
4.1x10⁻⁶
 - (iii) cadmium and its compounds
5.5x10⁻⁶
 - (iv) chromium (VI) and its compounds
8.3x10⁻⁸
 - (B) The owner or operator of a facility with incinerators subject to this Rule shall demonstrate compliance with the ambient standards in Subparts (i) through (iv) of Part (A) of this Subparagraph by following the procedures set out in 15A NCAC 02D .1106. Modeling demonstrations shall comply with the requirements of 15A NCAC 02D .0533.
- (C) The emission rates computed or used under Part (B) of this Subparagraph that demonstrate compliance with the ambient standards under Part (A) of this Subparagraph shall be specified as a permit condition for the facility with incinerators subject to this Rule as their allowable emission limits unless 15A NCAC 02D .0524, .1110 or .1111 requires more restrictive rates.
- (c) Operational Standards.
 - (1) The operational standards in this Rule shall not apply to any incinerator subject to this Rule when applicable operational standards in 15A NCAC 02D .0524, .1110, or .1111 apply.
 - (2) Crematory Incinerators. Gases generated by the combustion in a crematory incinerator shall be subjected to a minimum temperature of 1600 degrees Fahrenheit for a period of not less than one second.
 - (3) Other Incinerators. An incinerator not subject to any other rule in this Section shall meet the following requirement: Gases generated by the combustion shall be subjected to a minimum temperature of 1800 degrees Fahrenheit for a period of not less than one second. The temperature of 1800 degrees Fahrenheit shall be maintained at least 55 minutes out of each 60-minute period, but at no time shall the temperature go below 1600 degrees Fahrenheit.
 - (4) Except during a start-up procedure that has been approved pursuant to 15A NCAC 02D .0535(g), waste material shall not be loaded into any incinerator subject to this Rule when the temperature is below the minimum required temperature. Start-up procedures may be determined on a case-by-case basis pursuant to 15A NCAC 02D .0535(g). An incinerator subject to this Rule shall have automatic auxiliary burners that are capable of maintaining the required minimum temperature in the secondary chamber excluding the heat content of the wastes.
 - (d) Test Methods and Procedures.
 - (1) The test methods and procedures described in 15A NCAC 02D .2600 and in 40 CFR Part 60 Appendix A and 40 CFR Part 61 Appendix B shall be used to determine compliance with emission rates. Method 29 of 40 CFR Part 60 shall be used to determine emission rates for metals. However, Method 29 shall be used to sample for chromium (VI), and SW 846 Method 0060 shall be used for the analysis.
 - (2) The Director shall require the owner or operator to test his incinerator to demonstrate compliance with the emission standards listed in Paragraph (b) of this Rule if necessary to

determine compliance with the emission standards of Paragraph (b) of this Rule.

(e) Monitoring, Recordkeeping, and Reporting.

- (1) The owner or operator of an incinerator subject to the requirements of this Rule shall comply with the monitoring, recordkeeping, and reporting requirements in 15A NCAC 02D .0600.
- (2) The owner or operator of an incinerator, except an incinerator meeting the requirements of 15A NCAC 02D .1201(b)(4)(A) through (D), shall maintain and operate a continuous temperature monitoring and recording device for the primary chamber and, if there is a secondary chamber, for the secondary chamber. The Director shall require a temperature monitoring device for incinerators meeting the requirements of 15A NCAC 02D .1201(b)(4)(A) through (D) if the incinerator is in violation of the requirements of 15A NCAC 02D .1201(b)(4)(D). The owner or operator of an incinerator that has installed air pollution abatement equipment to reduce emissions of hydrogen chloride shall install, operate, and maintain continuous monitoring equipment to measure the pH for wet scrubber systems and the rate of alkaline injection for dry scrubber systems. The Director shall require the owner or operator of an incinerator with a permitted charge rate of 750 pounds per hour or more to install, operate, and maintain continuous monitors for oxygen or for carbon monoxide or both as necessary to determine proper operation of the incinerator. The Director shall require the owner or operator of an incinerator with a permitted charge rate of less than 750 pounds per hour to install, operate, and maintain monitors for oxygen or for carbon monoxide or both if necessary to determine proper operation of the incinerator.

(f) Excess Emissions and Start-up and Shut-down. An incinerator subject to this Rule shall comply with 15A NCAC 02D 0535.

History Note: Authority G.S. 143-215.3(a)(1); 143-215.107(a)(10); Eff. July 1, 1998; Amended Eff. August 1, 2008; June 1, 2008; July 1, 2007; January 1, 2005; August 1, 2002; July 1, 2000; July 1, 1999; Readopted Eff. July 1, 2018.

15A NCAC 02D .1210 COMMERCIAL AND INDUSTRIAL SOLID WASTE INCINERATION UNITS

(a) Applicability. Unless exempt pursuant to Paragraph (b) of this Rule, this Rule shall apply to existing commercial and industrial solid waste incineration (CISWI) units, including energy recovery units, kilns, small remote incinerators, and air curtain incinerators that burn solid waste, pursuant to 40 CFR 60.2550 and as defined in 40 CFR 60.2875. An "existing CISWI unit" means a unit that commenced construction on or before June 4, 2010, or

commenced modification or reconstruction after June 4, 2010, but no later than August 7, 2013.

(b) Exemptions. The following types of combustion units shall be exempted from this Rule:

- (1) incineration units subject to Rules 15A NCAC 02D .1203 through 15A NCAC 02D .1206 and 15A NCAC 02D .1212;
- (2) pathological waste incineration units burning 90 percent or more by weight on a calendar-quarter basis, excluding the weight of auxiliary fuel and combustion air, of pathological waste, low-level radioactive waste, or chemotherapeutic waste, as defined in 40 CFR 60.2875, if the owner or operator of the unit:
 - (A) notifies the Director that the unit qualifies for this exemption; and
 - (B) keeps records on a calendar-quarter basis of the weight of pathological waste, low-level radioactive waste, or chemotherapeutic waste burned and the weight of all other fuels and wastes burned in the unit;
- (3) small power production or cogeneration units if:
 - (A) the unit qualifies as a small power-production facility pursuant to Section 3(17)(C) of the Federal Power Act (16 U.S.C. 796(17)(C)) or as a cogeneration facility pursuant to Section 3(18)(B) of the Federal Power Act (16 U.S.C. 796(18)(B));
 - (B) the unit burns homogeneous waste, not including refuse-derived fuel, to produce electricity, steam, or other forms of energy used for industrial, commercial, heating, or cooling purposes;
 - (C) the owner or operator of the unit notifies the Director that the unit qualifies for this exemption; and
 - (D) the owner or operator of the unit maintains the records specified in 40 CFR 60.2740(v) for a small power-production facility or 40 CFR 60.2740(w) for a cogeneration facility;
- (4) units that combust waste for the primary purpose of recovering metals;
- (5) cyclonic barrel burners;
- (6) rack, part, and drum reclamation units that burn the coatings off racks used to hold small items for application of a coating;
- (7) chemical recovery units as defined in 40 CFR 60.2875;
- (8) laboratory analysis units that burn samples of materials for the purpose of chemical or physical analysis;
- (9) air curtain incinerators that meet the requirements specified in 15A NCAC 02D

.1904 and that burn only the following materials:

- (A) 100 percent wood waste;
- (B) 100 percent clean lumber; or
- (C) 100 percent mixture of only wood waste, clean lumber, and/or yard waste;

- (10) sewage treatment plants that are subject to 40 CFR 60 Subpart O Standards of Performance for Sewage Treatment Plants;
- (11) space heaters that meet the requirements of 40 CFR 279.23;
- (12) soil treatment units that thermally treat petroleum contaminated soils for the sole purpose of site remediation; and
- (13) the owner or operator of a combustion unit that is subject to this Rule may petition for an exemption to this Rule by obtaining a determination that the material being combusted is;
 - (A) not a solid waste pursuant to the legitimacy criteria of 40 CFR 241.3(b)(1);
 - (B) a non-waste pursuant to the petition process submitted pursuant to 40 CFR 241.3(c); or
 - (C) a fuel that has been processed from a discarded non-hazardous secondary material pursuant to 40 CFR 241.3(b)(4).

(c) Definitions. For the purpose of this Rule, the definitions contained in 40 CFR 60.2875 shall apply in addition to the definitions in 15A NCAC 02D .1202. Solid waste is defined pursuant to 40 CFR 60.2875 and 40 CFR Part 241 Standards for Combustion of Non-Hazardous Secondary Materials (NHSM).

(d) Compliance Schedule. All CISWI units subject to this Rule shall be in compliance with this Rule no later than February 7, 2018.

(e) Emission Standards. The emission standards in this Rule shall apply to all CISWI units subject to this Rule except if 15A NCAC 02D .0524, .1110, or .1111 applies. If Subparagraph (4) of this Paragraph and 15A NCAC 02D .0524, .1110, or .1111 regulate the same pollutant, the more restrictive provision for each pollutant shall apply, notwithstanding provisions of 15A NCAC 02D .0524, .1110, or .1111 to the contrary.

- (1) CISWI units subject to this Rule, including bypass stacks or vents, must meet the emissions limits specified in Tables 6 through 9 of 40 CFR 60 Subpart DDDD. The emission limitations shall apply at all times the unit is operating, including and not limited to startup, shutdown, or malfunction.
- (2) Units that do not use wet scrubbers shall maintain opacity to less than or equal to 10 percent opacity using an averaging time of three 1-hour blocks consisting of ten 6-minute average opacity values as measured by 40 CFR 60 Appendix A-4 Test Method 9 pursuant to Table 2 of 40 CFR 60 Subpart DDDD.

(3) Odorous Emissions. An incinerator subject to this Rule shall comply with 15A NCAC 02D .1806 for the control of odorous emissions.

(4) Toxic Emissions. The owner or operator of a CISWI unit subject to this Rule shall demonstrate compliance with 15A NCAC 02D .1100 according to 15A NCAC 02Q .0700.

(f) Operational Standards.

- (1) The operational standards in this Rule shall not apply to any CISWI unit subject to this Rule if applicable operational standards in 15A NCAC 02D .0524, .1110, or .1111 apply.
- (2) The owner or operator of a CISWI unit subject to this Rule shall operate the CISWI unit according to the provisions in 40 CFR 60.2675.
- (3) If an air pollution control device other than a wet scrubber, activated carbon sorbent injection, selective non-catalytic reduction, fabric filter, electrostatic precipitator, or dry scrubber is used to comply with this Rule or if emissions are limited in some other manner, including mass balances, to comply with the emission standards of Subparagraph (e)(1) of this Rule, the owner or operator shall petition the EPA Administrator in accordance with the requirements in 40 CFR 60.2680 for specific operating limits that shall be established during the initial performance test and be continuously monitored thereafter.

(g) Test Methods and Procedures.

- (1) For the purposes of this Paragraph, "Administrator" in 40 CFR 60.8 means "Director."
- (2) The test methods and procedures described in 15A NCAC 02D .2600, in Tables 6 through 9 of 40 CFR 60 Subpart DDDD, in 40 CFR 60.2670(b), and in 40 CFR 60.2690 shall be used to determine compliance with emission standards in Subparagraph (e)(1) of this Rule.
- (3) Compliance with the opacity limit in Subparagraph (e)(2) of this Rule shall be determined using 40 CFR 60 Appendix A-4 Test Method 9.

(h) Initial Compliance Requirements.

- (1) The owner or operator of a CISWI unit subject to this Rule shall demonstrate initial compliance with the emission limits in Subparagraph (e)(1) of this Rule and establish the operating standards in Paragraph (f) of this Rule according to the provisions in 40 CFR 60.2700 through 40 CFR 60.2706. If an owner or operator commences or recommences combusting a solid waste at an existing combustion unit at any commercial or industrial facility, the owner or operator shall comply with the requirements of this Paragraph.
- (2) The owner or operator of a CISWI unit subject to this Rule shall conduct an initial performance test pursuant to 40 CFR 60.2670, 40 CFR

60.2690, and Paragraph (g) of this Rule. The initial performance test shall be conducted no later than 180 days after February 7, 2018, or according to 40 CFR 60.2705(b) or (c). The use of the bypass stack during a performance test shall invalidate the performance test. The initial performance test shall be used to:

- (A) determine compliance with the emission standards in Subparagraph (e)(1) of this Rule;
- (B) establish compliance with opacity operating limits in 40 CFR 60.2675(h);
- (C) establish the kiln-specific emission limit in 40 CFR 60.2710(y), as applicable; and
- (D) establish operating limits using the procedures in 40 CFR 60.2675 or 40 CFR 60.2680 and in Paragraph (f) of this Rule.

(3) The owner or operator of a CISWI unit subject to this Rule shall also conduct:

- (A) a performance evaluation of each continuous emissions monitoring system (CEMS) or continuous monitoring system within 60 days of installation of the monitoring system; and
- (B) an initial air pollution control device inspection no later than 180 days after February 7, 2018, pursuant to 40 CFR 60.2706.

(i) Continuous Compliance Requirements.

- (1) The owner or operator of a CISWI unit subject to this Rule shall demonstrate continuous compliance with the emission limits in Subparagraph (e)(1) of this Rule and the operating standards in Paragraph (f) of this Rule according to the provisions in 40 CFR 60.2710 through 40 CFR 60.2725.
- (2) If an existing CISWI unit that combusted a fuel or non-waste material commences or recommences combustion of solid waste, the owner or operator shall:
 - (A) be subject to the provisions of 40 CFR 60 Subpart DDDD on the first day solid waste is introduced or reintroduced into the combustion chamber, and this date constitutes the effective date of the fuel-to-waste switch;
 - (B) complete all initial compliance demonstrations for any Section 112 standards that are applicable to the facility before commencing or recommencing combustion of solid waste; and
 - (C) provide 30 days prior notice of the effective date of the waste-to-fuel

switch identifying the parameters listed in 40 CFR 60.2710(a)(4)(i) through (v).

- (3) Pursuant to 40 CFR 60.2710(v), the use of a bypass stack at any time shall be an emissions standards deviation for particulate matter, hydrogen chloride, lead, cadmium, mercury, nitrogen oxides, sulfur dioxide, and dioxin/furans.
- (4) The owner or operator of a CISWI unit subject to this Rule shall conduct an annual performance test for the pollutants listed in Subparagraph (e)(1) of this Rule, including opacity and fugitive ash, to determine compliance with the emission standards in 40 CFR 60 Subpart DDDD Tables 6 through 9. The annual performance test shall be conducted according to the provisions in Paragraph (g) of this Rule. Annual performance tests shall not be required if CEMS or continuous opacity monitoring systems are used to determine compliance.
- (5) The owner or operator shall continuously monitor the operating parameters established in Paragraph (f) of this Rule and as specified in 40 CFR 60.2710(c) and 40 CFR 60.2735.
- (6) The owner or operator of an energy recovery unit subject to this Rule shall only burn the same types of waste and fuels used to establish applicability to this Rule and to establish operating limits during the performance test.
- (7) The owner or operator shall comply with the monitoring system-specific, unit-specific, and pollutant-specific provisions pursuant to 40 CFR 60.2710(e) through (j), (m) through (u), and (w) through (y).
- (8) The owner or operator shall conduct an annual inspection of air pollution control devices used to meet the emission limitations in this Rule, as specified in 40 CFR 60.2710(k).
- (9) The owner or operator shall develop and submit to the Director for approval a site-specific monitoring plan pursuant to the requirements in 40 CFR 60.2710(l). This plan shall be submitted at least 60 days before the initial performance evaluation of a continuous monitoring system. The owner or operator shall conduct a performance evaluation of each continuous monitoring system in accordance with the site-specific monitoring plan. The owner or operator shall operate and maintain the continuous monitoring system in continuous operation according to the site-specific monitoring plan.
- (10) The owner or operator shall meet all applicable monitoring system requirements specified in 40 CFR 60.2710(m) through (u) and (w) through (y).

(j) Monitoring.

- (1) The owner or operator of a CISWI unit subject to this Rule shall comply with the monitoring requirements in 15A NCAC 02D .0600 and 40 CFR 60.2730 through 60.2735.
- (2) For each continuous monitoring system required or optionally allowed pursuant to 40 CFR 60.2730, the owner or operator shall monitor and collect data according to 40 CFR 60.2735.
- (3) The owner or operator of a CISWI unit subject to this Rule shall establish, install, calibrate to manufacturers specifications, maintain, and operate:
 - (A) devices or methods for monitoring parameters used to determine compliance with the operating parameters established under Subparagraph (f)(2) of this Rule, as specified in 40 CFR 60.2730;
 - (B) devices or methods necessary to monitor compliance with the site-specific operating parameters established pursuant to Subparagraph (f)(3) of this Rule, as specified by 40 CFR 60.2730(c).
- (4) To demonstrate continuous compliance with an emissions limit, a facility may substitute use of a CEMS, a continuous automated sampling system, or other device specified by 40 CFR 60.2730 for conducting the annual emissions performance test and for monitoring compliance with operating parameters, as specified by 40 CFR 60.2730.
- (5) The owner or operator of a CISWI unit subject to this Rule with a bypass stack shall install, calibrate to manufacturers' specifications, maintain, and operate a device or method for measuring the use of the bypass stack. including date, time, and duration.
- (6) The owner or operator of a CISWI unit subject to this Rule shall conduct all monitoring at all times the CISWI unit is operating, except during:
 - (A) monitoring system malfunctions and associated repairs specified in 40 CFR 60.2735;
 - (B) monitoring system out-of-control periods specified in 40 CFR 60.2770(o);
 - (C) required monitoring system quality assurance or quality control activities, including calibrations checks and required zero and span adjustments of the monitoring system; and
 - (D) scheduled maintenance as defined in the site-specific monitoring plan required by Subparagraph (i)(9) of this Rule.
- (7) The data recorded during monitoring malfunctions, out-of-control periods, repairs associated with malfunctions or out-of-control periods, required quality assurance or quality control activities, and site-specific scheduled maintenance shall not be used in assessing compliance with the operating standards in Paragraph (f) of this Rule. Owners and operators of a CISWI unit subject to this Rule shall use all the data collected during all other periods, including data normalized for above-scale readings, in assessing the operation of the control device and the associated control system.
- (8) Owners or operators of a CISWI unit subject to this Rule shall perform monitoring system repairs in response to monitoring system malfunctions or out-of-control periods and return the monitoring system to operation as expeditiously as practicable.
- (9) Except for periods of monitoring system malfunctions or out-of-control periods, repairs associated with monitoring system malfunctions or out-of-control periods, and required monitoring system quality assurance or quality control activities, including, as applicable, calibration checks and required zero and span adjustments, failure to collect required monitoring data shall constitute a deviation from the monitoring requirements.
- (k) Deviations, Malfunctions, and Out of Control Periods.
 - (1) Owners and operators of a CISWI unit subject to this Rule shall report all deviations as defined in 40 CFR 60.2875 including the following:
 - (A) a deviation from operating limits in Table 3 of 40 CFR 60 Subpart DDDD or a deviation from other operating limits established pursuant to Paragraph (f), 40 CFR 60.2675(c) through (g), or 40 CFR 60.2680, including any recorded 3-hour average parameter level that is above the established maximum operating limit or below the established minimum operating limit;
 - (B) a deviation from the emission limitations established pursuant to Tables 6 through 9 of 40 CFR 60 Subpart DDDD that is detected through monitoring or during a performance test;
 - (C) a deviation from the CISWI operator qualification and accessibility requirements established pursuant to 40 CFR 60.2635; or
 - (D) a deviation from any term or condition included in the operating permit of the CISWI unit.

- (2) Owners and operators of a CISWI unit subject to this Rule shall submit all required deviation reports as specified by Paragraph (l) of this Rule. The deviation report shall be submitted by August 1 of the year for data collected during the first half of the calendar year (January 1 to June 30), and by February 1 of the following year for data collected during the second half of the calendar year (July 1 to December 31). In addition, the owner and operator shall report the deviation in the annual report specified by Paragraph (l) of this Rule.
 - (3) Owners and operators of a CISWI unit subject to this Rule shall report all malfunctions, as defined in 40 CFR 60.2875, in the annual report specified by Paragraph (j) and Paragraph (l) of this Rule.
 - (4) Owners and operators of a CISWI unit subject to this Rule shall report all periods during which a continuous monitoring system, including a CEMS, was out of control in the annual report specified by Paragraph (j) and Paragraph (l) of this Rule.
- (l) Recordkeeping and Reporting.
- (1) The owner or operator of a CISWI unit subject to this Rule shall maintain records required by this Rule on site for a period of five years in either paper copy, electronic format that can be printed upon request, or an alternate format that has been approved by the Director.
 - (2) Combustion units that are exempt units pursuant to Paragraph (b) of this Rule shall be subject to the recordkeeping and reporting requirements in 40 CFR 60.2740(u) through 40 CFR 60.2740(w).
 - (3) The owner or operator of a CISWI unit subject to this Rule shall maintain all records required by 40 CFR 60.2740 through 60.2800.
 - (4) The owner or operator of a CISWI unit subject to this Rule shall submit the following reports with the required information and by the required due dates specified in Table 5 of 40 CFR 60, Subpart DDDD:
 - (A) the waste management plan specified in 40 CFR 60.2755;
 - (B) the initial test report specified in 40 CFR 60.2760;
 - (C) the annual report specified in 40 CFR 60.2765 and 60.2770;
 - (D) the emission limitation or operating limit deviation report specified in 40 CFR 60.2775 and 60.2780;
 - (E) the qualified operator deviation notification specified in 40 CFR 60.2785(a)(1);
 - (F) the qualified operator deviation status report, specified in 40 CFR 60.2785(a)(2);
 - (G) the qualified operator deviation notification of resuming operation specified in 40 CFR 60.2785(b).
 - (5) The owner or operator shall maintain CISWI unit operator records specified by 40 CFR 60.2660, 60.2665, and 60.2740(g) through (i). If the CISWI unit has been shut down by the Director pursuant to 40 CFR 60.2665(b)(2) due to failure to provide an accessible qualified operator, the owner or operator shall notify the Director that the operations have resumed after a qualified operator is accessible.
 - (6) The owner or operator of a CISWI unit subject to this Rule may request changing semiannual or annual reporting dates specified in this Paragraph, and the Director shall review the requested change using the procedures specified in 40 CFR 60.19(c).
 - (7) Reports shall be submitted to US EPA as specified in 40 CFR 60.2795.
 - (A) The owner or operator of the CISWI unit shall submit initial, annual, and deviation reports electronically on or before the submittal due dates specified in 40 CFR 60.2795(a) via the Compliance and Emissions Data Reporting Interface (CEDRI), which can be accessed through the EPA's Central Data Exchange (CDX) (<https://cdx.epa.gov/>). Reports required pursuant to this Rule shall be submitted electronically or in paper format and postmarked on or before the submittal due dates.
 - (B) The owner or operator shall submit results of each performance test and CEMS performance evaluation within 60 days of the test or evaluation following the procedure specified in 40 CFR 60.2795(b).
 - (i) For data collected using test methods supported by the EPA's Electronic Reporting Tool (ERT) listed on the EPA's ERT Web site (https://www3.epa.gov/ttn/chief/ert/ert_info.html) at the time of the test, the owner or operator shall submit the results of the performance test to the EPA via the CEDRI.
 - (ii) For data collected using test methods that are not supported by the EPA's ERT listed on the EPA's ERT Web site at the time of the test, the owner or operator shall submit the results of the

- performance test to the Director.
- (m) Operator Training and Certification.
- (1) The owner or operator of the CISWI unit subject to this Rule shall not allow the CISWI unit to operate at any time unless a fully trained and qualified CISWI unit operator is present at the facility or can be present at the facility within one hour. The trained and qualified CISWI unit operator may operate the CISWI unit directly or be the direct supervisor of one or more plant personnel who operate the unit.
 - (2) Operator training and qualification shall be obtained by completing the requirements of 40 CFR 60.2635(c) by the later of:
 - (A) six months after CISWI unit startup;
 - (B) six months after an employee assumes responsibility for operating the CISWI unit or assumes responsibility for supervising the operation of the CISWI unit; or
 - (C) February 7, 2018.
 - (3) Operator qualification shall be valid from the date on which the training course is completed and the operator passes the examination required by 40 CFR 60.2635(c)(2).
 - (4) Operator qualification shall be maintained by completing an annual review or refresher course covering, at a minimum, the topics specified in 40 CFR 60.2650(a) through (e).
 - (5) Lapsed operator qualification shall be renewed by:
 - (A) completing a standard annual refresher course as specified in Subparagraph (4) of this Paragraph for a lapse less than three years; or
 - (B) repeating the initial qualification requirements as specified in Subparagraph (2) of this Paragraph for a lapse of three years or more.
 - (6) The owner or operator of a CISWI unit subject to this Rule shall:
 - (A) have documentation specified in 40 CFR 60.2660(a)(1) through (10) and (c)(1) through (c)(3) available at the facility, accessible for all CISWI unit operators, and suitable for inspection upon request;
 - (B) establish a program for reviewing the documentation specified in Part (A) of this Subparagraph with each CISWI unit operator. The initial review of the documentation specified in Part (A) of this Subparagraph shall be conducted no later than February 7, 2018, or no later than six months after an employee assumes responsibility for operating the CISWI unit or assumes

- (C) responsibility for supervising the operation of the CISWI unit; and conduct subsequent annual reviews of the documentation specified in Part (A) of this Subparagraph no later than twelve months following the previous review.
- (7) The owner or operator of a CISWI unit subject to this Rule shall meet one of the two criteria specified in 40 CFR 60.2665(a) and (b), if all qualified operators are temporarily not at the facility and not able to be at the facility within one hour.
- (n) Prohibited waste. The owner or operator of a CISWI subject to this Rule shall not incinerate any of the wastes listed in G.S. 130A-309.10(f1).
- (o) Waste Management Plan.
 - (1) The owner or operator of a CISWI unit subject to this Rule shall submit a written waste management plan to the Director that identifies the feasibility and the methods used to reduce or separate components of solid waste from the waste stream in order to reduce or eliminate toxic emissions from incinerated waste.
 - (2) The waste management plan shall include:
 - (A) consideration of the reduction or separation of waste-stream elements such as paper, cardboard, plastics, glass, batteries, or metals and the use of recyclable materials;
 - (B) a description of how the materials listed in G.S. 130A-309.10(f1) are to be segregated from the waste stream for recycling or proper disposal;
 - (C) identification of any additional waste management measures; and
 - (D) implementation of those measures considered practical and feasible based on the effectiveness of waste management measures already in place, the costs of additional measures, the emissions reductions expected to be achieved, and the environmental or energy impacts that the measures may have.

History Note: Authority G.S. 143-215.3(a)(1); 143-215.65; 143-215.66; 143-215.107(a)(4),(5); 40 CFR 60.215(a)(4); Eff. August 1, 2002; Amended Eff. June 1, 2008; January 1, 2005; Readopted Eff. July 1, 2018.

15A NCAC 02D .1211 OTHER SOLID WASTE INCINERATION UNITS

History Note: Authority G.S. 143-215.3(a)(1); 143-215.65; 143-215.66; 143-215.107(a)(4), (5), (10); 40 CFR 60.3014 through 60.3020; Eff. August 1, 2007;

Repealed Eff. July 1, 2018.

15A NCAC 02D .1212 SMALL MUNICIPAL WASTE COMBUSTORS

History Note: Authority G.S. 143-215.3(a)(1); 143-215.107(a)(3),(4),(5); 40 CFR 60.35b; 40 CFR 60.34e; 40 CFR 60.1515;

Eff. July 1, 2010;

Repealed Eff. July 1, 2018.

15A NCAC 02Q .0701 APPLICABILITY

Except as set forth in 15A NCAC 02Q .0702, no person shall cause or allow any toxic air pollutant named in 15A NCAC 02D .1104 to be emitted from any facility into the atmosphere at a rate that exceeds the applicable rate(s) in 15A NCAC 02Q .0711 without having received a permit to emit toxic air pollutants as follows:

- (1) new facilities pursuant to 15A NCAC 02Q .0704; or
- (2) modifications pursuant to 15A NCAC 02Q .0706.

History Note: Authority G.S. 143-215.3(a)(1); 143-215.107; 143-215.108; 143B-282;

Rule originally codified as part of 15A NCAC 2H .0610;

Eff. July 1, 1998;

Amended Eff. May 1, 2014; July 10, 2010; February 1, 2005;

Readopted Eff. July 1, 2018.

15A NCAC 02Q .0702 EXEMPTIONS

(a) A permit to emit toxic air pollutants shall not be required pursuant to this Section for:

- (1) residential wood stoves, heaters, or fireplaces;
- (2) water heaters that are used for domestic purposes only and are not used to heat process water;
- (3) maintenance, structural changes, or repairs the do not change capacity of that process, fuel-burning, refuse-burning, or control equipment and do not involve any change in quality or nature or increase in quantity of emission of any regulated air pollutant or toxic air pollutant;
- (4) housekeeping activities or building maintenance procedures, including painting buildings, resurfacing floors, roof repair, washing, cleaning with portable vacuum cleaners, sweeping, use and associated storage of janitorial products, or non-asbestos-bearing insulation removal;
- (5) use of office supplies, supplies to maintain copying equipment, or blueprint machines;
- (6) paving parking lots;
- (7) replacement of existing equipment with equipment of the same size, type, and function if the new equipment:
 - (A) does not result in an increase to the actual or potential emissions of any

regulated air pollutant or toxic air pollutant;

- (B) does not affect compliance status; and
- (C) fits the description of the existing equipment in the permit, including the application, such that the replacement equipment can be operated pursuant to that permit without any changes to the permit;

- (8) comfort air conditioning or comfort ventilation systems that do not transport, remove, or exhaust regulated air pollutants to the atmosphere;
- (9) equipment used for the preparation of food for direct on-site human consumption;
- (10) non-self-propelled non-road engines regulated by rules adopted by the Environmental Protection Agency pursuant to Title II of the federal Clean Air Act, except generators;
- (11) stacks or vents to prevent escape of sewer gases from domestic waste through plumbing traps;
- (12) use of fire-fighting equipment;
- (13) the use for agricultural operations by a farmer of fertilizers, pesticides, or other agricultural chemicals containing one or more of the compounds listed in 15A NCAC 02D .1104 if such compounds are applied according to agronomic practices for agricultural operations acceptable to the North Carolina Department of Agriculture;
- (14) asbestos demolition and renovation projects that comply with 15A NCAC 02D .1110 and that are being done by persons accredited by the Department of Health and Human Services pursuant to the Asbestos Hazard Emergency Response Act;
- (15) incinerators used only to dispose of dead animals or poultry as identified in 15A NCAC 02D .1201(b)(4) or incinerators used only to dispose of dead pets as identified in 15A NCAC 02D .1208(a)(2)(A);
- (16) refrigeration equipment that is consistent with Section 601 through 618 of Title VI (Stratospheric Ozone Protection) of the federal Clean Air Act, 40 CFR Part 82, and any other regulations promulgated by EPA pursuant to Title VI for stratospheric ozone protection, except those units used as or with air pollution control equipment;
- (17) laboratory activities:
 - (A) bench-scale, on-site equipment used exclusively for chemical or physical analysis for quality control purposes, staff instruction, water or wastewater analyses, or non-production environmental compliance assessments;
 - (B) bench scale experimentation, chemical or physical analyses, or

- training or instruction from nonprofit, non-production educational laboratories;
- (C) bench scale experimentation, chemical or physical analyses, or training or instruction from hospital or health laboratories pursuant to the determination or diagnoses of illnesses; and
- (D) research and development laboratory activities that are not required to be permitted pursuant to 15A NCAC 02Q .0500, provided the activity produces no commercial product or feedstock material;
- (18) combustion sources as defined in 15A NCAC 02Q .0703, except new or modified combustion sources permitted on or after July 10, 2010;
- (19) storage tanks used only to store:
 - (A) inorganic liquids with a true vapor pressure less than 1.5 pounds per square inch absolute;
 - (B) fuel oils, kerosene, diesel, crude oil, used motor oil, lubricants, cooling oils, natural gas, liquefied petroleum gas, or petroleum products with a true vapor pressure less than 1.5 pounds per square inch absolute;
- (20) dispensing equipment used solely to dispense diesel fuel, kerosene, lubricants, or cooling oils;
- (21) portable solvent distillation systems that are used for on-site solvent recycling if:
 - (A) the portable solvent distillation system is not owned by the facility;
 - (B) the portable solvent distillation system is not operated for more than seven consecutive days; and
 - (C) the material recycled is recycled at the site of origin;
- (22) processes:
 - (A) electric motor burn-out ovens with secondary combustion chambers or afterburners;
 - (B) electric motor bake-on ovens;
 - (C) burn-off ovens for paint-line hangers with afterburners;
 - (D) hosiery knitting machines and associated lint screens, hosiery dryers and associated lint screens, and hosiery dyeing processes in which bleach or solvent dyes are not used;
 - (E) blade wood planers planing only green wood; and
 - (F) saw mills that saw no more than 2,000,000 board feet per year, provided only green wood is sawed;
- (23) wood furniture manufacturing operations as defined in 40 CFR 63.801(a) that comply with the emission limitations and other requirements of 40 CFR Part 63 Subpart JJ, provided that the terms of this exclusion shall not affect the authority of the Director pursuant to 15A NCAC 02Q .0712;
- (24) wastewater treatment systems at pulp and paper mills for hydrogen sulfide and methyl mercaptan only;
- (25) natural gas and propane fired external combustion sources with an aggregate allowable heat input value less than 450 million Btu per hour that are the only source of benzene at a facility;
- (26) internal combustion sources that are either of the following:
 - (A) emergency engines with an aggregate total horsepower less than 4843 horsepower that are the only source of formaldehyde at a facility; or
 - (B) stationary combustion turbines with an aggregate allowable heat input value less than 56 million Btu per hour that are the only source of formaldehyde at a facility;
- (27) an air emission source that is any of the following:
 - (A) subject to an applicable requirement pursuant to 40 CFR Part 61, as amended;
 - (B) an affected source pursuant to 40 CFR Part 63, as amended; or
 - (C) subject to a case-by-case MACT permit requirement issued by the Division pursuant to Paragraph (j) of 42 U.S.C. Section 7412, as amended;
- (28) gasoline-dispensing facilities or gasoline service station operations that comply with 15A NCAC 02D .0928 and .0932 and that receive gasoline from bulk gasoline plants or bulk gasoline terminals that comply with 15A NCAC 02D .0524, .0925, .0926, .0927, .0932, and .0933 via tank trucks that comply with 15A NCAC 02D .0932;
- (29) the use of ethylene oxide as a sterilant in the production and subsequent storage of medical devices or the packaging and subsequent storage of medical devices for sale if the emissions from all new and existing sources at a facility described in 15A NCAC 02D .0538(d) are controlled to the degree described in 15A NCAC 02D .0538(d) and the facility complies with 15A NCAC 02D .0538(e) and (f);
- (30) bulk gasoline plants, including the storage and handling of fuel oils, kerosenes, and jet fuels but excluding the storage and handling of other organic liquids, that comply with 15A NCAC 02D .0524, .0925, .0926, .0932, and .0933 unless the Director finds that a permit to emit toxic air pollutants is required under Paragraph

- (b) of this Rule or 15A NCAC 02Q .0712 for a particular bulk gasoline plant; or
- (31) bulk gasoline terminals, including the storage and handling of fuel oils, kerosenes, and jet fuels but excluding the storage and handling of other organic liquids, that comply with 15A NCAC 02D .0524, .0925, .0927, .0932, and .0933 if the bulk gasoline terminal existed before November 1, 1992, unless:
- (A) a permit to emit toxic air pollutants is required under Paragraph (b) of this Rule or 15A NCAC 02Q .0712 for a particular bulk gasoline terminal; or
- (B) the owner or operator of the bulk gasoline terminal meets the requirements of 15A NCAC 02D .0927(i).

(b) Emissions from the activities identified in Subparagraphs (a)(28) through (a)(31) of this Rule shall be considered in determining compliance with the toxic air pollutant requirements of this Section and shall be addressed in the permit if necessary to assure compliance. Emissions from the activities identified in Subparagraphs (a)(1) through (a)(27) of this Rule shall not be considered in determining compliance with the toxic air pollutant requirements in this Section if the terms of this exclusion will not affect the authority of the Director pursuant to 15A NCAC 02Q .0712.

(c) The addition or modification of an activity identified in Paragraph (a) of this Rule shall not cause the source or facility to be evaluated for emissions of toxic air pollutants.

(d) A source that is exempt from being permitted under this Section shall not be exempt from any applicable requirement other than those pursuant to 15A NCAC 02Q .0700 and 02D .1100. Additionally, the owner or operator of the source shall not be exempt from demonstrating compliance with any applicable requirement other than those exempt pursuant to 15A NCAC 02Q .0700 and 02D .1100.

History Note: Authority G.S. 143-215.3(a)(1); 143-215.107; 143-215.108; 143B-282;

Rule originally codified as part of 15A NCAC 02H .0610; Eff. July 1, 1998;

Amended Eff. May 1, 2014; July 10, 2010; April 1, 2005; July 1, 2002; July 1, 2000;

Readopted Eff. July 1, 2018.

15A NCAC 02Q .0703 DEFINITIONS

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

- (1) "Actual rate of emissions" means:
- (a) for existing sources:
- (i) for toxic air pollutants with an annual averaging period, the average rate or rates at which the source emitted the pollutant during the two-year period preceding the date of the particular modification and that represents the normal operation of the

source. If this period does not represent the normal operation, the Director may allow the use of a different, more representative, period.

- (ii) for toxic air pollutants with a 24-hour or one-hour averaging period, the maximum actual emission rate at which the source emitted the pollutant for the applicable averaging period during the two-year period preceding the date of the particular modification and that represents normal operation of the source. If this period does not represent normal operation, the Director may require or allow the use of a different, more representative, period.

- (b) for new or modified sources, the average rate or rates, determined for the applicable averaging periods, that the proposed source will emit the pollutant as determined by engineering evaluation.

- (2) "Applicable averaging period" means the averaging period for which an acceptable ambient limit has been established by the Commission in 15A NCAC 02D .1104, including the provisions in 15A NCAC 02D .1106(d).

- (3) "Bioavailable chromate pigments" means the group of chromium (VI) compounds consisting of calcium chromate (CAS No.13765-19-0), calcium dichromate (CAS No. 14307-33-6), strontium chromate (CAS No. 7789-06-2), strontium dichromate (CAS No. 7789-06-2), zinc chromate (CAS No. 13530-65-9), and zinc dichromate (CAS No. 7789-12-0).

- (4) "CAS Number" means the Chemical Abstract Service registry number identifying a particular substance.

- (5) "Chromium (VI) equivalent" means the molecular weight ratio of the chromium (VI) portion of a compound to the total molecular weight of the compound multiplied by the associated compound emission rate or concentration at the facility.

- (6) "Combustion sources" means boilers, space heaters, process heaters, internal combustion engines, and combustion turbines that combust wood, unadulterated fossil fuels, or non-hazardous secondary materials that are not solid wastes pursuant to 40 CFR Part 241. It does not include incinerators, waste combustors, kilns,

- dryers, or direct heat exchange industrial processes.
- (7) "Creditable emissions" means emission decreases that have not been previously relied on to comply with Subchapter 15A NCAC 02D as part of a permit condition.
- (8) "Cresol" means o-cresol, p-cresol, m-cresol, or any combination of these compounds.
- (9) "Evaluation" means:
- a determination that the emissions from the facility, including emissions from sources exempted by 15A NCAC 02Q .0702(a)(28) through (31), are less than the rate listed in 15A NCAC 02Q .0711; or
 - a determination of ambient air concentrations as described pursuant to 15A NCAC 02D .1106, including emissions from sources exempted by 15A NCAC 02Q .0702(a)(28) through (31).
- (10) "GACT" means a generally available control technology emission standard applied to an area source or facility pursuant to Section 112 of the federal Clean Air Act.
- (11) "Hexane isomers except n-hexane" means 2-methyl pentane, 3-methyl pentane, 2,2-dimethyl butane, 2,3-dimethyl butane, or any combination of these compounds.
- (12) "MACT" means a maximum achievable control technology emission standard applied to a source or facility pursuant to Section 112 federal Clean Air Act.
- (13) "Maximum feasible control" means the maximum degree of reduction for each pollutant subject to regulation under this Section using the best technology that is available taking into account, on a case-by-case basis, human health, energy, environmental, and economic impacts and other costs.
- (14) "Modification" means a physical changes or changes in the methods of operation that result in a net increase in emissions or ambient concentration of a pollutant listed in 15A NCAC 02Q .0711 or that result in the emission of any pollutant listed in 15A NCAC 02Q .0711 not previously emitted.
- (15) "Net increase in emissions" for a modification means the sum of all increases in permitted allowable and decreases in the actual rates of emissions from the proposed modification from the sources at the facility for which the air permit application is being filed. If the net increase in emissions from the proposed modification is greater than zero, all other increases in permitted allowable and decreases in the actual rates of emissions at the facility within the five years immediately preceding the filing of the air permit application for the proposed modification that are otherwise creditable emissions may be included.
- (16) "Nickel, soluble compounds" means the soluble nickel salts of chloride (NiCl_2 , CAS No. 7718-54-9), sulfate (NiSO_4 , CAS No. 7786-81-4), and nitrate ($\text{Ni}(\text{NO}_3)_2$, CAS No. 13138-45-9).
- (17) "Non-specific chromium (VI) compounds" means the group of compounds consisting of any chromium (VI) compounds not specified in this Section as a bioavailable chromate pigment or a soluble chromate compound.
- (18) "Polychlorinated biphenyls" means any chlorinated biphenyl compound or mixture of chlorinated biphenyl compounds.
- (19) "Pollution prevention plan" means a written description of current and projected plans to reduce, prevent, or minimize the generation of pollutants by source reduction and recycling and includes a site-wide assessment of pollution prevention opportunities at a facility that addresses sources of air pollution, water pollution, and solid and hazardous waste generation.
- (20) "Soluble chromate compounds" means the group of chromium (VI) compounds consisting of ammonium chromate (CAS No. 7788-98-9), ammonium dichromate (CAS No. 7789-09-5), chromic acid (CAS No. 7738-94-5), potassium chromate (CAS No. 7789-00-6), potassium dichromate (CAS No. 7778-50-9), sodium chromate (CAS No. 7775-11-3), and sodium dichromate (CAS No. 10588-01-9).

History Note: Authority G.S. 143-215.3(a)(1); 143-215.107; 143-215.108; 143B-282;
Rule originally codified as part of 15A NCAC 02H .0610;
Eff. July 1, 1998;
Amended Eff. May 1, 2014; April 1, 2001;
Readopted Eff. July 1, 2018.

15A NCAC 02Q .0704 NEW FACILITIES

- This Rule shall apply only to new facilities.
- The owner or operator of a facility that is required to have a permit pursuant to 15A NCAC 02Q .0300 or .0500 and is subject to a Section in 15A NCAC 02D, other than 15A NCAC 02D .1100, shall receive a permit to emit toxic air pollutants before beginning construction and shall comply with the permit when beginning operation. This Rule shall not apply to facilities whose emissions of toxic air pollutants result only from sources exempted pursuant to 15A NCAC 02Q .0102.
- The owner or operator of the facility shall submit a permit application to comply with 15A NCAC 02D .1100 if emissions of any toxic air pollutant, excluding sources exempt from evaluation pursuant to 15A NCAC 02Q .0702, exceed the levels set forth in 15A NCAC 02Q .0711. Sources meeting the exemption set forth in 15A NCAC 02Q .0702(a)(27) shall be reviewed by the Division pursuant to G.S. 143-215.107(a)(5)b.
- A permit application filed pursuant to this Rule shall include an evaluation for all toxic air pollutants. All sources at the facility,

excluding sources exempt from evaluation pursuant to 15A NCAC 02Q .0702, emitting these toxic air pollutants shall be included in the evaluation.

History Note: Authority G.S. 143-215.3(a)(1); 143-215.107; 143-215.108; 143B-282;

Rule originally codified as part of 15A NCAC 2H .0610;

Eff. July 1, 1998;

Amended Eff. May 1, 2014;

Readopted Eff. July 1, 2018.

15A NCAC 02Q .0706 MODIFICATIONS

(a) The owner or operator shall comply with Paragraphs (b) and (c) of this Rule for a modification that is subject to a Section in 15A NCAC 02D other than 15A NCAC 02D .1100 and that:

- (1) requires a permit pursuant to 15A NCAC 02Q .0300; or
- (2) occurs at a facility with a permit pursuant to 15A NCAC 02Q .0500 and emits a pollutant that is part of the facility's previous modeling demonstration conducted pursuant to 15A NCAC 02D .1104 and 15A NCAC 02Q .0709, if that modification is not exempted pursuant to 15A NCAC 02Q .0702.

This Rule shall not apply to facilities whose emissions of toxic air pollutants result only from insignificant activities, as defined in 15A NCAC 02Q .0103(20), or result only from sources exempted pursuant to 15A NCAC 02Q .0102.

(b) The owner or operator of the facility shall submit a permit application to that complies with 15A NCAC 02D .1100 if the modification results in:

- (1) a net increase in emissions or ambient concentration as previously determined pursuant to 15A NCAC 02D .1106 and 15A NCAC 02Q .0709 of any toxic air pollutant that the facility was emitting before the modification; or
- (2) emissions of any toxic air pollutant that the facility was not emitting before the modification if such emissions exceed the levels set forth in 15A NCAC 02Q .0711.

(c) The permit application filed pursuant to this Rule shall include an evaluation for all toxic air pollutants identified pursuant to Paragraph (b) of this Rule.

All sources at the facility, excluding sources exempt from evaluation pursuant to 15A NCAC 02Q .0702, emitting these toxic air pollutants shall be included in the evaluation. Sources meeting the exemption set forth in 15A NCAC 02Q .0702(a)(27) shall be reviewed by the Division pursuant to G.S. 143-215.107(a)(5)b.

(d) If a source is included in an air toxic evaluation but is not the source that is being added or modified at the facility, and if the emissions from this source must be reduced in order for the facility to comply with the rules in this Section and 15A NCAC 02D .1100, the emissions from this source shall be reduced by the time the new or modified source begins operating such that the facility shall be in compliance with the rules of this Section and 15A NCAC 02D .1100.

History Note: Authority G.S. 143-215.3(a)(1); 143-215.107; 143-215.108; 143B-282;

Rule originally codified as part of 15A NCAC 2H .0610;

Eff. July 1, 1998;

Amended Eff. May 1, 2014; July 10, 2010; December 1, 2005; April 1, 2005;

Readopted Eff. July 1, 2018.

15A NCAC 02Q .0707 PREVIOUSLY PERMITTED FACILITIES

A facility with a permit that contains a restriction based on the evaluation of a source exempted pursuant to 15A NCAC 02Q .0702 may request a permit modification to adjust the restriction by removing from consideration the portion of emissions resulting from the exempt source unless the removal of the exempt source will result in an acceptable ambient level in 15A NCAC 02D .1104 being exceeded. The Director shall modify the permit to remove the applicability of the air toxic rules to the exempt source. No fee shall be charged solely for such a permit modification.

History Note: Authority G.S. 143-215.3(a)(1); 143-215.108; 143B-282; S.L. 1989, c. 168, s. 45;

Rule originally codified as part of 15A NCAC 2H .0610;

Eff. July 1, 1998;

Readopted Eff. July 1, 2018.

15A NCAC 02Q .0708 COMPLIANCE SCHEDULE FOR PREVIOUSLY UNKNOWN TOXIC AIR POLLUTANT EMISSIONS

(a) The owner or operator of a facility permitted to emit toxic air pollutants shall submit a permit application within six months after the owner or operator learns of an emission of a previously unknown toxic air pollutant from a source at the facility that would have been included in the permit when it was issued. The application shall include the information required by Paragraph (b) of this Rule.

(b) When an application to revise a permit is submitted under this Rule, the owner or operator shall in addition to the application, submit to the Director:

- (1) an evaluation for the pollutant required by this Section and 15 NCAC 02D .1100 that demonstrates compliance with the acceptable ambient level set forth in 15A NCAC 02D .1104; or
- (2) a compliance schedule containing the information required by Paragraph (c) of this Rule for the proposed modifications to the facility, required to assure compliance with the acceptable ambient level pursuant to this Section and Section 15A NCAC 02Q .1100.

(c) The compliance schedule required under Subparagraph (b)(2) of this Rule shall contain the following increments of progress, as applicable:

- (1) a date by which contracts for emission control and process equipment will be awarded or orders will be issued for the purchase of component parts;

- (2) a date by which on-site construction or installation of the emission control and process equipment will begin;
 - (3) a date by which on-site construction or installation of the emission control and process equipment will be completed; and
 - (4) the date by which final compliance will be achieved.
- (d) Final compliance shall be achieved no later than:
- (1) six months after the permit modification or renewal was issued if construction or installation of emission control or process equipment was not required;
 - (2) one year after the permit modification or renewal was issued if construction or installation of emission control or process equipment is required; or
 - (3) the time that was normally required to construct a stack or install other dispersion enhancement modifications but not more than one year after the permit modification or renewal was issued.
- (e) The owner or operator shall certify to the Director, within 10 days after each applicable deadline for each increment of progress required in Paragraph (c) of this Rule, whether the required increment of progress has been met.

History Note: Authority G.S. 143-215.3(a)(1); 143-215.107(a)(3),(5); 143B-282; S.L. 1989, c. 168, s. 45; Eff. July 1, 1998; Readopted Eff. July 1, 2018.

15A NCAC 02Q .0709 DEMONSTRATIONS

(a) Demonstrations. The owner or operator of a source that is applying for a permit or permit modification to emit toxic air pollutants shall:

- (1) demonstrate to the Director through dispersion modeling conducted pursuant to 15A NCAC 02D .1106 that the emissions of toxic air pollutants from the facility will not cause any acceptable ambient level listed in 15A NCAC 02D .1104 to be exceeded beyond the facility's premises with such exceptions as may be allowed pursuant to 15A NCAC 02Q .0700; or
- (2) demonstrate to the Commission or its delegate that the ambient concentration beyond the premises (adjacent property boundary) for the subject toxic air pollutant will not adversely affect human health (e.g., with a risk assessment specific to the facility) though the concentration is higher than the acceptable ambient level in 15A NCAC 02D .1104 by providing one of the following demonstrations:
 - (A) the area where the ambient concentrations are expected to exceed the acceptable ambient levels in 15A NCAC 02D .1104 is not inhabitable or occupied for the duration of the averaging time of the pollutant of concern; or

- (B) new toxicological data that show that the acceptable ambient level in 15A NCAC 02D .1104 for the pollutant of concern is too low and the facility's ambient impact is below the level indicated by the new toxicological data.

(b) Technical Infeasibility and Economic Hardship. This Paragraph shall not apply to any incinerator governed by 15A NCAC 02D .1200. The owner or operator of any source constructed before May 1, 1990, or a combustion source as defined in 15A NCAC 02Q .0703 permitted before July 10, 2010, that cannot supply a demonstration described in Paragraph (a) of this Rule shall:

- (1) demonstrate to the Commission or its delegate that complying with the guidelines in 15A NCAC 02D .1104 is technically infeasible, because the technology necessary to reduce emissions to a level to prevent the acceptable ambient levels in 15A NCAC 02D .1104 from being exceeded does not exist; or
- (2) demonstrate to the Commission or its delegate that complying with the guidelines in 15A NCAC 02D .1104 would result in serious economic hardship. In deciding if a serious economic hardship exists, the Commission or its delegate shall consider market impact; impacts on local, regional, and state economy; risk of closure; capital cost of compliance; annual incremental compliance cost; and environmental and health impacts.

If the owner or operator makes a demonstration pursuant to Subparagraphs (1) or (2) of this Paragraph, the Director shall require the owner or operator of the source to apply maximum feasible control. Maximum feasible control shall be in place and operating within three years from the date that the permit is issued for the maximum feasible control.

(c) Pollution Prevention Plan. The owner or operator of any facility using the provisions of Part (a)(2)(A) or Paragraph (b) of this Rule shall develop and implement a pollution prevention plan consisting of the following elements:

- (1) a statement of corporate and facility commitment to pollution prevention;
- (2) an identification of current and past pollution prevention activities;
- (3) a timeline and strategy for implementation;
- (4) a description of ongoing and planned employee education efforts; and
- (5) an identification of internal pollution prevention goals selected by the facility and expressed in either qualitative or quantitative terms.

The facility shall submit the plan along with the permit application. The plan shall be maintained on site. A progress report on implementation of the plan shall be prepared by the facility annually and be made available to Division personnel for review upon request.

(d) Modeling Demonstration. If the owner or operator of a facility demonstrates by modeling that no toxic air pollutant emitted from

the facility exceeds the acceptable ambient level values set out in 15A NCAC 02D .1104 beyond the facility's premises, further modeling demonstration shall not be required with the permit application. However, the Commission may still require more stringent emission levels based on its analysis pursuant to 15A NCAC 02D .1107.

(e) Change in Acceptable Ambient Level. When an acceptable ambient level for a toxic air pollutant in 15A NCAC 02D .1104 is changed, any condition that has previously been put in a permit to ensure compliance with the previous acceptable ambient level for that toxic air pollutant shall not be changed until:

- (1) The permit is renewed, at which time the owner or operator of the facility shall submit an air toxic evaluation, excluding sources exempt from evaluation in 15A NCAC 02Q .0702, showing that the new acceptable ambient level will not be exceeded. If additional time is needed to bring the facility into compliance with the new acceptable ambient level, the owner or operator shall negotiate a compliance schedule with the Director to protect public health as demonstrated pursuant to this Rule. The compliance schedule shall be written into the facility's permit and final compliance shall not exceed two years from the effective date of the change in the acceptable ambient level; or
- (2) The owner or operator of the facility requests that the condition be changed and submits along with that request an air toxic evaluation, excluding sources exempt from evaluation in 15A NCAC 02Q .0702, showing that the new acceptable ambient level shall not be exceeded.

History Note: Authority G.S. 143-215.3(a)(1); 143-215.107; 143-215.108; 143B-282;

Rule originally codified as part of 15A NCAC 2H .0610;

Eff. July 1, 1998;

Amended Eff. May 1, 2014; July 10, 2010; February 1, 2005;

Readopted Eff. July 1, 2018.

15A NCAC 02Q .0710 PUBLIC NOTICE AND OPPORTUNITY FOR PUBLIC HEARING

(a) If the owner or operator of a facility chooses to make a demonstration pursuant to 15A NCAC 02Q .0709(a)(2) or (b), the Commission or its delegate shall approve or disapprove the permit after a public notice with an opportunity for a public hearing.

(b) The public notice shall be given by publication in a newspaper of general circulation in the area where the facility is located and shall be mailed to persons who are on the Division's mailing list for air quality permit notices.

(c) The public notice shall identify:

- (1) the affected facility;

- (2) the name and address of the permittee;
- (3) the name and address of the person to whom to send comments and requests for public hearing;
- (4) the name, address, and telephone number of a Divisional staff person from whom interested persons may obtain additional information, including copies of the draft permit, the application, compliance plan, pollution prevention plan, monitoring and compliance reports, all other relevant supporting materials, and all other materials available to the Division that are relevant to the permit decision;
- (5) the activity or activities involved in the permit action;
- (6) emissions change involved in the proposed permit modification;
- (7) a brief description of the public comment procedures;
- (8) the procedures to follow to request a public hearing unless a public hearing has already been scheduled; and
- (9) the time and place of a hearing that has already been scheduled.

(d) The notice shall allow at least 30 days for public comments.

(e) If the Director determines that significant public interest exists or that the public interest will be served, the Director shall require a public hearing to be held on a draft permit. Notice of a public hearing shall be given at least 30 days before the public hearing.

(f) The Director shall make available for public inspection, in at least one location in the region affected, the information submitted by the permit applicant and the Division's analysis of that application.

(g) Any persons requesting copies of material identified in Subparagraph (c)(4) of this Rule shall pay ten cents (\$0.10) per page for each page copied. Confidential material shall be handled in accordance with 15A NCAC 02Q .0107.

History Note: Authority G.S. 143-215.3(a)(1); 143-215.108; 143B-282; S.L. 1989, c. 168, s. 45;

Rule originally codified as part of 15A NCAC 2H .0610;

Eff. July 1, 1998;

Readopted Eff. July 1, 2018.

15A NCAC 02Q .0711 EMISSION RATES REQUIRING A PERMIT

(a) A permit to emit toxic air pollutants shall be required for any facility, excluding sources exempt from evaluation by 15A NCAC 02Q .0702, if one or more emission release points are obstructed or non-vertically oriented whose actual rate of emissions by pollutant from all sources is greater than any one of the following toxic air pollutant permitting emissions rates:

Obstructed or Non-Vertical Oriented Toxic Air Pollutant Permitting Emission Rates (TPER)				
Pollutant (CAS Number)	Carcinogens lb/yr	Chronic Toxicants lb/day	Acute Systemic Toxicants lb/hr	Acute Irritants lb/hr
acetaldehyde (75-07-0)				6.8

Obstructed or Non-Vertical Oriented Toxic Air Pollutant Permitting Emission Rates (TPER)				
Pollutant (CAS Number)	Carcinogens lb/yr	Chronic Toxicants lb/day	Acute Systemic Toxicants lb/hr	Acute Irritants lb/hr
acetic acid (64-19-7)				0.96
acrolein (107-02-8)				0.02
acrylonitrile (107-13-1)		0.4	0.22	
ammonia (7664-41-7)				0.68
aniline (62-53-3)			0.25	
arsenic and inorganic arsenic compounds	0.053			
asbestos (1332-21-4)	5.7 X 10 ⁻³			
aziridine (151-56-4)		0.13		
benzene (71-43-2)	8.1			
benzidine and salts (92-87-5)	0.0010			
benzo(a)pyrene (50-32-8)	2.2			
benzyl chloride (100-44-7)			0.13	
beryllium (7440-41-7)	0.28			
beryllium chloride (7787-47-5)	0.28			
beryllium fluoride (7787-49-7)	0.28			
beryllium nitrate (13597-99-4)	0.28			
bioavailable chromate pigments, as chromium (VI) equivalent	0.0056			
bis-chloromethyl ether (542-88-1)	0.025			
bromine (7726-95-6)				0.052
1,3-butadiene (106-99-0)	11			
cadmium (7440-43-9)	0.37			
cadmium acetate (543-90-8)	0.37			
cadmium bromide (7789-42-6)	0.37			
carbon disulfide (75-15-0)		3.9		
carbon tetrachloride (56-23-5)	460			
chlorine (7782-50-5)		0.79		0.23
chlorobenzene (108-90-7)		46		
chloroform (67-66-3)	290			
chloroprene (126-99-8)		9.2	0.89	
cresol (1319-77-3)			0.56	
p-dichlorobenzene (106-46-7)				16.8
di(2-ethylhexyl)phthalate (117-81-7)		0.63		
dimethyl sulfate (77-78-1)		0.063		
1,4-dioxane (123-91-1)		12		
epichlorohydrin (106-89-8)	5600			
ethyl acetate (141-78-6)			36	
ethylenediamine (107-15-3)		6.3	0.64	
ethylene dibromide (106-93-4)	27			
ethylene dichloride (107-06-2)	260			
ethylene glycol monoethyl ether (110-80-5)		2.5	0.48	
ethylene oxide (75-21-8)	1.8			
ethyl mercaptan (75-08-1)			0.025	
fluorides		0.34	0.064	
formaldehyde (50-00-0)				0.04
hexachlorocyclopentadiene (77-47-4)		0.013	0.0025	
hexachlorodibenzo-p-dioxin (57653- 85-7)	0.0051			
n-hexane (110-54-3)		23		
hexane isomers except n-hexane				92
hydrazine (302-01-2)		0.013		
hydrogen chloride (7647-01-0)				0.18
hydrogen cyanide (74-90-8)		2.9	0.28	

Obstructed or Non-Vertical Oriented Toxic Air Pollutant Permitting Emission Rates (TPER)				
Pollutant (CAS Number)	Carcinogens lb/yr	Chronic Toxicants lb/day	Acute Systemic Toxicants lb/hr	Acute Irritants lb/hr
hydrogen fluoride (7664-39-3)		0.63		0.064
hydrogen sulfide (7783-06-4)		1.7		
maleic anhydride (108-31-6)		0.25	0.025	
manganese and compounds		0.63		
manganese cyclopentadienyl tricarbonyl (12079-65-1)		0.013		
manganese tetroxide (1317-35-7)		0.13		
mercury, alkyl		0.0013		
mercury, aryl and inorganic compounds		0.013		
mercury, vapor (7439-97-6)		0.013		
methyl chloroform (71-55-6)		250		64
methylene chloride (75-09-2)	1600		0.39	
methyl ethyl ketone (78-93-3)		78		22.4
methyl isobutyl ketone (108-10-1)		52		7.6
methyl mercaptan (74-93-1)			0.013	
nickel carbonyl (13463-39-3)		0.013		
nickel metal (7440-02-0)		0.13		
nickel, soluble compounds, as nickel		0.013		
nickel subsulfide (12035-72-2)	0.14			
nitric acid (7697-37-2)				0.256
nitrobenzene (98-95-3)		1.3	0.13	
n-nitrosodimethylamine (62-75-9)	3.4			
non-specific chromium (VI) compounds, as chromium (VI) equivalent	0.0056			
pentachlorophenol (87-86-5)		0.063	0.0064	
perchloroethylene (127-18-4)	13000			
phenol (108-95-2)			0.24	
phosgene (75-44-5)		0.052		
phosphine (7803-51-2)				0.032
polychlorinated biphenyls (1336-36-3)	5.6			
soluble chromate compounds, as chromium (VI) equivalent		0.013		
styrene (100-42-5)			2.7	
sulfuric acid (7664-93-9)		0.25	0.025	
tetrachlorodibenzo-p-dioxin (1746-01-6)	0.00020			
1,1,2,2-tetrachloroethane (79-34-5)	430			
toluene (108-88-3)		98		14.4
toluene diisocyanate, 2,4-(584-84-9) and 2,6-(91-08-7) isomers		0.003		
trichloroethylene (79-01-6)	4000			
vinyl chloride (75-01-4)	26			
vinylidene chloride (75-35-4)		2.5		
xylene (1330-20-7)		57		16.4

(b) A permit to emit toxic air pollutants shall be required for any facility if all emission release points are unobstructed and vertically oriented whose actual rate of emissions from all sources is greater than any one of the following toxic air pollutant permitting emissions rates:

Unobstructed Toxic Air Pollutant Permitting Emission Rates (TPER)				
Pollutant (CAS Number)	Carcinogens lb/yr	Chronic Toxicants lb/day	Acute Systemic Toxicants lb/hr	Acute Irritants lb/hr
acetaldehyde (75-07-0)				28.43
acetic acid (64-19-7)				3.90
acrolein (107-02-8)				0.08
acrylonitrile (107-13-1)		1.3	1.05	
ammonia (7664-41-7)				2.84
aniline (62-53-3)			1.05	
arsenic and inorganic arsenic compounds	0.194			
asbestos (1332-21-4)	7.748×10^{-3}			
aziridine (151-56-4)		0.3		
benzene (71-43-2)	11.069			
benzidine and salts (92-87-5)	1.384×10^{-3}			
benzo(a)pyrene (50-32-8)	3.044			
benzyl chloride (100-44-7)			0.53	
beryllium (7440-41-7)	0.378			
beryllium chloride (7787-47-5)	0.378			
beryllium fluoride (7787-49-7)	0.378			
beryllium nitrate (13597-99-4)	0.378			
bioavailable chromate pigments, as chromium (VI) equivalent	0.008			
bis-chloromethyl ether (542-88-1)	0.034			
bromine (7726-95-6)				0.21
1,3-butadiene (106-99-0)	40.585			
cadmium (7440-43-9)	0.507			
cadmium acetate (543-90-8)	0.507			
cadmium bromide (7789-42-6)	0.507			
carbon disulfide (75-15-0)		7.8		
carbon tetrachloride (56-23-5)	618.006			
chlorine (7782-50-5)		1.6		0.95
chlorobenzene (108-90-7)		92.7		
chloroform (67-66-3)	396.631			
chloroprene (126-99-8)		18.5	3.69	
cresol (1319-77-3)			2.32	
p-dichlorobenzene (106-46-7)				69.50
di(2-ethylhexyl)phthalate (117-81-7)		1.3		
dimethyl sulfate (77-78-1)		0.1		
1,4-dioxane (123-91-1)		23.6		
epichlorohydrin (106-89-8)	7655.891			
ethyl acetate (141-78-6)			147.41	
ethylenediamine (107-15-3)		12.6	2.63	
ethylene dibromide (106-93-4)	36.896			
ethylene dichloride (107-06-2)	350.511			
ethylene glycol monoethyl ether (110-80-5)		5.1	2.00	
ethylene oxide (75-21-8)	2.490			
ethyl mercaptan (75-08-1)			0.11	
fluorides		0.7	0.26	
formaldehyde (50-00-0)				0.16
hexachlorocyclopentadiene (77-47-4)		2.5×10^{-2}	0.01	
hexachlorodibenzo-p-dioxin (57653- 85-7)	0.007			
n-hexane (110-54-3)		46.3		
hexane isomers except n-hexane				379.07
hydrazine (302-01-2)		2.5×10^{-2}		
hydrogen chloride (7647-01-0)				0.74

Unobstructed Toxic Air Pollutant Permitting Emission Rates (TPER)				
Pollutant (CAS Number)	Carcinogens lb/yr	Chronic Toxicants lb/day	Acute Systemic Toxicants lb/hr	Acute Irritants lb/hr
hydrogen cyanide (74-90-8)		5.9	1.16	
hydrogen fluoride (7664-39-3)		1.3		0.26
hydrogen sulfide (7783-06-4)		5.1		
maleic anhydride (108-31-6)		0.5	0.11	
manganese and compounds		1.3		
manganese cyclopentadienyl tricarbonyl (12079-65-1)		2.5 x 10 ⁻²		
manganese tetroxide (1317-35-7)		0.3		
mercury, alkyl		2.5 x 10 ⁻³		
mercury, aryl and inorganic compounds		2.5 x 10 ⁻²		
mercury, vapor (7439-97-6)		2.5 x 10 ⁻²		
methyl chloroform (71-55-6)		505.4		257.98
methylene chloride (75-09-2)	2213.752		1.79	
methyl ethyl ketone (78-93-3)		155.8		93.19
methyl isobutyl ketone (108-10-1)		107.8		31.59
methyl mercaptan (74-93-1)			0.05	
nickel carbonyl (13463-39-3)		2.5 x 10 ⁻²		
nickel metal (7440-02-0)		0.3		
nickel, soluble compounds, as nickel		2.5 x 10 ⁻²		
nickel subsulfide (12035-72-2)	0.194			
nitric acid (7697-37-2)				1.05
nitrobenzene (98-95-3)		2.5	0.53	
n-nitrosodimethylamine (62-75-9)	4.612			
non-specific chromium (VI) compounds, as chromium (VI) equivalent	0.008			
pentachlorophenol (87-86-5)		0.1	0.03	
perchloroethylene (127-18-4)	17525.534			
phenol (108-95-2)			1.00	
phosgene (75-44-5)		0.1		
phosphine (7803-51-2)				0.14
polychlorinated biphenyls (1336-36-3)	7.656			
soluble chromate compounds, as chromium (VI) equivalent		2.6 x 10 ⁻²		
styrene (100-42-5)			11.16	
sulfuric acid (7664-93-9)		0.5	0.11	
tetrachlorodibenzo-p-dioxin (1746-01-6)	2.767 x 10 ⁻⁴			
1,1,2,2-tetrachloroethane (79-34-5)	581.110			
toluene (108-88-3)		197.96		58.97
toluene diisocyanate, 2,4-(584-84-9) and 2,6-(91-08-7) isomers		8.4 x 10 ⁻³		
trichloroethylene (79-01-6)	5442.140			
vinyl chloride (75-01-4)	35.051			
vinylidene chloride (75-35-4)		5.1		
xylene (1330-20-7)		113.7		68.44

(c) For the following pollutants, the highest emissions occurring in any 15-minute period shall be multiplied by four and the product shall be compared to the value in Paragraph (a) or (b), as applicable:

- (1) acetaldehyde (75-07-0);
- (2) acetic acid (64-19-7);
- (3) acrolein (107-02-8);

- (4) ammonia (7664-41-7);
- (5) bromine (7726-95-6);
- (6) chlorine (7782-50-5);
- (7) formaldehyde (50-00-0);
- (8) hydrogen chloride (7647-01-0);
- (9) hydrogen fluoride (7664-39-3); and
- (10) nitric acid (7697-37-2).

History Note: Authority G.S. 143-215.3(a)(1); 143-215-107; 143-215.108; 143B-282;
Rule originally codified as part of 15A NCAC 02H .0610;
Eff. July 1, 1998;
Amended Eff. May 1, 2015; May 1, 2014; January 1, 2010; June 1, 2008; April 1, 2005; February 1, 2005; April 1, 2001;
Readopted Eff. July 1, 2018.

15A NCAC 02Q .0712 CALLS BY THE DIRECTOR

Notwithstanding any other provision of this Section or 15A NCAC 02D .1100, upon a written finding that a source or facility emitting toxic air pollutants presents an unacceptable risk to human health based on the acceptable ambient levels in 15A NCAC 02D .1104 or epidemiology studies, the Director shall require the owner or operator of the source or facility to submit a permit application to comply with 15A NCAC 02D .1100 for any or all of the toxic air pollutants emitted from the facility.

History Note: Authority G.S. 143-215.3(a)(1); 143-215.108; 143B-282; S.L. 1989, c. 168, s. 45;
Rule originally codified as part of 15A NCAC 2H .0610;
Eff. July 1, 1998;
Readopted Eff. July 1, 2018.

15A NCAC 02Q .0713 POLLUTANTS WITH OTHERWISE APPLICABLE FEDERAL STANDARDS OR REQUIREMENTS

History Note: Authority G.S. 143-215.3(a)(1); 143-215.108; 143B-282; S.L. 1989, c. 168, s. 45;
Eff. July 1, 1998;
Repealed Eff. July 1, 2018.

15A NCAC 10A .0401 FORM AND CONTENTS OF PETITION

(a) A written petition requesting rulemaking shall be sent to the Executive Director of the Wildlife Resources Commission at 1701 Mail Service Center, Raleigh, NC 27699-1700 for U.S. Postal Service delivery or 1751 Varsity Drive, Raleigh, NC 27606-2576 for other delivery services or in person and must contain:

- (1) the name and address of the petitioner;
- (2) the name and address of the person, group, or organization, if any, on behalf of which the petition is made, together with the representative capacity of the petitioner;
- (3) the citation to any rule sought to be adopted, amended, or repealed;
- (4) suggested language for any rule sought to be adopted or amended and a statement of its desired effect; and
- (5) the signature of the petitioner.

(b) In addition to the foregoing, the petition may contain expression of any reasons in support or arguments in favor of the regulatory action proposed. Any tables, charts, maps, publications, photographs, or other supporting materials that the

petitioner deems pertinent to the proposal may be included by way of exhibits or attachments.

History Note: Authority G.S. 150B-20;
Eff. February 1, 1976;
Amended Eff. July 1, 2018; July 1, 1993; April 15, 1979.

15A NCAC 10F .0303 BEAUFORT COUNTY

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

- (1) the portion of Broad Creek south of a line from a point on the east shore at 35.49472 N, 76.95693 W to a point on the west shore at 35.49476 N, 76.96028 W and north of a line from a point on the east shore at 35.48485 N, 76.95178 W to a point on the west shore at 35.48495 N, 76.95619 W;
- (2) the portion of Blounts Creek south of a line 100 yards north of the Blounts Creek Boating Access Area, from a point on the east shore at 35.40846 N, 76.96091 W to a point on the west shore at 35.40834 N, 76.96355 W, and north of a line 100 yards south of Cotton Patch Landing, from a point on the east shore at 35.40211 N, 76.96573 W to a point on the west shore at 35.40231 N, 76.96702 W;
- (3) the waters of Battalina Creek, within the territorial limits of the Town of Belhaven;
- (4) the navigable portion of Nevil Creek extending upstream from its mouth at the Pamlico River;
- (5) the portion of Blounts Creek north of a line 35 yards south-southeast of the Mouth of the Creek Bridge from a point on the east shore at 35.43333 N, 76.96985 W to a point on the west shore at 35.43267 N, 76.97196 W and south of a line 350 yards north-northeast of the Mouth of the Creek Bridge from a point on the east shore at 35.43553 N, 76.96962 W to a point on the west shore at 35.43679 N, 76.97011 W;
- (6) the portion of Tranters Creek east of a line from a point on the north shore at 35.56961 N, 77.09159 W to a point on the south shore at 35.56888 N, 77.09118 W and north of a line from a point on the east shore at 35.56714 N, 77.08941 W to a point on the west shore at 35.56689 N, 77.09029 W; and
- (7) the waters of Little Creek beginning at a line near its mouth from a point on the east shore at 35.41917 N, 76.97102 W to a point on the west shore at 35.41900 N, 76.96940 W.

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

(c) Placement of Markers. The Board of Commissioners of Beaufort County and the City Council of the City of Washington shall be the designated agencies for placement of the markers implementing this Rule, subject to the approval of the United States Coast Guard and United States Army Corps of Engineers.

History Note: Authority G.S. 75A-3; 75A-15

Eff. February 1, 1976;

Amended Eff. September 1, 2013; September 1, 2010; June 1, 1998; April 1, 1997; June 1, 1989; March 1, 1987; April 1, 1986; March 4, 1979;

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

Amended Eff. October 1, 2018; November 1, 2017.

15A NCAC 10F .0304 BLADEN COUNTY

(a) Regulated Area. This Rule shall apply to the waters of White Lake in Bladen County.

(b) Restricted Area. The waters of White Lake between the shoreline and the offshore marker poles shall be designated as a restricted area.

(c) Swimming. Swimming, except skin diving, shall not be permitted outside of the restricted area.

(d) Skiing. No skiing shall be permitted in the restricted area, except to leave from within or return into that area. All vessels pulling skiers shall leave from within the restricted area on a course perpendicular to the nearest shoreline. Upon returning, all vessels pulling skiers shall reduce to no-wake speed when the skiers have entered the restricted area.

(e) Speed Limit. Within the restricted area all vessels, except those engaged in skiing as regulated by Paragraph (d) of this Rule, shall be operated at a no-wake speed. Operation of any vessel on a course parallel to the shoreline is prohibited in the restricted area.

(f) Placement and Maintenance of Markers. The Board of Commissioners of Bladen County, the Town of White Lake, and the State Parks Division shall be the designated agencies for placement and maintenance of the markers implementing this Rule.

History Note: Authority G.S. 75A-3; 75A-15;

Eff. February 1, 1976;

Amended Eff. April 1, 1990; August 1, 1988; June 17, 1979;

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

Amended Eff. October 1, 2018.

15A NCAC 10F .0305 BRUNSWICK COUNTY

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

- (1) Lockwoods Folly River in the Town of Varnamtown, from a point at 33.94966 N, 78.22587 W 500 yards northwest of the boat ramp located at the end of SR 1123 otherwise known as Fisherman Road, to a point at 33.94498 N, 78.22206 W, 180 yards southeast of the boat ramp, and including the portion of the river otherwise known as Mill Creek where it meets Lockwoods Folly River directly across from the boat ramp, to a point 100 feet northeast at 33.94687 N, 78.22235 W;

- (2) Calabash River in the Town of Calabash, from a point in the water at the end of Marina Drive at 33.88638 N, 78.56254 W to a point 650 yards

- (3) southwest at the southern end of the deep-sea fishing docks at 33.88344 N, 78.56751 W; the Small Boat Harbor, shore to shore beginning at its intersection with the Intracoastal Waterway at a point at 33.91685 N, 78.02865 W;
- (4) Shallotte River east of SR 1233, otherwise known as Village Point Road SW south of the Town of Shallotte, shore to shore from its intersection with the Intracoastal Waterway at a point at 33.91477 N, 78.37103 W to point 500 feet north at 33.91613 N, 78.37126 W;
- (5) Montgomery Slough otherwise known as Davis Creek, within 100 yards of the hotel and marina at the northern end of 57th Place West in the Town of Oak Island;
- (6) the waters in the natural and concrete canals located on the south side of the Intracoastal Waterway, east of N.C. Highway 904 in the Town of Ocean Isle Beach;
- (7) Town Creek east of SR 1609, otherwise known as Clearview Lane in Town Creek Township, shore to shore from a point at 34.16788 N, 78.07139 W, north and east around a bend in the creek to a point at 34.16910 N, 78.07030 W;
- (8) Montgomery Slough, otherwise known as Davis Creek, shore to shore from its entrance at the Intracoastal Waterway west of SW Yacht Drive at a point at 33.92145 N, 78.19408 W, to the canal end at NE 40th Street in the Town of Oak Island; and
- (9) Intracoastal Waterway in the Town of Sunset Beach, shore to shore from a point 150 yards east of the Sunset Boulevard South bridge at 33.88173 N, 78.50995 W, to a point 50 yards west of the bridge at 33.88111 N, 78.51194 W.

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

(c) Placement of Markers. The following agencies shall be the designated agencies for the placement of markers implementing this Rule, subject to the approval of the United States Coast Guard and the United States Army Corps of Engineers:

- (1) the Board of Aldermen of Varnamtown for areas indicated in Subparagraph (a)(1) of this Rule;
- (2) the Board of Commissioners of Brunswick County for areas indicated in Subparagraphs (a)(2) through (8) of this Rule; and
- (3) the North Carolina Wildlife Resources Commission for the area indicated in Subparagraph (a)(9) of this Rule.

History Note: Authority G.S. 75A-3; 75A-15;

Eff. February 1, 1976;

Amended Eff. April 1, 1997; July 1, 1994; July 1, 1993; January 1, 1989; January 1, 1987;

Temporary Amendment Eff. March 1, 1998;

Amended Eff. April 1, 2009; April 1, 1999;

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

15A NCAC 10F .0309 COLUMBUS COUNTY

- (a) Regulated Area. This Rule shall apply to the waters of Lake Waccamaw.
- (b) Restricted Area. The waters of Lake Waccamaw between the shoreline and the offshore marker poles are designated as the restricted area.
- (c) Swimming. Swimming shall not be allowed outside any marked public swimming areas.
- (d) No person shall operate a vessel within a marked public swimming area.
- (e) Skiing. No skiing shall be permitted in the restricted area except to leave from within or return into that area. All vessels pulling skiers shall leave from within the restricted area on a course perpendicular to the nearest shoreline. Upon returning, all vessels pulling skiers shall reduce to no-wake speed when the skiers have entered the restricted area.
- (f) Speed Limit. Within the restricted area all vessels, except those engaged in skiing as regulated by Paragraph (e) of this Rule, shall be operated at a no-wake speed. Operation of a vessel on a course parallel to the shoreline is prohibited in the restricted area.
- (g) Placement and Maintenance of Markers. The Board of Commissioners of Columbus County, the Town of Lake Waccamaw, and State Parks Division shall be the designated agencies for placement and maintenance of markers implementing this Rule.

History Note: Authority G.S. 75A-3; 75A-15;

Eff. February 1, 1976;

Amended Eff. April 1, 1990;

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

Amended Eff. October 1, 2018.

15A NCAC 10F .0310 DARE COUNTY

- (a) Regulated Areas. This Rule shall apply to the following waters and portions of waters in Dare County:

- (1) Manteo. Doughs Creek off of Shallowbag Bay and all canals off of Shallowbag Bay.
- (2) Hatteras.
 - (A) the waters of Pamlico Sound otherwise known as Hatteras Harbor and Muddy Creek bounded on the north and south by the high-water mark, on the west by a straight line between channel markers number 20 and 17 at the entrance to Hatteras Harbor, and on the east by the mouth of Muddy Creek at Sandy Bay at a point at 35.22801 N, 75.68050 W; and
 - (B) Hatteras Ferry Terminal and United States Coast Guard basins ending at Coast Guard Beacon Number One in the Hatteras Channel.

- (3) Mann's Harbor. Old Ferry Dock Road Canal, beginning at a point at 35.90654 N, 75.76916 W.
- (4) Nags Head.
 - (A) the canals of Old Nags Head Cove where the canal entrance meets Roanoke Sound beginning at a point at 35.94192 N, 75.62571 W;
 - (B) the Roanoke Sound inlets at Pond Island on either side of W. Marina Drive extending north from U.S. Highway 64-264.
- (5) Wanchese.
 - (A) Wanchese Harbor otherwise known as Mill Landing Creek, beginning at its entrance from Roanoke Sound at a point at 35.84006 N, 75.61726 W; and
 - (B) the canal from its beginning where it connects with Roanoke Sound south of the dead-end road SR 1141 otherwise known as Thicket Lump Drive, extending northwest roughly parallel to SR 1141, SR 1142 otherwise known as The Lane, and SR 1143 otherwise known as Tink Tillet Road, then westward roughly parallel to N.C. Highway 345, and finally curving to the southwest roughly parallel to SR 1289 otherwise known as C B Daniels SR Road to its end.
- (6) Stumpy Point Canal shore to shore, beginning 50 yards west of the Wildlife Resources Commission boating access area.
- (7) Stumpy Point Basin off of Stumpy Point Bay, east of U.S. Highway 264 where it intersects Stumpy Point Bay at a point at 35.69591 N, 75.77264 W.
- (8) Town of Southern Shores. canals and lagoons within the Town of Southern Shores north of U.S. Highway 158.
- (9) Colington Harbour. The waters in the canals of Colington Harbour Subdivision on Albemarle Sound.
- (10) Kitty Hawk. the waters contained in the canals of Kitty Hawk Landing Subdivision.
- (11) Washington Baum Bridge. Roanoke Sound from marker 24B north of the bridge to marker 24A south of the bridge, and 50 yards east of the navigation span west to the shore as designated by the appropriate markers.
- (12) Kill Devil Hills. Baum Bay Harbor, beginning at a point at 36.00572 N, 75.68105 W.
- (13) Avon. Mill Creek beginning at its entrance at Pamlico Sound at a point at 35.36434 N, 75.50603 W.
- (14) Jean Guite Creek. Jean Guite Creek from where it meets Kitty Hawk Bay at 36.04887 N, 75.72754 W, north to a line from a point on the east shore in Southern Shores at 36.10460 N,

75.74192 W to a point on the west shore in Martin's Point Subdivision at 36.10452 N, 75.73948 W.

- (15) Frisco. The waters of the marina canal and boat basin at Palmetto Shores Subdivision, shore to shore beginning at the canal's entrance at Pamlico Sound at a point at 35.25427 N, 75.60301 W.

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

(c) Swimming Area. No person operating or responsible for the operation of any vessel, surfboard, water skis, or jet skis shall permit it to enter the marked swimming area at Colington Island on the west shore, from a point where the canal enters the harbor at 36.01797 N, 75.72681 W, north 600 feet to a point at 36.01964 N, 75.72683 W and extending 300 feet west into Albemarle Sound.

(d) Placement of Markers. The following agencies shall be the designated agencies for placement of markers implementing this Rule, subject to the approval of the United States Coast Guard and the United States Army Corps of Engineers:

- (1) the Board of Commissioners of the Town of Manteo for the areas indicated in Subparagraph (a)(1) of this Rule;
- (2) the Board of Commissioners of Dare County for the areas indicated in Subparagraphs (a)(2) through (a)(7), (a)(9) and (a)(11) through (a)(15) of this Rule;
- (3) the Board of Commissioners of the Town of Southern Shores for the areas indicated in Subparagraph (a)(8) of this Rule; and
- (4) the Board of Commissioners of the Town of Kitty Hawk for the area indicated in Subparagraph (a)(10) of this Rule.

History Note: Authority G.S. 75A-3; 75A-15; Eff. February 1, 1976; Amended Eff. April 1, 1997; December 1, 1994; May 1, 1994; March 1, 1993; May 1, 1988; Temporary Amendment Eff. February 1, 1999; July 1, 1998; Amended Eff. July 1, 2000; April 1, 1999; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016; Amended Eff. October 1, 2018.

15A NCAC 10F .0311 GRANVILLE, VANCE AND WARREN COUNTIES

(a) Regulated Areas. This Rule shall apply to the following waters of John H. Kerr Reservoir in Granville, Vance and Warren Counties:

- (1) Kimball Point, Warren County - Within 50 yards of the shoreline in the northernmost cove of the Kimball Point Recreation Area located at the western end of SR 1204, from the northern end of the cove at 36.54362 N, 78.31753 W, to the southern end of the cove at 36.53984 N, 78.31371 W;

- (2) Camp Kerr Lake, Vance County - The waters of the cove where the Camp Kerr Lake boat ramp is located, shore to shore beginning at a line from a point on the eastern shore at the mouth of the cove at 36.440345 N, 78.34970 W to a point on the northwest shore of the cove at 36.44167 N, 78.35129 W;

- (3) Mill Creek, Vance County - The waters of Mill Creek shore to shore from its headwaters to where it intersects the North Carolina - Virginia state boundary at a line from a point on the east side of the creek at 36.54311 N, 78.39514 W; to a point on the west side of the creek at 36.54309 N, 78.39626 W;

- (4) Flat Creek at N.C. Highway 39 bridge, Vance County - Within 50 yards east and west of the N.C. Highway 39 bridge; and

- (5) Satterwhite Point State Recreation Area, Vance County, including the waters in the vicinity of Satterwhite Point Marina docks at the end Satterwhite Point Marina Road, and the waters of the marked swimming area in the cove west of the end of SR 1319 otherwise known as Satterwhite Point Road, beginning at a line at the mouth of the cove from a point on the north shore at 36.44572 N, 78.37356 W, to a point on the south shore at 36.44442 N, 78.37359 W.

(b) Speed Limit Near Ramps. No person shall operate a vessel at greater than no-wake speed within 50 yards of any concrete boat launching ramp located on the reservoir.

(c) Speed Limit in Mooring Areas. No person shall operate a vessel at greater than no-wake speed while within a designated mooring area established by or with the approval of the US Army Corps of Engineers on the waters of the reservoir.

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

(e) Swimming Areas. No person operating or responsible for the operation of a vessel shall permit it to enter a designated swimming area established by or with the approval of the US Army Corps of Engineers on the waters of the reservoir.

(f) Placement of Markers. Each of the Boards of Commissioners of the above-named counties shall be the designated agency for placement of markers implementing this Rule for regulated areas within their territorial jurisdiction, subject to the approval of the US Army Corps of Engineers.

History Note: Authority G.S. 75A-3; 75A-15; Eff. February 1, 1976; Amended Eff. December 1, 1994; March 25, 1978; Temporary Amendment Eff. June 1, 1998; January 1, 1998; Amended Eff. May 1, 2013; May 1, 2005; April 1, 1999; July 1, 1998; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016; Amended Eff. October 1, 2018.

15A NCAC 10F .0313 HYDE COUNTY

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

- (1) Swan Quarter Canal near the Town of Swan Quarter beginning at its entrance at point at 35.40215 N, 76.34033 W in Swanquarter Bay and extending the entire length of the canal;
- (2) Carawan Canal near the Town of Swan Quarter beginning at its entrance at a point at 35.39758 N, 76.33312 W in Swanquarter Bay and extending the entire length of the canal;
- (3) the waters within 50 yards of all public boat launching areas providing access to Pamlico Sound;
- (4) the portion of Far Creek in the Town of Engelhard shore to shore, beginning at a point at 35.51051 N, 75.98693 W and ending at the Roper Lane bridge at 35.50869 N, 76.00229 W;
- (5) Fodrey Canal. the portion of Fodrey Canal shore to shore, beginning in Swanquarter Bay at a point at 35.40345 N, 76.34175 W and extending inland 300 yards ending at a point at 35.40469 N, 76.33944 W;
- (6) Silver Lake in Ocracoke, harbor-wide;
- (7) the entire waters of the Hydeland Canal beginning at the Hydeland Canal Access Area at 35.42131 N, 76.20915 W and ending at the end of SR 1122 at 35.40873 N, 76.21185 W;
- (8) the waters of Gray Ditch beginning north of the SR 1110 bridge at the intersection of Great Ditch Road and Nebraska Road, at 35.45926 N, 76.07527 W and ending at 35.45027 N, 76.06862 W; and
- (9) the portion of Outfall Canal, otherwise known as Main Canal off of Mattamuskeet Lake in the vicinity of Mattamuskeet Lodge, beginning in East Main Canal at 35.45226 N, 76.17359 W, and extending to a point in West Main Canal at 35.45174 N, 76.18132 W, and that portion of Central Canal beginning at its intersection with Outfall Canal and extending northward to 35.45687 N, 76.1751 W.

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

(c) Placement of Markers. The Board of Commissioners of Hyde County shall be the designated agency for placement of the markers implementing this Rule, subject to the approval of the United States Coast Guard and the United States Army Corps of Engineers.

History Note: Authority G.S. 75A-3; 75A-15;

Eff. February 1, 1976;

Amended Eff. February 1, 2014; January 1, 2012; December 1, 2010; October 1, 1995; March 1, 1993; January 1, 1989; March 29, 1981;

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

Amended Eff. October 1, 2018.

15A NCAC 10F .0314 NEW HANOVER COUNTY

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

- (1) the area bounded on the north by the US 74-76 Bridge crossing the Intracoastal Waterway, on the south by a line shore to shore intersecting Intracoastal Waterway marker number 127, on the west by the shore of Wrightsville Sound, and on the east by a line perpendicular to US Highway 74-76 and intersecting marker number 25 in Motts Channel;
- (2) the area of Motts Channel between marker number 25 at the Intracoastal Waterway on the west and marker number 16 at the entrance from Banks Channel on the east;
- (3) the area bounded on the west by the US 76 Bridge crossing Bradley Creek, on the north and south by the banks of Bradley Creek, on the east by a line from a point on the southwest shore at 34.21298 N, 77.83173 W, to a point on the northeast shore at 34.21446 N, 77.83063 W;
- (4) Lee's Cut from its western intersection with the Intracoastal Waterway at 34.21979 N, 77.80965 W, to its eastern intersection with Banks Channel at 34.21906 N, 77.79645 W;
- (5) the unnamed channel lying between the shore west of Bahama Drive in the Town of Wrightsville Beach and an unnamed island located approximately 500 feet northeast of the US 74 bridge over Banks Channel; and
- (6) the waters of the Northeast Cape Fear River between the US Hwy. 117 bridge and the railroad trestle 60 yards east of the Castle Hayne Boating Access Area.

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

(c) Placement of Markers. The Board of Commissioners of New Hanover County shall be the designated agency for placement of the markers implementing this Rule, subject to the approval of the United States Coast Guard and the United States Army Corps of Engineers.

History Note: Authority G.S. 75A-3; 75A-15;

Eff. February 1, 1976;

Amended Eff. July 1, 1993; May 1, 1989; June 1, 1987; May 1, 1987;

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

Amended Eff. October 1, 2018; April 1, 2017.

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

(a) Regulated Area. This Rule shall apply to Belews Lake in Forsyth, Rockingham and Stokes Counties.

(b) Speed Limit. No person shall operate a vessel at greater than no-wake speed within 50 yards of any public boat launching ramp on the waters of Belews Lake in any of the counties listed in (a)

of this Rule, or within 50 yards of any bridge crossing any portion of Belevs Lake in Forsyth County.

(c) Placement and Maintenance of Markers. The Boards of Commissioners of Forsyth County, Rockingham County and Stokes County, or their designees shall be the designated agencies for placement and maintenance of markers implementing this Rule. All markers warning of a no-wake speed zone must be buoys or floating signs.

History Note: Authority G.S. 75A-3; 75A-15;

Eff. February 1, 1976;

Amended Eff. May 1, 1976;

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

Amended Eff. October 1, 2018.

15A NCAC 10F .0317 STANLY COUNTY

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

- (1) Narrows Reservoir, otherwise known as Badin Lake; and
- (2) Lake Tillery: Turner Beach Cove shore to shore, south of a point at 35.22529 N, 80.09318 W.

(b) Speed Limit Near Ramps. No person shall operate a vessel at greater than no-wake speed within 50 yards of any public boat launching ramp while on the waters of a regulated area described in Paragraph (a) of this Rule.

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

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

(e) Placement of Markers. The Board of Commissioners of Stanly County shall be the designated agency for placement of markers implementing this Rule.

History Note: Authority G.S. 75A-3; 75A-15;

Eff. February 1, 1976;

Amended Eff. July 1, 1995; March 25, 1978; November 1, 1977;

Temporary Amendment Eff. June 1, 1998;

Amended Eff. July 1, 2000; April 1, 1999; July 1, 1998;

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

Amended Eff. October 1, 2018.

15A NCAC 10F .0318 WARREN COUNTY

(a) Regulated Area. This Rule shall apply to that portion of Lake Gaston which lies within the boundaries of Warren County.

(b) Speed Limit Near Ramps. No person shall operate a vessel at greater than no-wake speed within 50 yards of any public boat launching ramp while on the waters of Lake Gaston in Warren County.

(c) Speed Limit in Mooring Areas. No person shall operate a vessel at greater than no-wake speed while within a marked mooring area on the waters of Lake Gaston in Warren County.

(d) Restricted Swimming Areas. No person operating or responsible for the operation of a vessel shall permit it to enter any marked public swimming area on the waters of Lake Gaston in Warren County.

(e) No person shall operate a vessel at greater than no-wake speed:

- (1) within those waters of the Camp Willow Run Canoe/Sail Cove, beginning at a point shore to shore from a point on the southwest shore at 36.49355 N, 77.91795 W, to a point on the north shore at 36.49534 N, 77.91508 W.
- (2) within the waters of the cove on Hubquarter Creek, shore to shore beginning at a line from a point on the northeast shore at 36.50030 N, 78.00474 W to a point on the southwest shore at 36.49947 N, 78.00553 W.

(f) Placement of Markers. The Board of Commissioners of Warren County shall be the designated agency for placement of the markers implementing this Rule, subject to the approval of the United States Coast Guard and the United States Army Corps of Engineers.

History Note: Authority G.S. 75A-3; 75A-15;

Eff. February 1, 1976;

Amended Eff. October 1, 1992; March 25, 1978;

Temporary Amendment Eff. June 17, 2002;

Amended Eff. May 1, 2004 (this amendment replaces the amendment approved by RRC on February 20, 2003);

Amended Eff. May 1, 2013;

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

Amended Eff. October 1, 2018.

15A NCAC 10F .0319 WASHINGTON COUNTY

(a) Regulated Areas. This Rule shall apply to the following waters and portions of waters:

- (1) the portion of Mackey's Creek, otherwise known as Kendrick Creek, shore to shore, from a point at 35.93253 N, 76.60875 W to a point at 35.93401 N, 76.60637 W; and
- (2) the portion of Conaby Creek shore to shore, from a point east of the N.C. 45 Bridge at 35.89613 N, 76.70603 W, east northeast to a point at 35.89757 N, 76.70413 W.

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

(c) Placement of Markers. The Board of Commissioners of Washington County shall be the designated agency for placement of the markers implementing this Rule, subject to the approval of the United States Coast Guard and the United States Army Corps of Engineers.

History Note: Authority G.S. 75A-3; 75A-15;

Eff. February 1, 1976;

Amended Eff. February 1, 1995;

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

Amended Eff. October 1, 2018.

15A NCAC 10F .0322 UNION COUNTY

- (a) Regulated Area. This Rule shall apply to Cane Creek Lake in Union County.
- (b) Speed Limit Near Ramps. No person shall operate a vessel at greater than no-wake speed within 50 yards of any public boat launching ramp or within 50 yards of the boat ramp at the Cane Creek Campground, at a point at 34.83485 N, 80.68605 W.
- (c) Speed Limit in Congested Area. No person shall operate a vessel at greater than no-wake speed within 75 yards of the waters that separate Cane Creek Park from Cane Creek Campground, shore to shore from at a point at 34.83838 N, 80.68174 W, northwest to a point at 34.83875 N, 80.68233 W.
- (d) Swimming Areas. No person operating or responsible for the operation of a vessel shall permit it to enter any marked public swimming area on the regulated area described in Paragraph (a) of this Rule.
- (e) Placement of Markers. The Board of Commissioners of Union County shall be the designated agency for placement of markers implementing this Rule.

History Note: Authority G.S. 75A-3; 75A-15; Eff. May 1, 1976; Amended Eff. March 1, 1987; March 25, 1978; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016; Amended Eff. October 1, 2018.

15A NCAC 10F .0324 DAVIDSON COUNTY

- (a) Regulated Areas. This Rule shall apply to those portions of High Rock Lake, Tuckertown Lake, and Badin Lake that lie within the boundaries of Davidson County.
- (b) Speed Limit. No person shall operate a vessel at greater than no-wake speed:
 - (1) within 50 yards of any marked public boat launching ramp, bridge, dock, marina, boat storage structure, boat service area or pier while on the waters of High Rock Lake, Tuckertown Lake, and Badin Lake in Davidson County;
 - (2) High Rock Shores Drive Cove on High Rock Lake in Hi-Roc Shores Subdivision in Silver Hill Township, shore to shore northeast of a line from a point on the east shore at 35.67720 N, 80.24526 W to a point on the west shore at 35.67663 N, 80.24437 W;
 - (3) Flat Swamp Creek on High Rock Lake shore to shore, from a point 50 yards north of the docks at Camp Walter Johnson at 35.67130 N, 80.16592 W to a point 100 yards south of the docks at 35.66993 N, 80.16582 W;
 - (4) the cove in Oakwood Acres on Abbotts Creek Cove on High Rock Lake shore to shore, west of a line from a point on the south shore at 35.64704 N, 80.24787 W to a point on the north shore at 35.64809 N, 80.24870 W; and
 - (5) Beaverdam Creek Cove on Badin Lake, shore to shore north of a line from a point on the east shore at 35.50714 N, 80.09994 W to a point on the west shore at 35.50715 N, 80.10086 W.

- (c) Speed Limit in Mooring Areas. No person shall operate a vessel at greater than no-wake speed while within a marked mooring area on the waters of High Rock Lake, Tuckertown Lake, and Badin Lake in Davidson County.
- (d) Swimming Areas. No person operating or responsible for the operation of a vessel shall permit it to enter any marked public swimming area on the waters of High Rock Lake, Tuckertown Lake, and Badin Lake in Davidson County.
- (e) Placement of Markers. The Board of Commissioners of Davidson County shall be the designated agency for placement of the markers implementing this Rule.

History Note: Authority G.S. 75A-3; 75A-15; Eff. July 1, 1976; Amended Eff. January 1, 2012; May 1, 2004; December 1, 1995; December 1, 1991; August 1, 1991; September 1, 1982; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016; Amended Eff. October 1, 2018.

15A NCAC 10F .0326 PAMLICO COUNTY

- (a) Regulated Areas. This Rule shall apply to the following waters or portions of waters in Pamlico County:
 - (1) Silverthorn Bay off of Burton Creek: the waters of Burton Creek known as Silverthorn Bay, north of a line at a point on the east shore at 35.09531 N, 76.60791 W to a point on the west shore at 35.09572 N, 76.60883 W.
 - (2) Minnesott Beach: the Minnesott Beach Yacht Basin and its access channel extending 30 yards beyond the outermost rock jetties in Neuse River.
- (b) Speed Limit. No person shall operate a vessel at greater than no-wake speed in the regulated areas described in Paragraph (a) of this Rule.
- (c) Placement of Markers. The Board of Commissioners of Pamlico County shall be the designated agency for placement of the markers implementing this Rule, subject to the approval of the United States Coast Guard and the United States Army Corps of Engineers.

History Note: Authority G.S. 75A-3; 75A-15; Eff. May 1, 1977; Amended Eff. December 1, 1985; November 1, 1977; Temporary Amendment Eff. March 15, 2003; Temporary Amendment Expired October 12, 2003; Amended Eff. May 1, 2014; May 1, 2004; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016; Amended Eff. October 1, 2018.

15A NCAC 10F .0327 MONTGOMERY COUNTY

- (a) Regulated Areas. This Rule shall apply to the waters and portions of waters described as follows:
 - (1) Badin Lake.
 - (A) the cove west of Lakeshore Drive and east of Strand Drive, southeast of a line at the mouth of the cove from a point on the east shore at 35.49242 N,

- 80.09241 W to a point on the west shore at 35.49242 N, 80.09241 W;
 - (B) Lake Forest Drive Cove shore to shore, west of a point 50 yards east of the fueling site at the marina at 35.48739 N, 80.10918 W;
 - (C) Garr Creek shore to shore, north of a line beginning at a point on the east shore at 35.47952 N, 80.13633 W to a point on the west shore at 35.47946 N, 80.13932 W; and
 - (D) the channel between Beyer's Island and the mainland, shore to shore beginning at a line from a point on Beyer's Island at 35.49102 N, 80.10221 W to a point on the mainland at 35.49230 N, 80.10241 W, ending at a line westward, from a point on Beyer's Island at 35.48988 N, 80.10573 W to a point on the mainland at 35.49077 N, 80.10702 W.
- (2) Lake Tillery.
- (A) the waters within 50 yards of the boat ramp in the south end of Woodrun Cove at 35.33113 N, 80.06277 W;
 - (B) Carolina Forest Cove shore to shore and the waters within 50 yards of the boat ramps and boat slips at the end of Arroyo Drive in Carolina Forest Community, from a point on the south shore at 35.36276 N, 80.05386 W, northeast to a point on the north shore at 35.36405 N, 80.05304 W; and
 - (C) Lilly's Bridge Boating Access Area shore to shore, from line 25 feet north of the SR 1110 bridge otherwise known as Lillys Bridge Road at a point on the east shore at 35.23223 N, 80.06166 W, to a point on the west shore at 35.23289 N, 80.06318 W, to a line 200 feet southwest of the Lilly's Bridge Boating Access Area, from a point on the east shore at 35.23067 N, 80.06262 W, to a point on the west shore at 35.23156 N, 80.06437 W.

(3) Tuckertown Reservoir.

- (b) Speed Limit Near Shore Facilities. No person shall operate a vessel at greater than no-wake speed within 50 yards of any marked boat launching area, dock, pier, bridge, marina, boat storage structure, or boat service area on the waters of the regulated areas described in Paragraph (a) of this Rule.
- (c) Speed Limit. No person shall operate a vessel at greater than no-wake speed within any regulated area described in Paragraph (a) of this Rule.
- (d) Swimming Areas. No person operating or responsible for the operation of a vessel shall permit it to enter any marked public swimming area on the waters of the regulated areas described in Paragraph (a) of this Rule.

(e) Placement of Markers. The Board of Commissioners of Montgomery County shall be the designated agency for placement of the markers implementing Parts (a)(1)(A), (B), (C), (2)(A) and (B), and Subparagraph (a)(3) of this Rule. The North Carolina Wildlife Resources Commission is the designated agency for placement and maintenance of the markers implementing Part (a)(2)(C) of this Rule.

History Note: Authority G.S. 75A-3; 75A-15; Eff. November 1, 1977; Amended Eff. December 1, 1990; May 1, 1989; March 25, 1978; Temporary Amendment Eff. June 1, 1998; Amended Eff. April 1, 1999; July 1, 1998; Temporary Amendment Eff. July 1, 2002; Amended Eff. August 1, 2006; June 1, 2005; April 1, 2003; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016; Amended Eff. October 1, 2018; April 1, 2017.

15A NCAC 10F .0328 MARTIN COUNTY

- (a) Regulated Area. This Rule shall apply to those waters of Gardner's Creek located in Martin County.
- (b) Speed Limit. No person shall operate a vessel at greater than no-wake speed within 50 yards of any public boat launching ramp while on the waters of the regulated area designated in Paragraph (a) of this Rule.
- (c) Placement of Markers. The Board of Commissioners of Martin County shall be the designated agency for placement of the markers implementing this Rule, subject to the approval of the United States Coast Guard and the United States Army Corps of Engineers.

History Note: Authority G.S. 75A-3; 75A-15; Eff. June 18, 1978; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016; Amended Eff. October 1, 2018.

15A NCAC 10F .0329 ROWAN COUNTY

- (a) Regulated Areas. This Rule shall apply to the portions of High Rock Lake and Tuckertown Lake within Rowan County.
- (b) Speed Limit Near Ramps. No person shall operate a vessel at greater than no-wake speed within 50 yards of any public boat launching ramp while on the waters of the regulated areas described in Paragraph (a) of this Rule.
- (c) Speed Limit in Mooring Areas. No person shall operate a vessel at greater than no-wake speed while within a marked mooring area on the regulated areas described in Paragraph (a) of this Rule.
- (d) Speed Limit in Specific Zones. No person shall operate a vessel at greater than no-wake speed in the following locations on the regulated areas described in Paragraph (a) of this Rule:
 - (1) within 50 yards of the Tamarac Marina on Second Creek on High Rock Lake, located at 35.61012 N, 80.30795 W;
 - (2) the cove on the north side of Second Creek east of SR 2138 otherwise known as Poole Road on High Rock Lake, shore to shore, north of a line from a point on the east shore at 35.60800 N,

- 80.31985 W to a point on the west shore at 35.60741 N, 80.32106 W;
- (3) the waters within 50 yards southeast and 50 yards northwest of the I-85 bridge over High Rock Lake, from a point southeast of the bridge at 35.71930 N, 80.38873 W, to a point northwest of the bridge at 35.72012 N, 80.39903 W;
 - (4) the waters within 50 yards southeast and 50 yards northwest of the SR 2168 bridge otherwise known as the Goodman Lake Road bridge at Crane Creek on High Rock Lake, from a point southeast of the bridge at 35.55354 N, 80.35344 W, to a point northwest of the bridge at 35.66406 N, 80.35435 W;
 - (5) the waters within 50 yards northeast and 50 yards southwest of the SR 1002 bridge otherwise known as the Bringle Ferry Road bridge at Second Creek on High Rock Lake, from a point northeast of the bridge at 35.60916 N, 80.30626 W, to a point southwest of the bridge at 35.60840 N, 80.30693 W;
 - (6) the waters within 50 yards north and 50 yards south of SR 1004 bridge otherwise known as the Stokes Ferry Road bridge at Riles Creek on Tuckertown Lake, from a point north of the bridge at 35.50535 N, 80.21680 W, to a point south of the bridge at 35.50452 N, 80.21720 W;
 - (7) the waters within 50 yards northwest and 50 yards southeast of the N. C. Highway 8-49 bridge at Tuckertown Lake from a point northwest of the bridge at 35.50642 N, 80.18430 W, to a point southeast of the bridge at 35.50538 N, 80.18372 W; and
 - (8) the waters within 50 yards of the Rowan Shrine Club dock located at 35.66776 N, 80.31425 W on High Rock Lake.

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

(f) Placement of Markers. The Board of Commissioners of Rowan County shall be the designated agency for placement of markers implementing this Rule.

History Note: Authority G.S. 75A-3; 75A-15;

Eff. June 18, 1978;

Amended Eff. December 1, 2010; December 1, 1985;

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

Amended Eff. October 1, 2018.

15A NCAC 10F .0330 CARTERET COUNTY

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

- (1) the waters of Money Island Slough, beginning at the east end of Money Island near the Anchorage Marina Basin at a point at 34.70187 N, 76.72938 W and ending at the west end of

- (2) Money Island where Brooks Avenue dead ends at a point at 34.70235 N, 76.73271 W;
- (2) the waters of Taylor Creek in Beaufort, shore to shore from its intersection with the Newport River at the western end, to a line at the eastern end between a point on the north shore at 34.70762 N, 76.61784 W, south-southwest to the eastern tip of Carrot Island;
- (3) the waters of Peletier Creek, beginning at the entrance to Peletier Creek at the Intracoastal Waterway at a point at 34.72543 N, 76.78044 W and ending at U.S. Highway 70;
- (4) the waters of Bogue Sound Harbor Channel in Morehead City, between Sugarloaf Island and the seawall on the south side of Evans, Shepard, and Shackelford Streets, from the east at the State Ports Authority, west to a point at 34.71848 N, 76.72015 W at the southern end of South 13th Street;
- (5) the waters of Gallants Channel, from the U.S. 70 Grayden Paul Bridge at a point at 34.72248 N, 76.66936 W, south to Taylor Creek at a point at 34.71775 N, 76.66950 W;
- (6) the waters of Cedar Island Bay and Harbor in the Town of Cedar Island, from N.C. Highway 12 to Cedar Island Bay Channel Light 8;
- (7) the waters of the small cove on the west side of Radio Island south of Old Causeway Road;
- (8) the waters of the Newport River, from a point north of the U.S. 70 Grayden Paul Bridge at 34.72265 N, 76.66930 W, north northwest to marker #6;
- (9) the waters of Spooner Creek in Morehead City, north of a point where it enters the Intracoastal Waterway at 34.72570 N, 76.80294 W;
- (10) the waters of the Newport River at Bogue Sound, including all waters surrounding the Port of Morehead City to Goat Island as delineated by appropriate markers;
- (11) the waters of Newport River, known as Morgan Creek, west northwest of a point at the mouth at 34.71611 N, 76.67814 W;
- (12) the waters of Cannonsgate Marina and the Cannonsgate Marina Channel, beginning at its intersection with Bogue Sound at 34.70163 N, 76.98157 W, as delineated by appropriate markers;
- (13) the waters of the Newport River within 200 yards of the Newport River Beach Access Boat Ramp, beginning at the shore north of the U.S. 70 Newport River Bridge at a point at 34.72141 N, 76.68707 W, west to a point at 34.72128 N, 76.68893 W, north to a point at 34.72376 N, 76.68911 N, then east to the shore at 34.72371 N, 76.68631 W;
- (14) the waters of Palmetto Drive canal, a tributary to the White Oak River, beginning at a point on the western shore at 34.67903 N, 77.10142 W to a point on the eastern shore at 34.67899 N,

77.10098 W and extending the entire length of the canal; and

- (15) the portion of the canal at Dolphin Bay Estates, a tributary to the White Oak River, beginning 30 yards inside the entrance to the canal and extending the entire length of the canal.

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

(c) Placement of Markers. The following agencies shall be the designated agencies for placement of the markers implementing this Rule, subject to the approval of the United States Coast Guard and the United States Army Corps of Engineers:

- (1) the Board of Commissioners of Carteret County, for the regulated areas designated in Subparagraphs (a)(1), (3), (5) through (8), (11), and (12) of this Rule;
- (2) the Board of Commissioners of the Town of Beaufort, for the regulated area designated in Subparagraph (a)(2) of this Rule;
- (3) the Board of Commissioners of Morehead City, for the regulated areas designated in Subparagraphs (a)(4), (9), and (13) of this Rule;
- (4) the North Carolina State Ports Authority, for the regulated area designated in Subparagraph (a)(10) of this Rule; and
- (5) the Board of Commissioners of the Town of Cedar Point for the regulated areas designated in Subparagraphs (a)(14) and (15) of this Rule.

History Note: Authority G.S. 75A-3; 75A-15;
Eff. March 4, 1979;
Amended Eff. October 1, 1997; May 1, 1995; June 1, 1994;
February 1, 1994; July 1, 1993;
Temporary Amendment Eff. February 1, 1998;
Amended Eff. July 1, 1998;
Temporary Amendment Eff. March 1, 1999; November 1, 1998;
Amended Eff. May 1, 2016; July 1, 2012; September 1, 2010; July 1, 2000;
Temporary Amendment Eff. September 1, 2016;
Amended Eff. April 1, 2017;
Readopted Eff. October 1, 2018.

15A NCAC 10F .0331 WAKE COUNTY

(a) Regulated Area. This Rule shall apply to the waters of Lake Wheeler located in Wake County.

(b) Speed Limit. No person shall operate a vessel at greater than no-wake speed within 50 yards of any public boat launching ramp while on the waters of the regulated area designated in Paragraph (a) of this Rule.

(c) Placement of Markers. The Raleigh City Council shall be the designated agency for placement of the markers implementing this Rule.

History Note: Authority G.S. 75A-3; 75A-15;
Eff. March 4, 1979;
Pursuant to G.S. 150B-21.3A, rule is necessary without
substantive public interest Eff. December 6, 2016;
Amended Eff. October 1, 2018.

15A NCAC 10F .0332 ALEXANDER COUNTY

(a) Regulated Area. This Rule shall apply to the waters of Lake Hickory within Alexander County:

- (1) the waters shore to shore at a line 150 yards southeast of SR 1137 bridge otherwise known as the Rink Dam Road bridge in Taylorsville, from a point on the south shore at 35.82843 N, 81.26389 W to a point on the north shore at 35.82919 N, 81.26272 W, northwest to a point at the Rink Dam at 35.83035 N, 81.26669 W;
- (2) the waters within 50 yards of the Taylorsville Beach Marina and docks, located at 420 Taylorsville Beach Court in Taylorsville;
- (3) the waters within 50 yards of Rivers Edge Marina and docks, located at 5803 Icard Ridge Road in Hickory; and
- (4) the waters within 50 yards of the Lakeside Marina and docks located at 81 Marina Drive in Hickory.

(b) Speed Limit. No person shall operate a vessel at greater than no-wake speed within 50 yards of any public boat launching ramp or while on the waters of any regulated areas designated in Paragraph (a) of this Rule.

(c) Placement of Markers. The Board of Commissioners of Alexander County shall be the designated agency for placement of markers implementing this Rule.

History Note: Authority G.S. 75A-3; 75A-15;
Eff. March 25, 1979;
Amended Eff. February 1, 1995; February 1, 1987;
Temporary Amendment Eff. April 1, 2000;
Amended Eff. May 1, 2010; July 1, 2000;
Pursuant to G.S. 150B-21.3A, rule is necessary without
substantive public interest Eff. December 6, 2016;
Amended Eff. October 1, 2018.

15A NCAC 10F .0333 MECKLENBURG AND GASTON COUNTIES

(a) Regulated Areas. This Rule shall apply to the following waters of Lake Wylie within Mecklenburg and Gaston Counties:

- (1) McDowell Park. The waters of the coves adjoining McDowell Park and the Southwest Nature Preserve in Mecklenburg County shore to shore, east of the mouth of the cove at a line from a point on the south shore at 35.10272 N, 81.03026 W to a point on the north shore at 35.10556 N, 80.02964 W;
- (2) Gaston County Wildlife Club Cove. The waters of the cove west of the Gaston County Wildlife Club on South Point Road in Belmont, north of a line at the mouth of the cove from a point on the east shore at 35.15628 N, 81.01427 W to a point on the west shore at 35.15628 N, 81.01615 W;
- (3) Buster Boyd Bridge. The waters from point 250 feet east of the Buster Boyd Bridge on N.C. Highway 49 in Mecklenburg County at 35.10293 N, 81.03932 W, to a point 150 feet

- west of the Buster Boyd Bridge at 35.10242 N, 81.04089 W;
- (4) N.C. Highway 27 bridge. The waters shore to shore, from a point 50 yards north of the N.C. Highway 27 bridge in Mecklenburg and Gaston counties at 35.29849 N, 81.00346 W to a point 190 yards south of the N.C. Highway 27 bridge at 35.29635 N, 81.00424 W;
- (5) Brown's Cove. The area beginning at the mouth of Brown's Cove in Mecklenburg County shore to shore, at a point at 35.16453 N, 81.00474 W, west to a point at 35.16480 N, 81.00309 W;
- (6) Paradise Point Cove. The waters of Paradise Point Cove in Gaston County between Paradise Circle and Lake Front Drive, west of a line from a point on the south shore at 35.18853 N, 81.04036 W to a point on the north shore at 35.18991 N, 81.04136 W;
- (7) Withers Cove. The waters from a point 50 feet southeast of the Withers Bridge on SR 1116, otherwise known as Shopton Road W. in Mecklenburg County at 35.14576 N, 81.00187 W, to a point 50 feet northwest of the bridge at 35.14599 N, 81.00222 W;
- (8) Sadler Island. The waters shore to shore beginning at a line from a point on the west shore of Lake Wylie in Gaston County at 35.27481 N, 81.0138 W east to a point on the east shore of the Lake in Mecklenburg County at 35.27423 N, 81.01111 W, extending south on the Lake west of Sadler Island to a line from a point on the west shore of the Lake in Gaston County at 35.27079 N, 81.01525 W, east to a point on the west side of Sadler Island in Mecklenburg County at 35.27051 N, 81.01396 W, and the waters shore to shore east of Sadler Island in Mecklenburg County from a point at 35.27441 N, 81.01185 W, south-southwest to a line from a point on the south shore of Sadler Island at 35.26635 N, 81.01432 W, south to a point on the Lake shore at 35.26494 N, 81.01368 W; and
- (9) Other bridges. The areas within 50 feet of any bridge in North Carolina that crosses the waters of Lake Wylie that is not otherwise specifically mentioned in this Paragraph.

(b) Speed Limit Near Ramps. No person shall operate a vessel at greater than no-wake speed within 50 yards of any public boat-launching ramp, dock, pier, marina, boat storage structure, or boat service area.

(c) Speed Limit in Marked Swimming or Mooring Areas. No person shall operate a vessel at greater than no-wake speed within 50 yards of any marked mooring area or marked swimming area.

(d) Placement and Maintenance of Markers. The Lake Wylie Marine Commission shall be the designated agency for placement and maintenance of markers implementing this Rule.

History Note: Authority G.S. 75A-3; 75A-15; Eff. July 1, 1980;

Amended Eff. July 1, 1994; June 1, 1985; June 1, 1984; March 1, 1983;
Temporary Amendment Eff. January 1, 1998;
Amended Eff. July 1, 1998;
Temporary Amendment Eff. February 4, 2000;
Amended Eff. April 1, 2009; June 1, 2004; July 1, 2000;
Temporary Amendment Eff. May 1, 2015;
Amended Eff. October 1, 2015;
Readopted Eff. October 1, 2018.

15A NCAC 10F .0334 GUILFORD COUNTY

(a) Regulated Area. This Rule shall apply to the waters of Oak Hollow Lake, also known as High Point Reservoir, in Guilford County.

(b) Speed Limit Near Ramps. No person shall operate a vessel at greater than no wake speed within 50 yards of any public boat launching ramp.

(c) Speed Limit Near Piers. No person shall operate a vessel at greater than no-wake speed within 50 yards of any pier operated by the City of High Point for public use.

(d) Placement of Markers. The City Council of High Point shall be the designated agency for placement of markers implementing this Rule.

History Note: Authority G.S. 75A-3; 75A-15; Eff. August 31, 1980;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;
Amended Eff. October 1, 2018.

15A NCAC 10F .0336 NORTHAMPTON AND WARREN COUNTIES

(a) Regulated Area. This Rule shall apply to the waters of Lake Gaston the in Northampton and Warren counties.

(b) Speed Limit in Mooring Areas. No person shall operate a vessel at greater than no-wake speed while within a marked mooring area on the waters of Lake Gaston within Northampton and Warren counties.

(c) Speed Limit Near Shore Facilities. No person shall operate a vessel at greater than no-wake speed within 50 yards of any marked boat launching area, dock, pier, bridge, marina, boat storage structure, or boat service area on the waters of the regulated areas described in Paragraph (a) of this Rule.

(d) Speed Limit in specific waters. No person shall operate a vessel at greater than no-wake speed within the following bodies of water:

- (1) the cove on the north shore of Lake Gaston in Northampton County east of SR 1252 otherwise known as Vincent Lane, shore to shore from a point on the north shore at 36.51660 N, 77.82226 W to a point on the south shore at 36.51578 N, 77.82269 W;
- (2) Big Stone House Creek in Warren County within 50 yards of the culvert under N.C. Highway 903 at 36.48789 N, 77.95009 W;
- (3) Songbird Creek in Warren County within 50 yards of the culvert under N.C. Highway 903 at 36.53260 N, 77.97330 W;

- (4) Sixpound Creek in Warren County within 50 yards of the culvert under SR 1701 otherwise known as Nocarva Road at 36.52950 N, 78.07283 W; and
- (5) Lizard Creek in Warren County within 50 yards of the culvert under SR 1362 otherwise known as Lizard Creek Road at 36.52501 N, 77.91187 W.

(e) Swimming Areas. No person operating or responsible for the operation of a vessel shall permit it to enter any marked public swimming area on the waters of Lake Gaston in Northampton and Warren counties.

(f) Placement of Markers. The Boards of Commissioners of Northampton County and Warren County shall be the designated agencies for placement of the markers implementing this Rule, subject to the approval of the United States Coast Guard and United States Army Corps of Engineers.

History Note: Authority G.S. 75A-3; 75A-15; Eff. March 29, 1981; Amended Eff. June 1, 1994; March 1, 1993; September 1, 1989; Temporary Amendment Eff. March 15, 2003; Temporary Amendment Expired October 12, 2003; Amended Eff. May 1, 2014; May 1, 2004; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016; Amended Eff. October 1, 2018.

15A NCAC 10F .0337 FRANKLIN COUNTY

- (a) Regulated Area. This Rule shall apply to Lake Royale in Franklin County.
- (b) Speed Limit Near Ramps. No person shall operate a vessel at greater than no-wake speed within 50 yards of any public boat launching ramp while on the waters of Lake Royale.
- (c) Speed Limit in Mooring Areas. No person shall operate a vessel at greater than no-wake speed while within a marked mooring area on the waters of Lake Royale.
- (d) Swimming Areas. No person operating or responsible for the operation of a vessel shall permit it to enter any marked public swimming area on the waters of Lake Royale.
- (e) Placement and Maintenance of Markers. The Board of Commissioners of Franklin County shall be the designated agency for placement and maintenance of the markers implementing this Rule.

History Note: Authority G.S. 75A-3; 75A-15; Eff. August 23, 1981; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016; Amended Eff. October 1, 2018.

15A NCAC 10F .0338 CALDWELL COUNTY

- (a) Regulated Areas. This Rule shall apply to the following waters in Caldwell County:
 - (1) Catawba River;
 - (2) Lake Rhodhiss;
 - (3) Little Gunpowder Lake; and
 - (4) Lake Hickory in the City of Hickory.

(b) Speed Limit Near Ramps. No person shall operate a vessel at greater than no-wake speed within 50 yards of any public boat launching ramp while on the regulated areas described in Paragraph (a) of this Rule.

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

(d) Specific Speed Zones. Lake Hickory within the boundaries of the City of Hickory. No person shall operate a vessel at greater than no-wake speed within 30 yards of the docks at the Lake Hickory Marina and Boat Rentals on Limbaugh Lane.

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

(f) Placement of Markers. The Board of Commissioners of Caldwell County and the City of Hickory shall be the designated agencies for placement of the markers implementing this Rule, subject to the approval of the United States Army Corps of Engineers.

History Note: Authority G.S. 75A-3; 75A-15; Eff. August 23, 1981; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016; Amended Eff. July 1, 2018.

15A NCAC 10F .0341 TOWN OF LAKE LURE

- (a) Regulated Area. This Rule shall apply to the waters of Lake Lure in the Town of Lake Lure, in Rutherford County.
- (b) Speed Limit. No person shall operate a vessel at greater than no-wake speed within 50 yards of any boat launching area, dock, pier, marina, boat storage structure, boat service area, swimming area, cove or dam in the regulated area described in Paragraph (a) of this Rule.
- (c) Swimming Areas. No person operating or responsible for the operation of a vessel shall permit it to enter any marked swimming area in the regulated area described by Paragraph (a) of this Rule.
- (d) Water skiers. On the regulated area described by Paragraph (a) of this Rule:
 - (1) no more than two skiers shall be towed at once by any boat;
 - (2) each skier is required to wear a ski belt or a personal flotation device; and
 - (3) the Board of Commissioners of the Town of Lake Lure may issue special permission for towing more than two skiers, with or without flotation devices, to persons or groups practicing for or participating in skiing exhibitions or shows.
- (e) Placement and Maintenance of Markers. The Board of Commissioners of the Town of Lake Lure shall be the designated agency for placement and maintenance of markers implementing this Rule.

History Note: Authority G.S. 75A-3; 75A-15; Eff. May 1, 1982;

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

15A NCAC 10F .0343 CHATHAM COUNTY

(a) Regulated Area. This Rule shall apply to the portion of the B. Everett Jordan Reservoir otherwise known as Jordan Lake in Chatham County.

(b) Speed Limit. No person shall operate a vessel at greater than no-wake speed on the regulated area as follows:

- (1) within 50 yards of any public boat launching ramp;
- (2) within 100 yards of the piers and boat slips adjacent to the Crosswinds Boating Center located at 565 Farrington Road in Apex;
- (3) within 100 feet of all bridges.

(c) Swimming Areas. No person operating or responsible for the operation of any vessel, surfboard or water skis shall permit it to enter any marked swimming area located on the regulated area.

(d) Placement of Markers. The Board of Commissioners of Chatham County shall be the designated agency for placement of the markers implementing this Rule, subject to the approval of the United States Army Corps of Engineers.

*History Note: Authority G.S. 75A-3; 75A-15;
Eff. March 1, 1983;
Amended Eff. May 1, 2004; September 1, 1989; April 1, 1984;
June 1, 1983;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;
Amended Eff. October 1, 2018.*

15A NCAC 10F .0344 TOWN OF RIVER BEND

(a) Regulated Areas. This Rule shall apply to the following waters located in the Town of River Bend in Craven County:

- (1) the waters of Plantation Canal shore to shore, beginning at its entrance from the Trent River at a line from a point on the northeast shore at 35.07226 N, 77.13303 W, to a point on the south shore at 35.07187 N, 77.13335 W, and including the waters of the River Bend Yacht Club Marina Basin; and
- (2) the waters of Island Lake shore to shore, and its access waters off of the Trent River beginning at points at 35.06508 N, 77.13600 W and at 35.06653 N, 77.13716 W.

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

(c) Placement of Markers. The Town Council of the Town of River Bend shall be the designated agency for placement of markers implementing this Rule, subject to the approval of the United States Coast Guard and the United States Army Corps of Engineers.

*History Note: Authority G.S. 75A-3; 75A-15;
Eff. June 1, 1983;
Amended Eff. December 1, 1985;*

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

15A NCAC 10F .0345 CHATHAM AND WAKE COUNTIES

(a) Regulated Areas. This Rule shall apply to the following waters of the Shearon Harris Nuclear Power Plant Reservoir, otherwise known as Harris Reservoir, in Chatham and Wake counties:

- (1) all waters within 50 yards of any marked boat launching ramp, pier, dock, mooring area, boat storage structure, bridge, or service area;
- (2) in Chatham County, a portion of the waters of the cove at the Cross Point Landing Boating Access Area on SR 1914 otherwise known as Cross Point Road, shore to shore beginning at a line west of a point on the north shore at 35.57351 N, 78.97411 W to a point on the south shore at 35.57187 N, 78.97384 W; and a
- (3) in Wake County, the waters within 150 yards of the Holleman's Boating Access Area located at 4420 Bartley Holleman Road in Holly Springs at 35.60861 N, 78.93899 W.

(b) Exclusionary Zones. Except for authorized personnel of the power company, no person shall operate a vessel in any exclusionary zone which is marked to prevent entry by boats.

(c) Mast Height. No person shall place or operate on the regulated area described in Paragraph (a) of this Rule a sailboat or other vessel having a mast or any superstructure extending vertically above water level a distance of 35 feet or more.

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

(e) Swimming Areas. No person shall operate a vessel or water skis within a marked public swimming area.

(f) Placement of Markers. The Board of Commissioners of Chatham County and the Board of Commissioners of Wake County shall be the designated agencies for placement of markers implementing this Rule within their respective counties.

*History Note: Authority G.S. 75A-3; 75A-15;
Eff. August 1, 1983;
Amended Eff. February 1, 1990;
Temporary Amendment Eff. April 1, 1998;
Amended Eff. May 1, 2013; July 1, 1998;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;
Amended Eff. October 1, 2018.*

15A NCAC 10F .0346 ARROWHEAD BEACH SUBDIVISION

(a) Regulated Areas. This Rule shall apply to the following waters or portions of waters in Chowan County:

- (1) Chowan River. The waters within 350 feet of the shoreline of the Arrowhead Beach Subdivision Park pier and swim area, from a point in the water southwest of the pier at 36.22691 N, 76.70711 W, to a point in the water northeast at 36.22838 N, 76.70637 W;

- (2) Indian Creek. The portion adjoining the Arrowhead Beach Subdivision shore to shore from a point at 36.23615 N, 76.69494 W to a point at 36.23084 N, 76.69231 W; and
- (3) Chowan River. The waters of an unnamed canal in Arrowhead Beach Subdivision, shore to shore at its intersection with the Chowan River at 36.22508 N, 76.70787 W.

(b) Swimming Area. No person operating or responsible for the operation of a vessel shall permit it to enter the swimming area described in Subparagraph (a)(1) of this Rule.

(c) Obstruction of Swimmers or Boats. No person shall place or maintain within the recreational area described in Subparagraph (a)(1) of this Rule any poles, cables, lines, nets, trotlines, fish traps or other obstructions or hazards to swimmers or boats, excepting those necessary to mark the area pursuant to this Rule.

(d) Speed Limit. No person shall operate a vessel at greater than no-wake speed in the area described in Subparagraphs (a)(2) and (a)(3) of this Rule.

(e) Placement of Markers. The board of Commissioners of Chowan County shall be the designated agency for the placement of markers implementing this Rule, subject to the approval of the United States Coast Guard and the United States Army Corps of Engineers.

History Note: Authority G.S. 75A-3; 75A-15; Eff. August 1, 1983;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016; Amended Eff. October 1, 2018; January 1, 2017.

15A NCAC 10F .0347 CRAVEN COUNTY

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

- (1) the portion of Northwest Creek from the entrance buoys at Northwest Creek Marina north of a line from a point on the east shore at 35.06357 N, 76.96934 W to a point on the west shore at 35.06343 N, 76.97106 W, to south of a line from a point on the east shore of Northwest Creek at 35.06903 N, 76.97030 W to a point on the west shore at 35.06779 N, 76.97225 W, northeast to include all waters, shore to shore, of the bulkheaded area of Fairfield Harbour otherwise known as Spring Creek;
- (2) Olde Towne Lake, shore to shore from its intersection with the Trent River west of a point at 35.08098 N, 77.05833 W;
- (3) the triangular area in the waters at the end of the Matthews Point Marina main pier located at the confluence of Clubfoot and Mitchell Creeks off of the Neuse River, between a point 300 feet east of the pier at 34.90619 N, 76.76490 W, and a point 300 feet west of the pier at 34.90610 N, 76.76262 W, and a point 150 feet south of the pier at 34.90571 N, 76.76377 W;
- (4) the waters within 50 yards of the fuel dock at Eastern Carolina Yacht Club on the Trent River in Trent Woods; and

- (5) the portion of Southwest Prong Slocum Creek in the City of Havelock, shore to shore east of a line from a point on the north shore at 34.89122 N, 76.92302 W to a point on the south shore at 34.89102 N, 76.92304 W and extending northeast, shore to shore to a line from a point on the north shore at 34.89370 N, 76.92109 W to a point on the southeast shore at 34.89358 N, 76.92089 W.

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

(c) Swimming Areas. No person operating or responsible for the operation of a vessel shall permit it to enter any swimming area described in Paragraph (a) of this Rule.

(d) Placement of Markers. Subject to the approval of the United States Coast Guard and the United States Army Corps of Engineers, the following agencies shall be the designated agencies for placement of markers implementing this Rule:

- (1) the Board of Commissioners of Craven County for areas indicated in Subparagraphs (a)(1),(2),(3), and (4) of this Rule; and
- (2) the City of Havelock for the area indicated in Subparagraph (a)(5) of this Rule.

History Note: Authority G.S. 75A-3; 75A-15; Eff. August 1, 1984;

Amended Eff. December 1, 1990; October 1, 1989; June 1, 1989; Temporary Amendment Eff. April 1, 1998; Amended Eff. July 1, 2016; July 1, 1998; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016; Amended Eff. October 1, 2018.

15A NCAC 10F .0348 PERSON COUNTY

(a) Regulated Area. This Rule shall apply to the Mayo Electric Generating Plant Reservoir, otherwise known as Mayo Reservoir, in Person County.

(b) Restricted Zones. Except for authorized personnel of the power company, no person shall operate a vessel in any restricted zone which is marked to prevent entry by boats.

(c) Mast Height. No person shall place or operate on the regulated area described in Paragraph (a) of this Rule a sailboat or other vessel having a mast or any superstructure extending vertically above water level a distance of 35 feet or more.

(d) Speed Limit. Except as provided in Paragraph (e) of this Rule, no person shall operate a vessel at greater than no-wake speed within 50 yards of any marked bridge, boat launching ramp, pier, boat storage structure, or boat service area on the regulated area described in Paragraph (a) of this Rule.

(e) Skiing. Except to leave or return to the shore or a boat launching ramp, no skiing is permitted within any speed zone described in Paragraph (d) of this Rule. In leaving or returning to the shore or boat ramp, all vessels pulling skiers shall be operated on a course perpendicular to the shore line. Upon returning, all vessels pulling skiers shall reduce to no-wake speed when the skiers have entered the restricted area.

(f) Swimming Areas. No person shall operate a vessel or water skis within a marked public swimming area.

(g) Boating Access. No vessel shall be placed on the regulated area described in Paragraph (a) of this Rule from any point other than the Triple Springs Boating Access Area on SR 1515.

(h) No Wake Zone. No person shall operate a vessel at greater than no wake speed within the waters of the channel on Mayo Reservoir beginning north of the Triple Springs Boating Access Area, shore to shore from 36.48054 N, 78.87754 W to 36.47992 N, 78.87972 W, southward ending at an area below the Mayo Park ADA Fishing Pier shore to shore from 36.48054 N, 78.87754 W to 36.47718 N, 78.87836 W.

(i) Placement of Markers. The Board of Commissioners of Person County shall be the designated agency for placement of markers implementing this Rule.

History Note: Authority G.S. 75A-3; 75A-15;

Eff. August 1, 1984;

Amended Eff. December 1, 2010; April 1, 1997;

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

Amended Eff. October 1, 2018.

15A NCAC 10F .0350 DURHAM AND WAKE COUNTIES

(a) Regulated Areas. This Rule shall apply to the waters of Falls Lake in Durham and Wake counties.

(b) Speed Limit. No person shall operate a vessel at greater than no-wake speed:

- (1) while within a designated mooring area established on the regulated area by or with the approval of the Corps and State Parks;
- (2) within 50 yards of any public boat launching ramp or boat service facility, including docks used for fueling or boat repair, located on the regulated area;
- (3) within 50 yards of any state road bridge crossing over the portion of Falls Lake located within Wake County;
- (4) the waters of the Holly Point Recreation Swim and boat launch area shore to shore, from a line at a point on the southwest shore at 35.99751 N, 78.66075 W to a point on the north shore at 36.00030 N, 78.65963 W, east to a line from a point on the southeast shore at 35.99941 N, 78.65520 W to a point on the northwest shore at 36.00087 N, 78.65731 W; and
- (5) within 50 yards east and 50 yards west of the New Light Road bridge.

(c) Restricted Zones. No person operating or responsible for the operation of a vessel, surfboard or water skis shall enter:

- (1) any marked swimming area located on the regulated area;
- (2) any areas near the dam structures located on the regulated area that is marked against entry by vessels by or with the approval of the United States Army Corps of Engineers.

(d) Placement of Markers. The Board of Commissioners of Durham County, the Board of Commissioners of Wake County, and North Carolina State Parks shall be the designated agencies for placement of markers implementing this Rule in their

respective counties, subject to the approval of the United States Army Corps of Engineers.

History Note: Authority G.S. 75A-3; 75A-15;

Eff. December 1, 1984;

Amended Eff. May 1, 2007; August 1, 1990; April 1, 1990;

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

Amended Eff. July 1, 2018.

15A NCAC 10F .0351 NEW BERN

(a) Regulated Area. This Rule shall apply to that part of the Trent River that is located within the city limits of New Bern in Craven County.

(b) Speed Limit. No person shall operate a vessel at greater than no-wake speed on the Trent River between the Trent River Railroad Bridge and the Trent River Bridge on East Front Street.

(c) Placement of Markers. The Board of Alderman of the City of New Bern shall be the designated agency for placement of the markers implementing this Rule, subject to the approval of the United States Coast Guard and the United States Army Corps of Engineers.

History Note: Authority G.S. 75A-3; 75A-15;

Eff. October 1, 1986;

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

Amended Eff. October 1, 2018.

15A NCAC 10F .0352 CAMDEN COUNTY

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

- (1) the waters of Edgewater Canal, beginning at a point at 36.17539 N, 75.97945 W, parallel with and along the south shore of Camden Point and the connecting channels to Albemarle Sound in Camden County;
- (2) the portion of Turners Cut, otherwise known as South Mills Shore Canal, for a distance of approximately 1000 feet, south of a line from a point on the east shore at 36.41129 N, 76.30598 W to a point on the west shore at 36.41096 N, 76.30654 W and north of a line from a point on the east shore at 36.40912 N, 76.30402 W to a point on the west shore at 36.40880 N, 76.30462 W;
- (3) the canals of Whitehall Shores subdivision on the Pasquotank River; and
- (4) the cove south of Sawyers Creek on the east side of the Pasquotank River in the town of Camden, east of a line from a point on the north shore at 36.32353 N, 76.18054 W to a point on the south shore at 36.32254 N, 76.18017 W.

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

(c) Placement of Markers. The Board of Commissioners of Camden County shall be the designated agency for placement of the markers implementing this Rule, subject to the approval of the

United States Coast Guard and the United States Army Corps of Engineers.

History Note: Authority G.S. 75A-3; 75A-15;
Eff. June 1, 1987;
Amended Eff. January 1, 1989;
Temporary Amendment Eff. March 15, 2003;
Temporary Amendment Expired October 12, 2003;
Amended Eff. February 1, 2014; May 1, 2013; May 1, 2004;
Pursuant to G.S. 150B-21.3A, rule is necessary without
substantive public interest Eff. December 6, 2016;
Amended Eff. October 1, 2018.

15A NCAC 10F .0354 PITT COUNTY

(a) Regulated Areas. This Rule shall apply to the waters described in this Paragraph:

- (1) the waters of Tar River, known as Hardee Creek, shore to shore, west of a line at its confluence with the main course of Tar River from a point on the north shore at 35.59878 N, 77.31168 W to a point on the south shore at 35.59813 N, 77.31157 W; and
- (2) the portion of Tranters Creek east of a line from a point on the north shore at 35.56961 N, 77.09159 W to a point on the south shore at 35.56888 N, 77.09118 W and north of a line from a point on the east shore at 35.56714 N, 77.08941 W to a point on the west shore at 35.56689 N, 77.09029 W.

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

(c) Placement of Markers. The Board of Commissioners of Pitt County shall be the designated agency for placement and maintenance of markers implementing this Rule, subject to the approval of the United States Coast Guard and United States Army Corps of Engineers.

History Note: Authority G.S. 75A-3; 75A-15;
Eff. May 1, 1988;
Amended Eff. May 1, 2014; September 1, 2010; July 1, 1995;
April 1, 1992;
Pursuant to G.S. 150B-21.3A, rule is necessary without
substantive public interest Eff. December 6, 2016;
Amended Eff. October 1, 2018.

15A NCAC 10F .0355 PERQUIMANS COUNTY

(a) Regulated Areas. This Rule shall apply to the following waters:

- (1) Perquimans River:
 - (A) the canals of Holiday Island subdivision at Albemarle Sound; and
 - (B) Town of Hertford: the part of the Perquimans River beginning 75 yards northeast of the Perquimans River Bridge, otherwise known as the Hertford S-shaped Bridge, parallel to the bridge, shore to shore, and ending approximately 550 yards southwest, at

a line from a point on the north shore 36.19305 N, 76.46957 W to a point on the south shore at 36.19150 N, 76.47099 W.

- (2) Yeopim River:
 - (A) the canal between Navaho Trail and Cherokee Trail beginning at a point at 36.07893 N, 76.42278 W;
 - (B) the canal between Cherokee Trail and Ashe Street beginning at a point at 36.07865 N, 76.42603 W;
 - (C) within 50 yards of the boat ramp at Ashe and Pine Street;
 - (D) the canal between Pine Street and Linden Street beginning at a point at 36.07951 N, 76.43402 W;
 - (E) the canal between Willow Street and Evergreen Drive beginning at a point at 36.08005 N, 76.43735 W;
 - (F) the canal between Sago Street and Alder Street beginning at a point at 36.07986 N, 76.44063 W; and
 - (G) Bethel Creek north of a line from a point on the west shore at 36.09566 N, 76.47928 W to a point on the east shore at 36.09534 N, 76.47738 W to a line from a point on the west shore at 36.10532 N, 76.48080 W to a point on the east shore at 36.10516 N, 76.48047 W.
- (3) Yeopim Creek:
 - (A) the canal between Mohave Trail and Iowa Trail beginning at a point at 36.08521 N, 76.41802 W;
 - (B) the canal between Iowa Trail and Shawnee Trail beginning at a point at 36.08511 N, 76.41763 W;
 - (C) the area within 75 yards of the Albemarle Plantation Marina Piers;
 - (D) the area of the cove known as Beaver Cove, shore to shore beginning at a point at 36.08767 N, 76.42151 W; and
 - (E) the waters of Yeopim Creek adjacent to Heritage Shores North, shore to shore, east of a line from a point on the north shore at 36.11356 N, 76.43138 W to a point on the south shore at 36.11288 N, 76.43173 W, to a line northwest from a point on the east shore at 36.11219 N, 76.42445 W to a point on the west shore at 36.11178 N, 76.42596 W.
- (4) Little River: the entrance to the cove known as Muddy Gut Canal that extends from the waters known as Deep Creek, shore to shore beginning at a line from a point on the east shore at 36.17729 N, 76.28011 W to a point on the west shore at 36.17667 N, 76.28331 W.

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

(c) **Swimming Area.** No person operating or responsible for the operation of a vessel shall permit it to enter the swimming area at the Snug Harbor Park and Beach on the Yeopim River.

(d) **Placement of Markers.** The Board of Commissioners of Perquimans County shall be the designated for placement of markers implementing this Rule, subject to the approval of the United States Coast Guard and the United States Army Corps of Engineers.

History Note: Authority G.S. 75A-3; 75A-15;

Eff. November 1, 1988;

Amended Eff. October 1, 1992;

Temporary Amendment Eff. October 1, 1997;

Amended Eff. July 1, 1998;

Temporary Amendment Eff. February 4, 2000;

Amended Eff. January 1, 2015; September 1, 2013; May 1, 2006;

June 1, 2005; July 1, 2000;

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

Amended Eff. October 1, 2018; June 1, 2017.

15A NCAC 10F .0356 PASQUOTANK COUNTY

(a) **Regulated Area.** This area shall apply to the canals of the Glen Cove Subdivision in Pasquotank County.

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

(c) **Placement of Markers.** The Board of County Commissioners of Pasquotank County shall be the designated agency for placement of the markers implementing this Rule, subject to the approval of the United States Coast Guard and the United States Army Corps of Engineers.

History Note: Authority G.S. 75A-3; 75A-15;

Eff. December 1, 1988;

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

Amended Eff. October 1, 2018.

15A NCAC 10F .0357 NASH COUNTY

(a) **Regulated Area.** This Rule shall apply to the following waters of the Tar River Reservoir near the City of Rocky Mount in Nash County:

- (1) beginning 50 yards northwest of the bridge located on SR 1745, otherwise known as Bend of the River Road, from a line northwest of the bridge at a point on the south shore at 35.88347 N, 77.89666 W, northeast to a point in the water at 35.88395 N, 77.89576 W, and ending southeast of the bridge at a point within 50 yards of the Bend of the River boat ramp located at 35.88224 N, 77.89605 W.
- (2) beginning 185 yards northwest of the Sapony Creek bridge and boat ramp located on SR 1603, otherwise known as S. Old Carriage Road at 35.88545 N, 77.91154 W, shore to shore at a

line from a point on the south shore at 35.88540 N, 77.91365 W to a point on the north shore at 35.88643 N, 77.91309 W, and ending at a line east of the bridge from a point on the south shore at 35.88479 N, 77.91148 W to a point on the northeast shore at 35.88565 N, 77.91085 W; and

- (3) the waters 50 yards southwest of the Low Bridge on SR 1603 otherwise known as S. Old Carriage Road from a point in the water at 35.85446 N, 77.90760 W to a line northeast of the bridge shore to shore, from a point on the southeast shore at 35.85590 N, 77.90545 W to a point on the northwest shore at 35.85718 N, 77.90757 W.

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

(c) **Placement of Markers.** The City of Rocky Mount shall be the designated agency for the placement of markers implementing this Rule.

History Note: Authority G.S. 75A-3; 75A-15;

Eff. May 1, 1989;

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

Amended Eff. October 1, 2018.

15A NCAC 10F .0358 JONES COUNTY

(a) **Regulated Area.** This Rule shall apply to the waters of the Trent River shore to shore in Pollocksville, from a line 25 yards west of the U.S. Highway 17 bridge from a point on the north shore at 35.01023 N, 77.21938 W to a point on the south shore at 35.00979 N, 77.21942 W, eastward to a line 100 yards east of the Pollocksville Public Fishing and Boating Access Area, from a point on the north shore at 35.00967 N, 77.21696 W to a point on the south shore at 35.00931 N, 77.21718 W.

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

(c) **Placement of Markers.** The Jones County Board of Commissioners shall be the designated agency for placement of the markers implementing this Rule.

History Note: Authority G.S. 75A-3; 75A-15;

Eff. May 1, 1989;

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

Amended Eff. October 1, 2018.

15A NCAC 10F .0361 WILKES COUNTY

(a) **Regulated Area.** This Rule shall apply to those waters within 50 yards of any marked boat launching area, bridge, dock, pier, marina, boat storage structure, or boat service area located on W. Kerr Scott Reservoir in Wilkes County.

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

(c) Placement of Markers. The Wilkes County Board of Commissioners shall be the designated agency for placement of the markers implementing this Rule.

History Note: Authority G.S. 75A-3; 75A-15; Eff. September 1, 1989; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016; Amended Eff. October 1, 2018.

15A NCAC 10F .0362 HARNETT COUNTY

(a) Regulated Area. This Rule shall apply to the following waters in Harnett County:

- (1) the waters of Lake Carolina within 50 yards of any marked boat launching ramp, boat service area, boat pier, boat dock, boat mooring area, boat storage structure, or bridge; and
- (2) the canal between Lake Carolina and Ski Lake from its west end at Lake Carolina at a point at 35.28164 N, 79.03218 W to its east end where it enters Ski Lake at a point at 35.28038 N, 79.02662 W.

(b) Restricted Zones. Except for authorized personnel of State, County, and Municipal governments and emergency response personnel, no person shall operate a vessel in any restricted zone marked to prevent entry by boats, including designated swimming areas and danger zones near dams and spillways.

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

(d) Placement of Markers. The Board of Commissioners of Harnett County shall be the designated agency for placement and maintenance of markers implementing this Rule.

History Note: Authority G.S. 75A-3; 75A-15; Eff. August 1, 1990; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016; Amended Eff. October 1, 2018.

15A NCAC 10F .0363 CASWELL AND PERSON COUNTIES

(a) Regulated Areas. This Rule shall apply to the waters of Hyco Lake in Caswell and Person counties.

(b) Speed Limit Near Bridges. No person shall operate a vessel at greater than no-wake speed within 50 yards of any bridge that crosses the waters of Hyco Lake.

(c) Speed Limit in Canals. No person shall operate a vessel at greater than no-wake speed within any canals on Hyco Lake.

(d) Placement of Markers. The Board of Commissioners of Caswell and Person Counties shall be the designated agencies for placement of the markers implementing this Rule.

History Note: Authority G.S. 75A-3; 75A-15; Eff. November 1, 1990; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016; Amended Eff. October 1, 2018.

15A NCAC 10F .0364 GREENSBORO

(a) Regulated Area. This Rule shall apply to the waters of Lake Brandt, Lake Higgins, and Lake Townsend, otherwise known as Greensboro Municipal Reservoirs, within the city limits of Greensboro in Guilford County.

(b) Speed Limit. No person shall operate a vessel at greater than no wake speed within 50 yards of any marked public boat launching ramp, bridge, dock, marina, boat storage structure, boat service area or pier operated by the City of Greensboro for public use.

(c) Restricted Zones. No person operating or responsible for the operation of any vessel shall permit it to enter any restricted zone marked to prevent entry by vessels.

(d) Placement of Markers. The Board of Commissioners of Guilford County shall be the designated agency for placement of markers implementing this Rule.

History Note: Authority G.S. 75A-3; 75A-15; Eff. August 1, 1991; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016; Amended Eff. October 1, 2018.

15A NCAC 10F .0365 TYRRELL COUNTY

(a) Regulated Area. This Rule shall apply to the following waters in Tyrrell County:

- (1) the portion of the Scuppernong River from 300 yards north-northwest of the U.S. Highway 64 bridge to 100 yards south-southwest of the U.S. Highway 64 bridge.
- (2) the portion of the Scuppernong River from the point where the canal to the Columbia Boating Access Areas intersects the river and extending 200 feet into the river.
- (3) the waters of the canal that leads to the marina at Taylor's Beach on Albemarle Sound in Columbia, beginning at a point at 35.95559 N, 76.30219 W.

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

(c) Placement of Markers. The Board of Commissioners of Tyrrell County shall be the designated agency for the placement of the markers implementing this Rule, subject to the approval of the United States Coast Guard and the United States Army Corps of Engineers.

History Note: Authority G.S. 75A-3; 75A-15; Eff. December 1, 1993; Amended Eff. September 1, 2011; December 1, 1994; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016; Amended Eff. October 1, 2018.

15A NCAC 10F .0368 TOWN OF NAGS HEAD

(a) Regulated Area. This Rule shall apply to the waters of the Roanoke Sound extending 600 feet from the shoreline; from the northern boundary of the Old Nags Head Cove Subdivision at a point at 35.95136 N, 75.63233 W to the southern boundary of the

Old Nags Head Cove Subdivision at a point at 35.93676 N, 75.62223 W.

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

(c) Placement of Markers. The Town of Nags Head shall be the designated agency for placement of the markers implementing this Rule, subject to the approval of the United States Coast Guard and United States Army of Corps of Engineers.

History Note: Authority G.S. 71A-15; 72A-3;

Temporary Adoption Eff. July 1, 2002;

Eff. April 1, 2003;

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

Amended Eff. October 1, 2018.

15A NCAC 10F .0369 TOWN OF SWANSBORO

(a) Regulated Area. This Rule shall apply to the waters of the White Oak River within approximately 50 yards of the shoreline of the Swansboro Town Limits in Onslow County and outside the United States Army Corps of Engineers Swansboro Channel setback, as marked by no-wake buoys, beginning at the N.C. Highway 24 bridge and ending at a point 50 yards southwest of the Casper's Marina pier at 34.68495 N, 77.12195 W.

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

(c) Placement of Markers. The Town of Swansboro shall be the designated agency for placement of the markers implementing this Rule, subject to the approval of the United States Coast Guard and United States Army Corps of Engineers.

History Note: Authority G.S. 71A-15; 72A-3;

Eff. October 1, 2004;

Amended Eff. June 1, 2005;

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

Amended Eff. October 1, 2018.

15A NCAC 10F .0370 CITY OF ROCKY MOUNT

(a) Regulated Areas. This Rule shall apply to the waters of the Tar River shore to shore, beginning up at the N.C. Highway Bridge on Peachtree Street, eastward 100 yards and ending at the Rocky Mount Mill Dam.

(b) Swimming or boating. No swimming or other entry of a person in or upon a boat, raft, or other floating object shall be permitted within the exclusionary zone established in Paragraph (a) of this Rule.

(c) Paragraph (b) of this Rule shall not apply to persons who, with consent of the City of Rocky Mount, require access for maintaining or repairing facilities associated with the Rocky Mount Mill Dam or the Rocky Mount Mill.

(d) Placement of Markers. The City of Rocky Mount shall be designated as the entity for placement of buoys and other signs indicating the areas in which boating and swimming are prohibited by this Rule.

History Note: Authority G.S. 75A-3; 75A-15;

Eff. May 1, 2004;

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

Amended Eff. October 1, 2018.

15A NCAC 10F .0371 BELEWS LAKE IN STOKES COUNTY

(a) Regulated Area. This Rule shall apply to the areas described in Paragraphs (b) and (c) in Belews Lake in Stokes County.

(b) No swimming or boating in exclusionary zone. No swimming or other entry of a person in or upon a boat, raft, or other floating object shall be permitted in the exclusionary zone in the cove containing the power station's plant intake on the western side of Belews Lake, approximately 1,000 feet northeast of Belews Creek Steam Station, as marked by warning buoys and signs.

(c) No swimming or boating in evacuation area in event of alarm. In the event of a siren or audible alarm generated by the Belews Creek Steam Station, all persons swimming, boating, or occupying a raft or other floating object on the lake shall evacuate the area on the western side of Belews Lake approximately 4,000 feet northeast of Belews Creek Station as marked by warning buoys and signs.

(d) Paragraphs (b) and (c) of this Rule shall not apply to persons who, with consent of Duke Energy Corporation, access the area for the purpose of responding to an emergency or maintaining or repairing facilities of Duke Energy Corporation.

(e) Placement and Maintenance of Markers. The Duke Energy Corporation shall be the designated entity for placement and maintenance of buoys, barriers and other signs implementing this Rule.

History Note: Authority G.S. 75A-3; 75A-15;

Emergency Adoption Eff. August 1, 2005;

Temporary Adoption Eff. November 1, 2005;

Eff. February 1, 2006;

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

Amended Eff. October 1, 2018.

15A NCAC 10F .0374 CUBE YADKIN GENERATION SAFETY ZONES

(a) Regulated Area. This Rule shall apply to the area one hundred feet upstream or downstream from the stations and dams, associated structures, abutments and equipment at the following stations:

- (1) Narrows Hydroelectric Station on the Yadkin River in Stanly and Montgomery Counties;
- (2) High Rock Hydroelectric Station on the Yadkin River in Rowan and Davidson Counties.

(b) Fishing. Except as otherwise provided in this Paragraph or in Paragraph (c) of this Rule, no person shall enter the waters within the regulated areas described in Paragraph (a) of this Rule, except persons engaged in fishing within the regulated areas described in Paragraph (a) of this Rule may enter these waters in connection with such fishing activities provided that they shall wear at all times a U.S. Coast Guard-approved personal flotation device in serviceable condition and of appropriate size for the wearer.

(c) Boating. Any person in or upon a boat, raft, or other floating object that enters into the regulated areas described in Paragraph

(a) of this Rule shall wear at all times a U.S. Coast Guard approved personal flotation device in serviceable condition and of appropriate size for the wearer.

(d) No vessel shall tie off to any part of the hydroelectric station structure or the accessory portions thereof within regulated areas described in Paragraph (a) of this Rule or anchor or otherwise secure a vessel in these areas.

(e) Paragraph (d) of this Rule shall not apply to persons who enter with consent of Cube Yadkin Generation for the purpose of maintaining, repairing, or evaluating facilities of Cube Yadkin Generation; law enforcement or emergency personnel; or N.C. state employees acting in an official capacity.

(f) Placement and Maintenance of Markers. Cube Yadkin Generation shall be the designated entity for placement and maintenance of buoys and other signs implementing this Rule.

History Note: Authority G.S. 75A-3; 75A-15; Eff. January 1, 2008;

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

15A NCAC 10F .0376 TOWN OF EMERALD ISLE

(a) Regulated Area. This Rule shall apply to the following waters located in the Town of Emerald Isle in Carteret County:

- (1) Bogue Sound Drive Channel shore to shore, roughly parallel to the shoreline in the vicinity of Bogue Sound Drive, from a point where the channel meets Bogue Sound in the west at 34.67471 N, 76.98684 W to a point where it meets Bogue Sound in the east at 34.67588 N, 76.97760 W;
- (2) Coast Guard Channel shore to shore from the north entrance of the channel where it intersects Bogue Sound near 419 Channel Drive, south from a point in the water at 34.65348 N, 77.09560 W, to the west end of the channel where it intersects Bogue Sound, near 116 Bogue Court, east-northeast from a point in the water at 34.64820 N, 77.09731 W; and
- (3) the waters within approximately 100 yards of the shoreline of Bogue Sound adjacent to Archer Point, south of and including a portion of the Emerald Isle channel, bounded on the west side by a line running north from 34.67553 N, 77.01535 W to the northern side of the channel, and on the east side by a line running northeast from 34.67519 N, 77.01279 W to the northern side of the channel.

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

(c) Placement of Markers. The Town of Emerald Isle shall be the designated agency for placement of the markers implementing this Rule, subject to the approval of the United States Coast Guard and the United States Army Corps of Engineers.

History Note: Authority G.S. 75A-3; 75A-15; Eff. September 1, 2008;

Amended Eff. August 1, 2011; April 1, 2009; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016; Amended Eff. October 1, 2018.

**15A NCAC 10H .0301 GENERAL REQUIREMENTS
15A NCAC 10H .0302 MINIMUM STANDARDS
15A NCAC 10H .0303 FORFEITURE**

History Note: Authority G.S. 19A-11; 106-549.97(b); 113-131; 113-134; 113-272.5, 113-272.6; 113-274; 114-292; 150B-3; Eff. February 1, 1976;

Amended Eff. April 1, 1991; December 1, 1990; September 1, 1990; June 1, 1990; July 1, 1988; November 9, 1980; February 7, 1979;

Temporary Amendment Eff. October 8, 2002; May 17, 2002; July 1, 2001;

Amended Eff. May 1, 2010; December 1, 2005; August 1, 2004;

Temporary Amendment Eff. December 2, 2014;

Temporary Amendment Expired September 11, 2015;

Temporary Amendment Eff. February 27, 2015;

Temporary Amendment Expired December 11, 2015;

Repealed Eff. January 1, 2020.

**15A NCAC 10H .0304 CAPTIVE CERVID HERD
CERTIFICATION PROGRAM**

History Note: Authority G.S. 106-549.97(b); 113-134; 113-272.5; 113-272.6; 113-274; 113-292;

Eff. May 1, 2010;

Temporary Amendment Eff. February 27, 2015;

Temporary Amendment Expired December 11, 2015;

Repealed Eff. January 1, 2020.

**TITLE 21 - OCCUPATIONAL LICENSING BOARDS AND
COMMISSIONS**

**CHAPTER 23 - IRRIGATION CONTRACTORS'
LICENSING BOARD**

21 NCAC 23 .0208 COMPLAINT PROCESS

(a) An individual who wishes to make a complaint alleging violation of G.S. 89G or the Board's rules shall submit a complaint form online through the Board's website (<http://www.nciclb.org>) or by printing the form from the Board's website and mailing it to the Board office at P.O. Box 41421 Raleigh, N.C. 27629. The following information shall be included in the complaint form:

- (1) date of complaint;
- (2) complainant name;
- (3) complainant mailing address;
- (4) complainant contact number;
- (5) alleged violator name;
- (6) location of violation site, including city;
- (7) date alleged violation was noted;
- (8) how complainant became aware of alleged violation;
- (9) description of the work being performed; and

- (10) statement that the information provided by the complainant is true and accurate to the best of his or her knowledge.
- (b) The Board shall not respond to or investigate anonymous complaints or inquiries.
- (c) The Board office shall administratively close any complaint that:
 - (1) is anonymously submitted;
 - (2) is withdrawn by the complainant at any stage of the investigation; or
 - (3) is submitted more than two years after the irrigation system was completed by a licensee of the Board.
- (d) If the complaint is not administratively closed pursuant to Paragraph (c) of this Rule, the Board's Investigative Committee shall determine whether further investigation is necessary to resolve the complaint based on the type and nature of the complaint. If further investigation is necessary, the Investigative Committee shall refer the matter to the Board's investigator.
- (e) Upon completion of the investigation into the complaint, the Investigative Committee shall:
 - (1) find that there is probable cause to believe a violation occurred and send the respondent a notice of violation; or
 - (2) find that there is no probable cause to believe a violation occurred and send the respondent and complainant notification of the same.
- (f) If the Investigative Committee finds that there is probable cause to believe a violation occurred, then the complaint shall be resolved in the following manner:
 - (1) settlement agreement; or
 - (2) hearing in accordance with the rules of this Section and as required by G.S. 150B, Article 3A.

History Note: Authority G.S. 89G-2; 89G-5; 89G-11; 89G-12; 150B;
Eff. November 1, 2016;
Amended Eff. July 1, 2018.

21 NCAC 23 .0503 WATER SUPPLY

- (a) Before commencing installation, an irrigation contractor shall verify that the point of connection, water supply, flow rate, and static and dynamic pressures meet design criteria.
- (b) All new irrigation systems that have a pressurized water supply under continuous pressure must include an isolation valve. The isolation valve's location must be in the main line before the first zone valve or quick coupler.
- (c) On all new installations, if a master valve is used, it shall be installed on the discharge side of the backflow prevention device.
- (d) If the water supply is potable water, an irrigation contractor shall verify that a backflow prevention device is installed upstream of the irrigation system before pressurizing the irrigation mainline.
- (e) For local government water systems and large community water systems, an irrigation contractor shall, when required by local code, install a separate meter for new in-ground systems on lots platted and recorded after July 1, 2009, in the office of the register of deeds in the county or counties in which the real

property is located. This Rule shall not apply to lots with privately owned septic tanks systems or other types of privately owned innovative on-site wastewater systems if a lockable cutoff valve approved by the water system and a testable backflow prevention device approved by the water system for the appropriate level of risk associated with the irrigation system or other identified risk are installed on the water supply line for the irrigation system. The lockable cutoff value shall be installed on the water supply line for the irrigation system within 24 inches of the water meter and the testable backflow device shall be installed on the water supply line for the irrigation system

History Note: Authority G.S. 89G-5; 143-355.4;
Eff. July 1, 2011;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 22, 2014;
Amended Eff. July 1, 2018; November 1, 2016.

CHAPTER 32 - MEDICAL BOARD

21 NCAC 32R .0103 EXCEPTIONS

- (a) A physician shall be exempt from the requirements of Rule .0101 of this Section if the licensee is:
 - (1) Currently enrolled in an AOA or Accreditation of Council of Graduate Medical Education (ACGME) accredited graduate medical education program and holds a residency training license;
 - (2) In good standing with the Board and is either:
 - (A) serving in the armed forces of the United States or serving in support of such armed forces, and serving in a combat zone; or
 - (B) serving with respect to a military contingency operation as defined by 10 U.S.C.101(a)(13); or
 - (3) Serving as a member of the General Assembly's House or Senate Health Committee.
- (b) A physician who obtains initial certification from an ABMS, AOA or RCPSC specialty board shall be deemed to have satisfied his or her entire CME requirement for the three year cycle in which the physician obtains board certification. However, if the physician prescribes controlled substances, then the physician shall complete at least three hours of CME that is designed to address controlled substance prescribing practices as required in 21 NCAC 32R .0101 during that three year cycle. If the physician completed CME as part of their initial certification that satisfies the requirement in 21 NCAC 32R .0101, then the physician shall not be required to take controlled-substance prescribing CME beyond that included in their initial certification process.
- (c) A physician who attests that he or she is engaged in a program of recertification or maintenance of certification from an ABMS, AOA or RCPSC specialty board shall be deemed to have satisfied his or her entire CME requirement for that three year cycle. However, if the physician prescribes controlled substances, then the physician shall complete at least three hours of CME that is designed to address controlled substance prescribing practices as

required in 21 NCAC 32R .0101 during that three year cycle. If the physician completed CME as part of their program for recertification or maintenance of certification process that satisfies the requirement in 21 NCAC 32R .0101, then the physician shall not be required to take controlled-substance prescribing CME beyond that included in their recertification or maintenance of certification process.

History Note: Authority G.S. 90-14(a)(15); 90B-15; Eff. January 1, 2000; Amended Eff. August 1, 2012; January 1, 2001; Pursuant to G.S. 150B-21.3A rule is necessary without substantive public interest Eff. March 1, 2016; Amended Eff. July 1, 2018

CHAPTER 38 – BOARD OF OCCUPATIONAL THERAPY

21 NCAC 38 .0103 DEFINITIONS

The definitions in G.S. 90-270.67 apply to this Chapter. The following definitions also apply to the Chapter:

- (1) "Activities of daily living" (ADL) means self-care activities.
- (2) "Assessment" means the tools or instruments that are used during the evaluation process.
- (3) "Client" means a person, group, program, organization, or community for whom the occupational therapy practitioner is providing services.
- (4) "Entry-level" means a person who has no experience in a specific position, such as a new graduate, a person new to the position, or a person in a new setting with no previous experience in that area of practice.
- (5) "Evaluation" means the process of obtaining and interpreting data necessary for intervention. This includes planning for and documenting the evaluation process and results.
- (6) "Instrumental activities of daily living" (IADL) means multi-step activities to care for self and others, such as household management, financial management, and childcare.
- (7) "Intervention" means treatment.
- (8) "Intervention plan" is the program established by the occupational therapist for the delivery of occupational therapy services. It may also be referred to as treatment plan, individualized education plan (IEP), individualized family service plan (IFSP), plan of care, or other terminology as determined by the occupational therapy service delivery setting.
- (9) "Level I Fieldwork" provides introductory level clinical training opportunities.
- (10) "Level II Fieldwork" provides clinical training in preparation for entry-level practice.
- (11) "Neglect of duty" occurs when a Board member fails to attend a majority of the official meetings of the Board within any 12 month period.

- (12) "Occupational Therapy", as defined in G.S. 90-270.67(4), may include evaluation of activities of daily living (ADL), instrumental activities of daily living (IADL), education, work, play, leisure, and social participation.
- (13) "Occupational Therapy evaluation, treatment, and consultation" include the following:
 - (a) remediation or restitution of performance abilities that are limited due to impairment in biological, physiological, psychosocial, and developmental process;
 - (b) adaptation of skills, process or environment, or the teachings of compensatory techniques in order to enhance performance;
 - (c) disability prevention methods and techniques that facilitate the development or safe application of performance skills;
 - (d) promotion of health and wellness to those who have or are at risk for developing an illness, injury, disease, disorder, condition, impairment, disability, activity limitation, or participation restriction; and
 - (e) interpretation of the physical, cognitive, psychosocial, sensory, and other aspects of performance in a variety of contexts to support engagement in everyday life activities that affect health, well-being, and quality of life.
- (14) "Occupational therapy practitioner" means an individual licensed by the Board as an occupational therapist or an occupational therapy assistant.
- (15) "Occupational therapy services" include the following:
 - (a) Methods or strategies selected to direct the process of interventions such as:
 - (i) Establishment, remediation, or restoration of a skill or ability that has not yet developed or is impaired;
 - (ii) Compensation, modification, or adaptation of activity or environment to enhance performance;
 - (iii) Maintenance and enhancement of capabilities without which performance in everyday life activities would decline;
 - (iv) Health promotion and wellness to enable or enhance performance in everyday life activities; and

- (v) Prevention of barriers to performance, including disability prevention.
 - (b) Evaluation of factors affecting activities of daily living (ADL), instrumental activities of daily living (IADL), education, work, play, leisure, and social participation, including:
 - (i) Client factors, including body functions (such as neuromuscular, sensory, visual, perceptual, cognitive) and body structures (such as cardiovascular, digestive, integumentary, genitourinary systems);
 - (ii) Habits, routines, roles, and behavior patterns;
 - (iii) Cultural, physical, environmental, social, and spiritual contexts and activity demands that affect performance; and
 - (iv) Performance skills, including motor, process, and communication/interaction skills.
 - (c) Interventions and procedures to promote or enhance safety and performance in activities of daily living (ADL), instrumental activities of daily living (IADL), education, work, play, leisure and social participation, including:
 - (i) Therapeutic use of occupations, exercises, and activities;
 - (ii) Training in self-care, self-management, home management, and community or work reintegration;
 - (iii) Development, remediation, or compensation of physical, cognitive, neuromuscular, sensory functions and behavioral skills;
 - (iv) Therapeutic use of self, including one's personality, insights, perceptions, and judgments, as part of the therapeutic process;
 - (v) Education and training of individuals, including family members, caregivers, and others;
 - (vi) Care coordination, case management, and transition services;
 - (vii) Consultative services to groups, programs, organizations, or communities;
 - (viii) Modification of home, work, school, or community environments and adaptation of processes, including the application of ergonomic principles;
 - (ix) Assessment, design, fabrication, application, fitting, and training in assistive technology, adaptive devices, and orthotic devices, and training in the use of prosthetic devices;
 - (x) Assessment, recommendation, and training in techniques to enhance functional mobility, including wheelchair management;
 - (xi) Driver rehabilitation and community mobility;
 - (xii) Management of feeding, eating, and swallowing to enable eating and feeding performance; and
 - (xiii) Application of physical agent modalities and use of a range of specific therapeutic procedures to enhance performance skills.
- (16) "Occupational therapy student" means an individual enrolled in an occupational therapist or occupational therapy assistant program accredited by the Accreditation Council for Occupational Therapy Education (ACOTE).
 - (17) "Practice Act" refers to the North Carolina Occupational Therapy Practice Act found in G.S. 90-270.65 et. seq.
 - (18) "Screening" means obtaining and reviewing data relevant to a potential client to determine the need for further evaluation and intervention.
 - (19) "Service Competency" is the ability to provide occupational therapy services in a safe and effective manner. It means that two practitioners can perform the same or equivalent procedure and obtain the same result.
 - (20) "Skilled occupational" therapy services when rendered by an occupational therapist or occupational therapy assistant means functions that require the exercise of professional

occupational therapy judgment, including the interpretation of referrals, screening, assessment, evaluation, development or modification of intervention plans, implementation of intervention, reassessment, or discharge planning.

- (21) "Supervision" is the process by which two or more people participate in joint effort to establish, maintain, and elevate a level of performance to ensure the safety and welfare of clients during occupational therapy. Supervision is structured according to the supervisee's qualifications, position, level of preparation, depth of experience and the environment within which the supervisee functions. Levels of supervision are:

(a) "General supervision," which is required for all occupational therapy assistants by an occupational therapist. It includes a variety of types and methods of supervision and may include observation, modeling, co-treatment, discussions, teaching, instruction, phone conversations, videoconferencing, written correspondence, electronic exchanges, and other telecommunication technology. Methods of observation include face-to-face, synchronous or asynchronous videoconferencing. The specific frequency, methods, and content of supervision may vary by practice setting and are dependent on the complexity of client needs, number and diversity of clients, demonstrated service competency of the occupational therapist and the occupational therapy assistant, type of practice setting, requirements of the practice setting, and federal and state regulatory requirements. General supervision shall be required at least monthly; and

(b) "Direct supervision," which is required for all unlicensed personnel and volunteers. It means the Occupational Therapy supervisor must be within audible and visual range of the client and unlicensed personnel and available for immediate physical intervention. Videoconferencing is not allowed for direct supervision.

- (22) "Unlicensed personnel" means individuals within an occupational therapy setting who provide supportive services to the occupational therapist and the occupational therapy assistant and who function only under the guidance, responsibility, and supervision of the licensed

occupational therapist or occupational therapy assistant to provide only specifically selected client-related or non-client related tasks for which the unlicensed personnel has been trained and has demonstrated competence.

History Note: Authority G.S. 90-270.67; 90-270.69(4); Eff. July 1, 1985; Amended Eff. July 1, 2007; May 1, 1989; May 1, 1987; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 23, 2016; Amended Eff. July 1, 2018.

21 NCAC 38 .0803 APPROVAL OF ACTIVITIES FOR MAINTAINING CONTINUING COMPETENCE

(a) Provided the activities meet the requirements of Rule .0804, the Board shall approve:

- (1) Continuing competence activities sponsored or approved by the North Carolina Occupational Therapy Association;
- (2) Continuing competence activities sponsored or approved by the American Occupational Therapy Association; and
- (3) Continuing competence activities sponsored by AOTA approved providers.

(b) A provider of a continuing competence activity shall furnish documentation for demonstrating completion to all participants, specifying the following information:

- (1) name of the participant;
- (2) name of the provider;
- (3) dates of the activity and completion;
- (4) title and location of the activity;
- (5) number of contact hours; and
- (6) signature of the provider or representative.

History Note: Authority G.S. 90-270.69; 90-270.75(a); Eff. July 1, 2007; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 23, 2016; Amended Eff. July 1, 2018.

21 NCAC 38 .0903 TYPES OF SUPERVISION

(a) Occupational therapy assistants at all levels shall require general supervision by an occupational therapist pursuant to Rule .0103(21)(a) of this Chapter.

(b) Occupational therapy students shall require supervision by an occupational therapy practitioner as follows:

- (1) An occupational therapy practitioner shall comply with Accreditation Council for Occupational Therapy Education (ACOTE) requirements for experience when supervising Level II fieldwork occupational therapist and occupational therapy assistant students, which ACOTE requirements, including subsequent amendments and editions, are incorporated by reference. Copies of the incorporated material are available for inspection at the Board office and are available for purchase for five dollars (\$5.00);

- (2) The occupational therapist may supervise Level I and Level II fieldwork occupational therapist and occupational therapy assistant students; and
- (3) The occupational therapy assistant may:
 - (A) Supervise Level I occupational therapist or occupational therapy assistant students;
 - (B) Supervise Level II occupational therapy assistant students; and
 - (C) Participate in the supervision of Level II occupational therapist students under the direction and guidance of the supervising occupational therapist.

(c) Unlicensed personnel and volunteers require direct supervision. Unlicensed personnel or volunteers may be supervised by occupational therapists or occupational therapy assistants.

History Note: Authority G.S. 90-270.69;

Eff. July 1, 2007;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 23, 2016;

Amended Eff. July 1, 2018.

21 NCAC 38 .0905 DELINEATION OF CLINICAL RESPONSIBILITIES

Regardless of the setting in which occupational therapy services are delivered, the occupational therapist and the occupational therapy assistant shall have the following responsibilities during client evaluation, intervention, and outcome evaluation:

- (1) Evaluations:
 - (a) The occupational therapist shall:
 - (i) Direct the evaluation process;
 - (ii) Determine the need for services;
 - (iii) Define the problems within the domain of occupational therapy that need to be addressed;
 - (iv) Determine the client's goals and priorities in collaboration with the occupational therapy assistant and the client or caregiver;
 - (v) Interpret the information provided by the occupational therapy assistant and integrate that information into the evaluation decision-making process;
 - (vi) Establish intervention priorities;
 - (vii) Determine specific future assessment needs;
 - (viii) Determine specific assessment tasks that can be delegated to the occupational therapy assistant; and

- (ix) Initiate and complete the evaluation, interpret the data, and develop the intervention plan in collaboration with the occupational therapy assistant.

- (b) The occupational therapy assistant may contribute to the evaluation process by implementing assessments delegated by the occupational therapist.

(2) Intervention Planning:

- (a) The occupational therapist shall develop the occupational therapy intervention plan. The plan may be developed collaboratively with the occupational therapy assistant and the client or caregiver; and
- (b) The occupational therapy assistant may provide input into the intervention plan.

(3) Intervention implementation:

- (a) The occupational therapist:
 - (i) Shall implement the occupational therapy intervention;
 - (ii) May delegate aspects of the occupational therapy intervention to the occupational therapy assistant; and
 - (iii) Shall supervise all aspects of intervention delegated to the occupational therapy assistant.
- (b) The occupational therapy assistant shall implement delegated aspects of intervention in which the occupational therapy assistant has established service competency; and
- (c) Occupational therapists shall not be subject to disciplinary action by the Board for refusing to delegate or refusing to provide the required training for delegation, if the occupational therapist determines that delegation may compromise client safety.

(4) Intervention review:

- (a) The occupational therapist shall meet with each client who has been assigned to an occupational therapy assistant to further assess the client, to evaluate intervention, and, if necessary, to modify the individual's intervention plan;
- (b) The occupational therapist shall determine the need for continuing or discontinuing services; and

- (c) The occupational therapy assistant may contribute to the process of determining continuing or discontinuing services by providing information about the client's response to intervention to assist with the occupational therapist's decision making.
- (5) Documentation:
 - (a) The occupational therapy practitioner shall document each evaluation, intervention, and discharge plan recognizing the requirements of practice settings, payors, and service delivery models. Documentation shall include the following elements:
 - (i) Client name or identifiable information;
 - (ii) Signature with occupational therapist or occupational therapy assistant designation of the occupational therapy practitioner who performed the service;
 - (iii) Date of the evaluation, intervention, or discharge plan;
 - (iv) Objective and measurable description of contact or intervention and client response; and
 - (v) Length of time of intervention session or evaluation.
 - (b) The occupational therapist shall determine the overall completion of the evaluation, intervention, or discharge plan; and
 - (c) The occupational therapy assistant shall:
 - (i) Document intervention, intervention response, and outcome; and
 - (ii) Document client's level of function at discharge.
- (6) Discharge:
 - (a) The occupational therapist shall determine the client's discharge from occupational therapy services; and
 - (b) The occupational therapy assistant shall:
 - (i) Report data for discharge summary; and
 - (ii) Formulate discharge or follow-up plans under the supervision of the occupational therapist.
- (7) Outcome evaluation:

- (a) The occupational therapist is responsible for the selection, measurement, and interpretation of outcomes that are related to the client's ability to engage in occupations; and
- (b) The occupational therapy assistant must be knowledgeable about duties delegated by the occupational therapist that relate to the client's targeted occupational therapy outcome and provide information relating to outcome achievement.

History Note: Authority G.S. 90-270.69;

Eff. July 1, 2007;

Amended Eff. December 1, 2009;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 23, 2016;

Amended Eff. July 1, 2018.

CHAPTER 57 - APPRAISAL BOARD

21 NCAC 57A .0204 CONTINUING EDUCATION

- (a) All registered trainees, real estate appraiser licensees, and certificate holders shall, upon the renewal of their registration, license, or certificate in every odd-numbered year, present evidence satisfactory to the Board of having obtained continuing education as required by this Section. Trainees and appraisers who initially registered with the Board after January 1 of an odd-numbered year are not required to show continuing education credit for renewal of their registration in that odd-numbered year.
- (b) Each trainee, licensee, and certificate holder who must complete continuing education pursuant to Paragraph (a) of this Rule shall complete 28 hours of continuing education before June 1 of every odd-numbered year. Except as provided in Paragraphs (g) and (h) of this Rule, the education must have been obtained by taking courses approved by the Board for continuing education purposes, at schools approved by the Board to offer these courses. Such education must relate to real estate appraisal and contribute to the goal of improving the knowledge, skill and competence of trainees, and licensed and certified real estate appraisers. There shall be no exemption from the continuing education requirement for trainees or appraisers whose status has been upgraded to the level of licensed residential, certified residential, or certified general appraiser since the issuance or most recent renewal of their registration, license, or certificate, and courses taken to satisfy the requirements of a higher level of certification shall not be applied toward the continuing education requirement. Trainees, licensees, and certificate holders shall not take the same continuing education course more than once during the two year continuing education cycle.
- (c) Each appraisal continuing education course must involve a minimum of three and one-half classroom hours of instruction on real estate appraisal or related topics such as:
 - (1) the application of appraisal concepts and methodology to the appraisal of various types of property;

- (2) specialized appraisal techniques;
- (3) laws, rules, or guidelines relating to appraisal;
- (4) standards of practice and ethics;
- (5) building construction;
- (6) financial or investment analysis;
- (7) land use planning or controls;
- (8) feasibility analysis;
- (9) statistics; or
- (10) accounting.

The trainee, licensee, or certificate holder must have attended at least 90 percent of the scheduled classroom hours for the course in order to receive credit for the course.

(d) Each trainee, licensee, and certificate holder who is required to complete continuing education pursuant to Paragraph (a) of this Rule must, as part of the 28 hours of continuing education required in Paragraph (b) of this Rule, complete the seven hour National USPAP update course between October 1 of an odd-numbered year and June 1 of an even-numbered year, as required by the Appraiser Qualifications Board of the Appraisal Foundation, or its equivalent. USPAP is updated every even-numbered year, and each trainee, licensee, and certificate holder shall take the most recent USPAP update course prior to June 1 of every even-numbered year.

(e) A trainee, licensee, or certificate holder who elects to take approved continuing education courses in excess of the requirement shall not carry over those hours into the subsequent years any continuing education credit.

(f) Course sponsors must provide a certificate of course completion to each trainee, licensee, and certificate holder successfully completing a course. In addition, course sponsors must send directly to the Board a certified roster of all who successfully completed the course. This roster must be sent within 15 days of completion of the course, no later than June 15 of each year. In order to renew a registration, license, or certificate in a timely manner, the Board must receive proof of satisfaction of the continuing education requirement prior to processing a registration, license, or certificate renewal application. Proof of satisfaction shall be made by receipt of a roster from a school or course sponsor showing the courses completed by the applicant or by submission of an original certificate of course completion. If proof of having satisfied the continuing education requirement is not provided, the registration, license, or certificate shall expire and the trainee, licensee, or certificate holder shall be subject to the provisions of Rules .0203(e) and .0206 of this Section.

(g) A current or former trainee, licensee, or certificate holder may request that the Board grant continuing education credit for a course taken by the trainee, licensee, or certificate holder that is not approved by the Board, or for appraisal education activity equivalent to a Board-approved course, by making such request and submitting a non-refundable fee of fifty dollars (\$50.00) as set out in G.S. 93E-1-8(d) for each course or type of appraisal education activity to be evaluated. Continuing education credit for a non-approved course shall be granted only if the trainee, licensee, or certificate holder provides satisfactory proof of course completion and the Board finds that the course satisfies the requirements for approval of appraisal continuing education courses with regard to subject matter, course length, instructor qualifications, and student attendance. Online courses shall satisfy the provisions of 21 NCAC 57B .0603(6). Appraisal education

activities for which credit may be awarded include teaching appraisal courses, authorship of appraisal textbooks, and development of instructional materials on appraisal subjects. A maximum of 14 hours of continuing education credit may be granted in each continuing education cycle for participation in appraisal education activities. Trainees or licensed or certified appraisers who have taught an appraisal course or courses approved by the Board for continuing education credit shall be deemed to have taken an equivalent course and are not subject to the fee prescribed in G.S. 93E-1-8(d), provided they submit verification satisfactory to the Board of having taught the course(s). A trainee, licensee, or certificate holder who teaches a Board-approved continuing education course may not receive continuing education credit for the same course more than once every two years, regardless of how many times he or she teaches the course. Requests for equivalent approval for continuing education credit must be received before June 15 of an odd-numbered year to be credited towards the continuing education requirement for that odd-numbered year. Equivalent approval shall be granted only for courses that are 7 hours or longer, and shall only be granted for a minimum of 7 hours.

(h) A trainee, licensee, or certificate holder may receive continuing education credit by taking any of the Board-approved precertification courses, other than Basic Appraisal Principles and Basic Appraisal Procedures, or their approved equivalents. Trainees, licensees, and certificate holders who wish to use a precertification course for continuing education credit must comply with the provisions of 21 NCAC 57B .0604.

(i) A licensee or certificate holder who resides in another state, is currently credentialed in another state, and is active on the National Registry in another state may satisfy the requirements of this Section, other than the seven hour National USPAP update course requirement in Paragraph (d) of this Rule, by providing a current letter of good standing from another state showing that the licensee or certificate holder has met all continuing education requirements in the other state. A licensee or certificate holder who became licensed in North Carolina by licensure or certification with another state and now resides in North Carolina may renew by letter of good standing for his or her first renewal as a resident of North Carolina only if the appraiser moved to North Carolina on or after January 1 of an odd-numbered year. If an appraiser was a resident of this state before January 1 of an odd-numbered year, the appraiser must comply with the requirements of this section regardless of how the license or certificate was obtained.

(j) A trainee, licensee, or certificate holder who returns from active military duty on or after February 1 of an odd-numbered year shall be allowed to renew his or her registration, license, or certificate in that odd-numbered year even if the required continuing education is not completed before June 1 of that year. All required continuing education must be completed within 180 days of when the trainee, licensee, or certificate holder returns from active duty. Failure to complete the required continuing education within 180 days shall be grounds for revocation. This Rule applies to an individual who is serving in the armed forces of the United States and to whom G.S. 105-249.2 grants an extension of time to file a tax return.

History Note: Authority G.S. 93B-15; 93E-1-7(a); 93E-1-10;

Eff. July 1, 1994;

Amended Eff. July 1, 2014; January 1, 2013; July 1, 2011; July 1, 2010; January 1, 2008; March 1, 2007; March 1, 2006; July 1, 2005; July 1, 2003; August 1, 2002; April 1, 1999;

Pursuant to G.S. 150B.21.3A, rule is necessary without substantive public interest Eff. October 3, 2017;

Amended Eff. July 1, 2018.

21 NCAC 57B .0102 LICENSED RESIDENTIAL AND CERTIFIED RESIDENTIAL REAL ESTATE APPRAISER COURSE REQUIREMENTS

(a) Each applicant for licensure as a licensed residential real estate appraiser or for certification as a certified residential real estate appraiser shall complete a minimum of 200 hours of education, consisting of the following:

- (1) A minimum of 30 hours in Basic Appraisal Principles;
- (2) A minimum of 30 hours in Basic Appraisal Procedures;
- (3) A minimum of 15 hours in Residential Market Analysis and Highest and Best Use;
- (4) A minimum of 15 hours in Residential Appraiser Site Valuation and Cost Approach;
- (5) A minimum of 30 Hours in Residential Sales Comparison and Income Approaches;
- (6) A minimum of 15 hours in Residential Report Writing and Case Studies;
- (7) A minimum of 15 hours in The Uniform Standards of Professional Appraisal Practice (USPAP);
- (8) A minimum of 15 hours in Statistics, Modeling, and Finance;
- (9) A minimum of 15 hours in Advanced Residential Applications and Case Studies; and
- (10) A minimum of 20 hours of appraisal subject matter electives.

(b) An applicant who is currently registered with the Board as a trainee shall satisfy the educational requirements to become a licensed or certified residential real estate appraiser by completing the following education:

- (1) A minimum of 15 hours in Residential Appraiser Site Valuation and Cost Approach;
- (2) A minimum of 30 Hours in Residential Sales Comparison and Income Approaches;
- (3) A minimum of 15 hours in Residential Report Writing and Case Studies;
- (4) A minimum of 15 hours in Statistics, Modeling, and Finance;
- (5) A minimum of 15 hours in Advanced Residential Applications and Case Studies; and
- (6) A minimum of 20 hours of appraisal subject matter electives.

(c) An applicant who was licensed as a licensed residential appraiser before January 1, 2015 shall satisfy the educational requirements to become a certified residential real estate appraiser by completing the following education:

- (1) A minimum of 15 hours in Statistics, Modeling, and Finance;

- (2) A minimum of 15 hours in Advanced Residential Applications and Case Studies; and
- (3) A minimum of 20 hours of appraisal subject matter electives.

(d) Credit for the courses required by this Rule shall be earned from a Board-approved course sponsor or school, and all courses shall comply with the course content standards prescribed in Rule .0302 of this Subchapter.

(e) An applicant who is not currently registered by the Board as a trainee or who is not currently licensed by the Board as a licensed residential real estate appraiser must have completed all required courses no earlier than January 1, 2008.

(f) An applicant who is currently registered by the Board as a trainee or who is currently licensed by the Board as a licensed residential real estate appraiser must have completed all courses required beyond those required for his or her current registration, license, or certification no earlier than January 1, 2008.

History Note: Authority G.S. 93E-1-6(b); 93E-1-8(a); 93E-1-10;

Eff. July 1, 1994;

Amended Eff. July 1, 2014; January 1, 2013; July 1, 2010; September 1, 2008; January 1, 2008; March 1, 2007; July 1, 2003; August 1, 2002;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 3, 2017;

Amended Eff. Pending Legislative Review.

21 NCAC 57B .0103 CERTIFIED GENERAL REAL ESTATE APPRAISER COURSE REQUIREMENTS

(a) An applicant for certification as a certified general real estate appraiser shall complete the following precertification courses:

- (1) A minimum of 30 hours in Basic Appraisal Principles;
- (2) A minimum of 30 hours in Basic Appraisal Procedures;
- (3) A minimum of 30 hours in General Appraiser Market Analysis and Highest and Best Use;
- (4) A minimum of 15 hours in Statistics, Modeling, and Finance;
- (5) A minimum of 30 hours in General Appraiser Sales Comparison Approach;
- (6) A minimum of 30 hours in General Appraiser Site Valuation and Cost Approach;
- (7) A minimum of 60 hours in General Appraiser Income Approach;
- (8) A minimum of 30 hours in General Appraiser Report Writing and Case Studies;
- (9) A minimum of 30 hours of appraisal subject matter electives; and
- (10) A minimum of 15 hours in The Uniform Standards of Professional Appraisal Practice (USPAP).

(b) An applicant who is currently registered with the Board as a trainee shall satisfy the educational requirements to become a general real estate appraiser by completing the following education:

- (1) A minimum of 30 hours in General Appraiser Market Analysis and Highest and Best Use;

- (2) A minimum of 15 hours in Statistics, Modeling, and Finance;
- (3) A minimum of 30 hours in General Appraiser Sales Comparison Approach;
- (4) A minimum of 30 hours in General Appraiser Site Valuation and Cost Approach;
- (5) A minimum of 60 hours in General Appraiser Income Approach;
- (6) A minimum of 30 hours in General Appraiser Report Writing and Case Studies; and
- (7) A minimum of 30 hours of appraisal subject matter electives.

(c) An applicant who is currently licensed with the Board as a licensed residential real estate appraiser shall satisfy the educational requirements to become a general real estate appraiser by completing the following education:

- (1) A minimum of 15 hours in General Appraiser Market Analysis and Highest and Best Use;
- (2) A minimum of 15 hours in Statistics, Modeling, and Finance;
- (3) A minimum of 15 hours in General Appraiser Sales Comparison Approach;
- (4) A minimum of 15 hours in General Appraiser Site Valuation and Cost Approach;
- (5) A minimum of 45 hours in General Appraiser Income Approach;
- (6) A minimum of 15 hours in General Appraiser Report Writing and Case Studies; and
- (7) A minimum of 30 hours of appraisal subject matter electives.

(d) An applicant who is currently certified with the Board as a certified residential real estate appraiser shall satisfy the educational requirements to become a general real estate appraiser by completing the following education:

- (1) A minimum of 15 hours in General Appraiser Market Analysis and Highest and Best Use;
- (2) A minimum of 15 hours in General Appraiser Sales Comparison Approach;
- (3) A minimum of 15 hours in General Appraiser Site Valuation and Cost Approach;
- (4) A minimum of 45 hours in General Appraiser Income Approach; and
- (5) A minimum of 10 hours in General Appraiser Report Writing and Case Studies.

(e) Credit for the courses required by this Rule shall be earned from a Board-approved course sponsor or school, and all courses shall comply with the course content standards prescribed in Rule .0302 of this Subchapter.

(f) An applicant who is not currently registered by the Board as a trainee or who is not currently licensed or certified by the Board as a licensed residential or certified residential real estate appraiser must have completed all the required courses no earlier than January 1, 2008.

(g) An applicant who is currently registered by the Board as a trainee or who is not currently licensed or certified by the Board as a licensed residential or certified residential real estate appraiser must have completed all courses required beyond those required for his or her current registration, licensure or certification no earlier than January 1, 2008.

History Note: Authority G.S. 93E-1-6(c); 93E-1-8(a); 93E-1-10;
Eff. July 1, 1994;
Amended Eff. January 1, 2013; July 1, 2010; September 1, 2008; January 1, 2008; March 1, 2007; July 1, 2003; August 1, 2002;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 3, 2017;
Amended Eff. Pending Legislative Review.

21 NCAC 57B .0613 PAYMENT OF FEE REQUIRED BY G.S. 90E-1-7(b1)

Schools and course sponsors who are required by G.S. 93E-1-7(b1) to pay a fee to the Board for each licensee completing an approved continuing education course conducted by the school or course sponsor shall remit the fee to the Board within 30 days after the date the course is completed.

History Note: Authority G.S. 93E-1-8(c)(d); 93E-1-10;
Eff. September 1, 2008;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 3, 2017;
Amended Eff. July 1, 2018.

21 NCAC 57C .0101 FORM OF COMPLAINTS AND OTHER PLEADINGS

(a) Complaints shall be in writing, identify the trainee, appraiser, or appraisal management company, identify the Complainant by name, provide a physical address and contact information for the Complainant, and state the facts that form the basis of the complaint.

(b) When the Board investigates a complaint, the scope of the investigation shall not be limited to the persons or transactions described or alleged in the complaint.

(c) Complainants are not parties to contested cases heard by the Board, but may be witnesses in the cases.

(d) There is no specific form required for answers, motions, or other pleadings submitted prior to the hearing relating to contested cases before the Board, except they shall be in writing. The document shall identify the file number and state the matters it alleges, answers, or requests. Motions may be made on the record during the course of the hearing before the Board.

(e) During the course of an investigation of a licensee, the Board, through its legal counsel or staff, may send a trainee, appraiser, or appraisal management company one or more letters of inquiry requesting a response from the trainee, appraiser, or appraisal management company. The initial letter of inquiry, or attachments thereto, shall set forth the subject matter being investigated. Upon receipt of a letter of inquiry, the trainee, appraiser, or appraisal management company shall respond within 30 calendar days. The response shall include copies of all documents requested in a letter of inquiry.

(f) Hearings in contested cases before the Board shall be governed by the provisions of Article 3A of Chapter 150B of the General Statutes.

(g) A complaint shall not be accepted if the applicable time period for retention of the work file for that appraisal assignment pursuant to the Recordkeeping Rule of the Uniform Standards of Professional Appraisal Practice has expired. This Section does not

apply to complaints involving the actions outlined in G.S. 93E-1-12(b)(1),(2),(4), and (5).

History Note: Authority G.S. 93E-1-10; 93E-1-12; 93E-2-3; 93E-2-8;
Eff. July 1, 1994;
Amended Eff. July 1, 2014; January 1, 2011; July 1, 2003; August 1, 2002.
Readopted Eff. July 1, 2018.

21 NCAC 57D .0202 REGISTRATION RENEWAL

- (a) All registrations shall expire on June 30 of each year, unless renewed before that time. The renewal period shall be from May 1 through June 30 of each year.
- (b) A holder of an appraisal management company registration desiring the renewal of registration shall apply in writing and shall forward the renewal fee. The renewal fee shall be two thousand dollars (\$2000). The renewal fee is not refundable.
- (c) In addition to the renewal fee, an appraisal management company shall submit with its renewal the annual appraisal management company fee required by the Appraisal Subcommittee pursuant to 12 C.F.R. 1102.402. The fee shall then be transmitted by the Board to the Appraisal Subcommittee.
- (d) Any company who acts or holds itself out as a registered appraisal management company while its appraisal management company registration is expired shall be subject to disciplinary action and penalties in G.S. 93E-2-8 and G.S. 93E-2-10.

History Note: Authority G.S. 93E-2-3; 93E-2-6;
Eff. January 1, 2011;
Amended Eff. July 1, 2014;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 3, 2017;
Amended Eff. July 1, 2018.

21 NCAC 57D .0303 COMPLIANCE MANAGER

- (a) A compliance manager shall be designated with the Board for each appraisal management company. The compliance manager shall be a certified real estate appraiser certified under G.S. 93E, Article I or in another state.
- (b) An appraisal management company shall file an application with the Board for approval of the designated compliance manager. This application shall provide the Board with the compliance manager's name, mailing and physical address, and phone and email contact information, and shall be signed by the designated compliance manager. The application may be accessed at the Board's website at www.ncappraisalboard.org.
- (c) The designated compliance manager shall obtain a criminal records check pursuant to 93E-2-11. Applicants shall pay all required fees to perform the check. This records check shall have been performed within 60 days of the date the completed application is received by the Board. The criminal records check results must be attached to the application for approval as a compliance manager.
- (d) The designated compliance manager is responsible for:
 - (1) notifying the Board of any change of trade name or contact information of the appraisal management company and the registration of

- (2) any assumed business name adopted by the appraisal management company for its use;
- (3) the retention and maintenance of records relating to appraisals conducted by or on behalf of the appraisal management company;
- (4) the maintenance of a record of all appraisers in North Carolina who perform appraisals for the appraisal management company, including a log of payments to appraisers; and
- (5) the conduct of advertising of appraisal management services by or in the name of the appraisal management company.

- (e) If an appraisal management company intends to change its compliance manager, it must submit an application for approval of the new compliance manager at least 10 business days before the effective date of the change.
- (f) If a compliance manager leaves the appraisal management company and the company is unable to give at least 10 days' notice of the change, the company shall have 15 business days from the date the compliance manager leaves to obtain a new compliance manager.

History Note: Authority G.S. 93E-2-3; 93E-2-4(b); 93E-2-5;
Eff. January 1, 2011;
Amended Eff. July 1, 2014;
Readopted Eff. July 1, 2018.

21 NCAC 57D .0311 REMOVAL OF AN APPRAISER FROM AN APPRAISAL PANEL

- (a) If an appraisal management company decides to remove an independent appraiser from its list of qualified appraisers, the appraisal management company shall notify the appraiser in writing of the reason for removal.
- (b) Such notice shall be sent to the appraiser by any method that provides proof of delivery, including registered mail, return receipt requested.
- (c) If applicable, the notice shall include a description of the appraiser's illegal conduct, substandard performance, or otherwise improper or unprofessional behavior, or of any violation of the Uniform Standards of Professional Appraisal Practice or State licensing standards.
- (d) The appraisal management company shall also notify the appraiser of any dispute resolution process that it may have in place through which the appraiser may dispute the removal.
- (e) An appraisal management company shall not remove an appraiser from its panel in retaliation for the appraiser filing a complaint with the Board against the company.

History Note: Authority G.S. 93E-2-3; 93E-2-7(a);
Eff. January 1, 2011;
Amended Eff. January 1, 2013;
Readopted Eff. July 1, 2018.

CHAPTER 61 - RESPIRATORY CARE BOARD

21 NCAC 61 .0103 DEFINITIONS

The definitions of terms contained in G.S. 90-648 shall apply to the rules in this Chapter. In addition, the following definitions shall apply to the rules in this Chapter:

- (1) "Assessment" means a clinical evaluation of an individual patient by a Respiratory Care Practitioner (RCP) or other licensed health care provider within their scope of practice to determine the ability and efficacy of a respiratory care procedure, protocol, or treatment, including an assessment of the suitability and efficacy of equipment for an individual patient if equipment is to be used in the procedure or treatment.
- (2) "Respiratory care" means the health care discipline that specializes in the promotion of optimum cardiopulmonary function and health and wellness using scientific principles to identify, treat and prevent acute or chronic dysfunction of the cardiopulmonary system pursuant to G.S. 90-648(11) that is taught in accredited educational programs pursuant to G.S. 90-653(3) or in approved continuing education programs pursuant to the rules of this Chapter within the guidelines established by the American Association for Respiratory Care, incorporated by reference including subsequent amendments and editions, pursuant to G.S. 90-648(10)(f). Copies of the guidelines may be found at <https://www.aarc.org/resources/clinical-resources/clinical-practice-guidelines/> at no cost.
- (3) "The practice of respiratory care" means the performance of assessments and diagnostic tests, and implementation of treatment procedures and protocols related to the cardiopulmonary system pursuant to G.S. 90-648(10) and the activities defined by the American Association of Respiratory Care clinical guidelines, incorporated by reference including subsequent amendments and editions, pursuant to G.S. 90-648(10)(f). Copies of the guidelines may be found at <https://www.aarc.org/resources/clinical-resources/clinical-practice-guidelines/> at no cost.
- (4) "Medical gases" mean those inhaled gases used in the treatment of cardiopulmonary disease.
- (5) "Humidity" means adding heat or moisture to an inhaled medical gas.
- (6) "Aerosols" mean the suspension of particles dispersed in air or gas to deliver medication or humidity to the airways.
- (7) "Pharmacologic agent" means a medication or medical gas delivered during a respiratory care procedure for the treatment of cardiopulmonary disease.

- (8) "Hyperbaric oxygen therapy" means inhalation of high concentrations of oxygen at increased levels of atmospheric pressures within a total body chamber for the treatment of cardiopulmonary disorders or wounds.
- (9) "Mechanical or physiological ventilatory support" means the provision of an apparatus to support gas exchange associated with cardiopulmonary dysfunction.
- (10) "Hemodynamic monitoring" means a procedure required to monitor blood pressure invasively or noninvasively.
- (11) "Diagnostic testing" means a procedure for assessing the function of the cardiopulmonary system and diagnosing cardiopulmonary disease or sleep related disorders.
- (12) "Therapeutic application" means utilizing evidenced-based protocols, procedures, treatments, or modalities defined in this Chapter to maintain cardiopulmonary health or treat cardiopulmonary disease.
- (13) "Active status" means a license issued to an individual after meeting the requirements of G.S. 90-653.
- (14) "Endorsement" means a license issued by the Board recognizing the person named on the certificate as having met the requirements to perform respiratory care procedures pursuant to the rules of this Chapter.

History Note: Authority G.S. 90-652; 90-648(2),(10), and (11); 90-660;
Temporary Adoption Eff. October 15, 2001;
Eff. August 1, 2002;
Amended Eff. September 1, 2010; January 1, 2007; March 1, 2006;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22, 2015;
Amended Eff. July 1, 2018.

21 NCAC 61 .0104 CODE OF ETHICS

(a) The American Association of Respiratory Care (AARC) Code of Ethics are incorporated by reference, including subsequent amendments and editions. A free copy may be obtained from the American Association of Respiratory Care online at www.aarc.org.

History Note: Authority G.S. 90-652(3);
Eff. July 1, 2018.

21 NCAC 61 .0301 LICENSE NUMBER: DISPLAY OF LICENSE

- (a) Each license issued by the Board shall be valid for a period of one year, except as otherwise provided in G.S. 90-654 and G.S. 93B-15.1.
- (b) Each individual who is issued a license shall be issued a license number that shall be displayed on the Board's website. Should that number be retired for any reason, such as death, failure to renew the license, or any other reason, that number shall

not be reissued. A web-based license verification displaying the status, credentials, degree level, dates for registration, renewal, and expiration shall be accessible by the licensee in their principal place of business so as to be available for inspection in a printed or electronic format.

(c) In accordance with the provisions of G.S. 90-640, whenever a licensee is providing respiratory care to a patient, the licensee shall wear identification that displays, in readily visible type, the licensee's name and the designation "RCP". Provisional license holders shall wear identification that displays, in readily visible type, the licensee's name and the designation "RCP-Provisional." A licensee shall ensure any person working under his or her supervision who is exempted by G.S. 90-664(2) and (4) is properly identified by wearing identification that designates the person's affiliation and position in readily visible type.

History Note: Authority G.S. 90-652(2),(4); 90-658(b); 90-640;

Temporary Adoption Eff. October 15, 2001;

Eff. August 1, 2002;

Amended Eff. April 1, 2004;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22, 2015;

Amended Eff. July 1, 2018.

21 NCAC 61 .0307 GROUNDS FOR LICENSE DENIAL OR DISCIPLINE

The following behaviors and conduct that shall constitute unprofessional conduct by persons licensed pursuant to G.S. 90-647 and shall be grounds for license denial or disciplinary action by the Board pursuant to G.S. 90-659(a) and (b), G.S. 90-652(4);

- (1) failing to meet minimum licensure requirements set by Article 38 of G.S. 90 or rules of this Chapter;
- (2) attempting to obtain or renew a license as provided by this Chapter by bribery, by fraudulent misrepresentation, or by knowingly perpetuating an error of the Board;
- (3) violating a rule adopted by the Board or of a lawful order of the Board, including violations of the Code of Ethics pursuant to 21 NCAC 61 .0104;
- (4) engaging in the delivery of respiratory care with a revoked, suspended, or inactive license;
- (5) failing to perform a statutory or legal obligation placed upon a respiratory care practitioner licensed pursuant to this Chapter;
- (6) failing to make the disclosures required by 21 NCAC 61 .0308;
- (7) permitting, aiding, assisting, procuring, or advising a person to violate a rule of the Board or provision of the Respiratory Care Practice Act, including engaging in the practice of respiratory care without a license;
- (8) having licensure, certification, registration, or other authority, by whatever name known, to deliver respiratory care revoked, suspended, or otherwise acted against, including the denial of licensure, certification, registration, or other

- authority to deliver respiratory care by the licensing authority of another state, territory, or country;
- (9) willfully failing to report a violation of these Rules;
- (10) engaging in unprofessional conduct related to the delivery of respiratory care, including an act or practice that is hazardous to public health, safety, or welfare;
- (11) performing professional services that have not been duly ordered by a physician licensed pursuant to G.S. 90, Article 1 and that are not in accordance with protocols established by the hospital, other health care provider, or the Board;
- (12) accepting and performing professional responsibilities that the licensee knows, or has reason to know, he or she is not competent to perform;
- (13) delegating professional responsibilities to a person if the licensee delegating such responsibilities knows, or has reason to know, that such person is not qualified by training, experience, or licensure to perform;
- (14) being unable to deliver respiratory care services with reasonable skill and safety to patients by reason of incapacitating illness or use of alcohol, drugs, narcotics, chemicals, or other material;
- (15) failing to create and maintain respiratory care records documenting the assessment and treatment provided to each patient;
- (16) discontinuing professional services unless services have been completed, the client requests the discontinuation, alternative or replacement services are arranged, or the client is given reasonable opportunity to arrange alternative or replacement services;
- (17) engaging or attempting to engage a patient in a sexual relationship;
- (18) promoting or selling services, goods, appliances, or drugs that are not medically indicated or necessary to a patient;
- (19) making deceptive, untrue, or fraudulent representations in the delivery of respiratory care;
- (20) intentionally communicating deceptive information to a patient;
- (21) paying or receiving any commission, bonus, kickback, or rebate to or from, or engaging in any fee-splitting arrangement in any form whatsoever with, a person, organization, or agency, either directly or indirectly, for goods or services rendered to patients referred by or to providers of health care goods and services, including hospitals, nursing homes, clinical laboratories, ambulatory surgical centers, and pharmacies. The provisions of this paragraph shall not be construed to prevent the licensee

- from receiving a fee for professional consultation services;
- (22) soliciting patients, either personally or through an agent, through by means of intimidation or undue influence;
- (23) willfully making or filing a false report or record or willfully impeding or obstructing such filing or inducing another person to do so. Such reports or records shall include only those reports or records that require the signature of a licensee;
- (24) being convicted or found guilty of, or entering a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction that relates to a licensee's competence or ability to provide respiratory care; or
- (25) failing to comply with a court order for child support or failing to comply with a subpoena issued pursuant to child support or paternity establishment proceedings as defined in G.S. 110-142.1. In revoking or reinstating a license under this provision, the Board shall follow the procedures outlined in G.S. 93B-13.

History Note: Authority G.S. 90-652(2),(4); 90-647; 90-659(a),(b); 90-652(1),(2),(4); 150B-3;
Temporary Adoption Eff. October 15, 2001;
Eff. August 1, 2002;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22, 2015;
Amended Eff. July 1, 2018.

21 NCAC 61 .0801 RECEIVING AND PROCESSING COMPLAINTS

- (a) Any person who has a concern or adverse information about the conduct or competence of a person licensed by the Board or of a person who has applied to the Board for a license may present a complaint to the Board.
- (b) Complaints may be delivered to the Board by transmitting a paper copy of the completed complaint by mail, hand-delivery, or other means to the Board's office; by sending the completed complaint form to the email account identified on the Board's website; or by completing the complaint form online on the Board's website at www.ncrcb.org.
- (c) Each complaint shall identify the sender of the complaint, provide the sender's contact information, and set forth specific facts known to the sender relating to the conduct or competence of each person who is the subject of the complaint.
- (d) Upon receipt of a complaint, the Board's staff shall confirm receipt of the complaint to the sender and shall send each person who is a subject of the complaint, using the mail or electronic mail address of record in the Board's records for each person, a summary of the complaint.

- (e) Investigations may be conducted by the Board staff or by other persons authorized by the Board.
- (f) The Board staff shall assign a case number to the initial complaint, review the contents of the complaint, and conduct a preliminary review of information to determine whether an individual's conduct or competence relates to the Respiratory Care Practice Act or the Board's rules.
- (g) If preliminary information in the complaint does not relate to an individual's conduct or competence related to the Respiratory Care Practice Act or the Board's rules, the Board staff shall close the case and send a notice to the sender and to each person who was the subject of the complaint and no further action shall be taken by the Board.
- (h) If the information about an individual's conduct or competence is related to the Respiratory Care Practice Act or the Board's rules, Board staff shall open an investigative file and begin an investigation of the matters described in the complaint.
- (i) If the Board staff concludes from the information received that it is possible that there has been a violation of the Respiratory Care Practice Act or the Board's rules, the Board staff shall place the matter on the quarterly schedule of the Board's investigative committee and issue notice to each person who is the subject of the investigation, requesting that each person attend the committee meeting to be interviewed.
- (j) When a matter comes before the investigative committee, the committee shall conduct an interview with each person whose conduct or competence is the subject of the investigation if he or she is willing to be interviewed.
- (k) The Board shall authorize the Investigative Committee to make a recommendation at the next quarterly Board meeting if the complaint is not resolved by the Investigative Committee.
- (l) The Board shall consider the investigative committee recommendation on unresolved complaints at the next regularly scheduled meeting and shall determine whether to:
 - (1) conduct further investigation of particular aspects of the matter;
 - (2) close the case;
 - (3) issue a consent order to a subject of an investigation, specifying disciplinary sanctions to be applied and, if the consent order is not accepted, issue a notice of hearing;
 - (4) issue a notice of hearing to a subject, specifying disciplinary sanctions; or
 - (5) apply to the courts for injunctive relief, refer a matter to a district attorney for prosecution, or take other actions, including reporting matter to appropriate state or federal agencies.
- (m) A copy notice of hearing shall be sent to the complainant.
- (n) Notification of the Board's final decision shall be sent to the complainant.

History Note: Authority G.S. 90-652(2)(5);
Eff. July 1, 2018.

This Section contains information for the meeting of the Rules Review Commission August 16, 2018 at 1711 New Hope Church Road, RRC Commission Room, Raleigh, NC. Anyone wishing to submit written comment on any rule before the Commission should submit those comments to the RRC staff, the agency, and the individual Commissioners. Specific instructions and addresses may be obtained from the Rules Review Commission at 919-431-3000. Anyone wishing to address the Commission should notify the RRC staff and the agency no later than 5:00 p.m. of the 2nd business day before the meeting. Please refer to RRC rules codified in 26 NCAC 05.

RULES REVIEW COMMISSION MEMBERS**Appointed by Senate**

Jeff Hyde (1st Vice Chair)
Robert A. Bryan, Jr.
Margaret Currin
Jeffrey A. Poley

Appointed by House

Garth Dunklin (Chair)
Andrew P. Atkins
Anna Baird Choi
Paul Powell
Jeanette Doran (2nd Vice Chair)

COMMISSION COUNSEL

Amber Cronk May (919)431-3074
Amanda Reeder (919)431-3079
Jason Thomas (919)431-3081

RULES REVIEW COMMISSION MEETING DATES

August 16, 2018 September 20, 2018
October 18, 2018 November 15, 2018

AGENDA**RULES REVIEW COMMISSION****THURSDAY, AUGUST 16, 2018 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
 - A. Commissioner of Banks - 04 NCAC 03K .0404 (Reeder)
 - B. Commission of Navigation and Pilotage for the Cape Fear River and Bar – 04 NCAC 15 .0119, .0121 .0123, .0124, .0127, .0128 (Thomas)
 - C. Child Care Commission - 10A NCAC 09 .2201, .2202, .2203, .2204, .2205, .2206, .2207, .2209, .2213, .2216, .2217 (May)
 - D. DHHS/Division of Medical Assistance – 10A NCAC 22F .0104, .0301, .0302, .0602, .0603, .0604; 22J .0105, .0106 (May)
- IV. Review of Log of Filings (Permanent Rules) for rules filed June 21, 2018 through July 20, 2018
 - Pre-Reviewed Rules
 - Environmental Management Commission 02S (May)
 - Environmental Management Commission 02T (Thomas)
 - Water Pollution Control System Operator Certification Commission (Reeder)
 - Wildlife Resources Commission (May)
 - Water Treatment Facility Operators Certification Board (Reeder)
 - Board of Dental Examiners (May)
 - Non Pre-Reviewed Rules
 - Board of Elections and Ethics Enforcement (May)
 - Environmental Management Commission 02U (Reeder)
 - Department of Revenue (Reeder)
 - Licensing Board for General Contractors (May)
 - Board of Cosmetic Art Examiners (May)
 - Building Code Council Reeder)

- V. Review of Log of Filings (Temporary Rules) for any rule filed within 15 business days prior to the RRC Meeting
 - VI. Existing Rules Review
 - Review of Reports
 1. 14B NCAC 16 – Private Protective Services Board (May)
 2. 20 NCAC 02 – TSERS and LGERS Board of Trustees (Reeder)
 3. 21 NCAC 65 – Board of Recreational Therapy Licensure (Reeder)
 - VII. Commission Business
 - E. Periodic Review and Expiration of Existing Rules Readoption Schedule
 - Next meeting: Thursday, September 20, 2018
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Commission Review
Log of Permanent Rule Filings
June 21, 2018 through July 20, 2018

ELECTIONS AND ETHICS ENFORCEMENT, BOARD OF

The rules in Chapter 1 are departmental rules.

<u>Procedures for Political Committees</u>	08	NCAC	01	.0104
Readopt without Changes*				
<u>Emergency Powers of Executive Director</u>	08	NCAC	01	.0106
Adopt*				

The rules in Chapter 2 concern elections protests.

<u>Actions of County Board as to Election Protests</u>	08	NCAC	02	.0110
Readopt with Changes*				
<u>Election Protest Form</u>	08	NCAC	02	.0111
Readopt with Changes*				
<u>Appeal to the State Board of Elections</u>	08	NCAC	02	.0112
Readopt without Changes*				
<u>New Elections Ordered by State Board of Elections</u>	08	NCAC	02	.0113
Readopt without Changes*				
<u>Dismissal of Improper Filings</u>	08	NCAC	02	.0114
Adopt*				

The rules in Chapter 3 concern charges against county elections officials including members of county board of elections (.0100); precinct elections officials (.0200); and investigation and reports of criminal violation (.0300).

<u>Voter Complaints</u>	08	NCAC	03	.0101
Readopt without Changes*				
<u>Charges</u>	08	NCAC	03	.0102
Readopt without Changes*				
<u>Hearing</u>	08	NCAC	03	.0103
Readopt without Changes*				
<u>Rights</u>	08	NCAC	03	.0104
Readopt without Changes*				
<u>Scope</u>	08	NCAC	03	.0105
Readopt without Changes*				
<u>Witnesses</u>	08	NCAC	03	.0106
Readopt without Changes*				
<u>Filing Charges: Adoption of Procedures</u>	08	NCAC	03	.0201
Readopt without Changes*				

<u>Hearings Date and Disposition</u>	08	NCAC	03	.0202
Readopt without Changes*				
<u>Summary Investigation</u>	08	NCAC	03	.0301
Readopt without Changes*				
<u>Reports of Evidence of Criminal Violation</u>	08	NCAC	03	.0302
Readopt without Changes*				

The rules in Chapter 4 concern voting equipment including use of mechanical voting machines (.0100); use of punch-card voting equipment (.0200); and approval and operation of voting systems (.0300).

<u>Approval of Voting Systems</u>	08	NCAC	04	.0302
Readopt without Changes*				
<u>Operation and Matter of Voting on Voting Systems</u>	08	NCAC	04	.0304
Readopt without Changes*				
<u>Instruction of Precinct Officials and Voters in the use o...</u>	08	NCAC	04	.0305
Readopt without Changes*				
<u>Duties of Custodians of Voting Systems</u>	08	NCAC	04	.0306
Readopt without Changes*				
<u>Testing of Voting System Before use in an Election</u>	08	NCAC	04	.0307
Readopt without Changes*				

The rules in Chapter 5 concern the modified full time registration system.

<u>Modified Full-Time Offices</u>	08	NCAC	05	.0111
Adopt*				

The rules in Chapter 6 concern partisan elections. The rules in subchapter 6b concern ballots.

<u>Arrangement of Official Ballots</u>	08	NCAC	06B	.0103
Readopt without Changes*				
<u>Late Changes in Ballots</u>	08	NCAC	06B	.0104
Readopt without Changes*				
<u>Counting of Official Ballots</u>	08	NCAC	06B	.0105
Readopt without Changes*				

The rules in Chapter 8 concern compliance with federal P.L. 98-435; The voting accessibility for the elderly and handicapped act.

<u>Handicapped Transfer Prior to Election Day</u>	08	NCAC	08	.0104
Readopt without Changes*				

The rules in Chapter 9 concern conduct of vote recounts by county boards of elections.

<u>General Guidelines</u>	08	NCAC	09	.0106
Readopt without Changes*				
<u>Recount of Optical Scan/Marksense/Punchcard Ballots</u>	08	NCAC	09	.0107
Readopt without Changes*				
<u>Direct Record Electronic and Lever (Direct Record Mechani...</u>	08	NCAC	09	.0108
Readopt without Changes*				
<u>Manual Hand to Eye Recounts</u>	08	NCAC	09	.0109
Readopt without Changes*				

The rules in Chapter 10 concern election day matters. The rules in Subchapter 10B concern voting, voting places and precinct officials' duties and tasks.

<u>Tasks and Duties of Precinct Officials at Voting Places</u>	08	NCAC	10B	.0101
Readopt without Changes*				
<u>Setting up Polling Place Prior to Voting</u>	08	NCAC	10B	.0102

Readopt without Changes*				
<u>Voting Procedures</u>	08	NCAC	10B	.0103
Readopt without Changes*				
<u>Leaving the Voting Enclosure, Spoiled or Incomplete Ballots</u>	08	NCAC	10B	.0104
Readopt without Changes*				
<u>Procedures at the Close of Voting</u>	08	NCAC	10B	.0105
Readopt without Changes*				
<u>Election Supplies Return</u>	08	NCAC	10B	.0106
Readopt without Changes*				
<u>Assistance to Voters in Primaries and General Elections</u>	08	NCAC	10B	.0107
Readopt without Changes*				
<u>Curbside Voting</u>	08	NCAC	10B	.0108
Readopt without Changes*				
<u>Voting Site Uniformity</u>	08	NCAC	10B	.0109
Adopt*				

The rules in Chapter 16 concern multipartisan assistance teams.

<u>Multipartisan Assistance Teams</u>	08	NCAC	16	.0101
Amend*				
<u>Team Members</u>	08	NCAC	16	.0102
Amend*				
<u>Visits by Multipartisan Assistance Teams</u>	08	NCAC	16	.0104
Amend*				

The rules in Chapter 18 concern absentee ballots.

<u>Absentee Ballot Delivery</u>	08	NCAC	18	.0101
Adopt*				
<u>In-Person Return of Absentee Ballots</u>	08	NCAC	18	.0102
Adopt*				

The rules in Chapter 20 concern elections observers.

<u>Election Observer</u>	08	NCAC	20	.0101
Adopt*				

ENVIRONMENTAL MANAGEMENT COMMISSION

The rules in Subchapter 02S concern the rules and criteria for the administration of the dry-cleaning solvent cleanup fund including general provisions (.0100); minimum management practices (.0200); petitions for certification (.0300); assessment agreements (.0400); and risk-based corrective action approach (.0500).

<u>Scope and Purpose</u>	15A	NCAC	02S	.0101
Readopt without Changes*				
<u>Definitions</u>	15A	NCAC	02S	.0102
Readopt with Changes*				
<u>Applicability</u>	15A	NCAC	02S	.0201
Readopt without Changes*				
<u>Required Minimum Management Practices</u>	15A	NCAC	02S	.0202
Readopt with Changes*				
<u>Filing</u>	15A	NCAC	02S	.0301
Readopt with Changes*				
<u>Purpose and Applicability</u>	15A	NCAC	02S	.0501
Readopt without Changes*				

<u>Abatement of Imminent Hazard</u>	15A	NCAC	02S	.0502
Readopt without Changes*				
<u>Prioritization of Certification Facilities and Sites</u>	15A	NCAC	02S	.0503
Readopt with Changes*				
<u>Tiered Risk Assessment</u>	15A	NCAC	02S	.0506
Readopt with Changes*				
<u>Remedial Action Plan</u>	15A	NCAC	02S	.0507
Readopt without Changes*				
<u>Land-Use Restrictions</u>	15A	NCAC	02S	.0508
Readopt with Changes*				
<u>No Further Action Criteria</u>	15A	NCAC	02S	.0509
Readopt with Changes*				

The rules in Subchapter 2T set out the requirements for the issuance of permits for waste systems that do not discharge to the surface waters of the state and include general requirements (.0100); and requirements for various systems including: wastewater pump and haul systems (.0200); sewer extensions (.0300); system-wide collection system permitting (.0400); wastewater irrigation systems (.0500); single-family residence wastewater irrigation systems (.0600); high rate infiltration systems (.0700); other non-discharge wastewater systems (.0800); reclaimed water systems (.0900); closed-loop recycle systems (.1000); residuals management (.1100); coal combustion products management (.1200); animal waste management systems (.1300); manure hauler operations (.1400); soil remediation (.1500); and groundwater remediation systems (.1600).

<u>Purpose</u>	15A	NCAC	02T	.0101
Readopt with Changes*				
<u>Scope</u>	15A	NCAC	02T	.0102
Readopt with Changes*				
<u>Definitions</u>	15A	NCAC	02T	.0103
Readopt with Changes*				
<u>Activities Which Require a Permit</u>	15A	NCAC	02T	.0104
Readopt with Changes*				
<u>General Requirements</u>	15A	NCAC	02T	.0105
Readopt with Changes*				
<u>Submission of Permit Applications</u>	15A	NCAC	02T	.0106
Readopt with Changes*				
<u>Staff Review and Permit Preparation</u>	15A	NCAC	02T	.0107
Readopt with Changes*				
<u>Final Action on Permit Applications to the Division</u>	15A	NCAC	02T	.0108
Readopt with Changes*				
<u>Permit Renewals</u>	15A	NCAC	02T	.0109
Readopt without Changes*				
<u>Modification and Revocation of Permits</u>	15A	NCAC	02T	.0110
Readopt with Changes*				
<u>Conditions for Issuing General Permits</u>	15A	NCAC	02T	.0111
Readopt with Changes*				
<u>Delegation of Authority</u>	15A	NCAC	02T	.0112
Readopt with Changes*				
<u>Permitting by Regulation</u>	15A	NCAC	02T	.0113
Readopt with Changes*				
<u>Wastewater Design Flow Rates</u>	15A	NCAC	02T	.0114
Readopt with Changes*				
<u>Operational Agreements</u>	15A	NCAC	02T	.0115
Readopt with Changes*				
<u>Certificate of Completion</u>	15A	NCAC	02T	.0116
Readopt with Changes*				

<u>Treatment Facility Operation and Maintenance</u> Readopt with Changes*	15A	NCAC	02T	.0117
<u>Demonstration of Future Wastewater Treatment Capacities</u> Readopt with Changes*	15A	NCAC	02T	.0118
<u>Historical Consideration in Permit Approval</u> Readopt with Changes*	15A	NCAC	02T	.0120
<u>Scope</u> Readopt without Changes*	15A	NCAC	02T	.0201
<u>Permitting by Regulation</u> Readopt with Changes*	15A	NCAC	02T	.0203
<u>Permitting</u> Readopt with Changes*	15A	NCAC	02T	.0204
<u>Scope</u> Readopt without Changes*	15A	NCAC	02T	.0301
<u>Definitions</u> Readopt with Changes*	15A	NCAC	02T	.0302
<u>Permitting by Regulation</u> Readopt with Changes*	15A	NCAC	02T	.0303
<u>Application Submittal</u> Readopt with Changes*	15A	NCAC	02T	.0304
<u>Design Criteria</u> Readopt with Changes*	15A	NCAC	02T	.0305
<u>Local Programs for Sewer Systems</u> Readopt with Changes*	15A	NCAC	02T	.0306
<u>Scope</u> Readopt with Changes*	15A	NCAC	02T	.0401
<u>Definitions</u> Readopt with Changes*	15A	NCAC	02T	.0402
<u>Permitting by Regulation</u> Readopt with Changes*	15A	NCAC	02T	.0403
<u>Multiple Collection Systems Under Common Ownership</u> Readopt with Changes*	15A	NCAC	02T	.0404
<u>Implementation</u> Readopt with Changes*	15A	NCAC	02T	.0405
<u>Scope</u> Readopt with Changes*	15A	NCAC	02T	.0501
<u>Application Submittal</u> Readopt with Changes*	15A	NCAC	02T	.0504
<u>Design Criteria</u> Readopt with Changes*	15A	NCAC	02T	.0505
<u>Setbacks</u> Readopt with Changes*	15A	NCAC	02T	.0506
<u>Operation and Maintenance</u> Readopt with Changes*	15A	NCAC	02T	.0507
<u>Residuals Management</u> Readopt with Changes*	15A	NCAC	02T	.0508
<u>Scope</u> Readopt with Changes*	15A	NCAC	02T	.0601
<u>Application Submittal</u> Readopt with Changes*	15A	NCAC	02T	.0604
<u>Design Criteria</u> Readopt with Changes*	15A	NCAC	02T	.0605

<u>Setbacks</u>	15A	NCAC	02T	.0606
Readopt with Changes*				
<u>Connection to Regional System</u>	15A	NCAC	02T	.0607
Readopt with Changes*				
<u>Operation and Maintenance</u>	15A	NCAC	02T	.0608
Adopt*				
<u>Scope</u>	15A	NCAC	02T	.0701
Readopt with Changes*				
<u>Definitions</u>	15A	NCAC	02T	.0702
Readopt with Changes*				
<u>Application Submittal</u>	15A	NCAC	02T	.0704
Readopt with Changes*				
<u>Design Criteria</u>	15A	NCAC	02T	.0705
Readopt with Changes*				
<u>Setbacks</u>	15A	NCAC	02T	.0706
Readopt with Changes*				
<u>Operation and Maintenance</u>	15A	NCAC	02T	.0707
Readopt with Changes*				
<u>Residuals Management</u>	15A	NCAC	02T	.0708
Readopt with Changes*				
<u>Scope</u>	15A	NCAC	02T	.0801
Readopt with Changes*				
<u>Application Submittal</u>	15A	NCAC	02T	.0804
Readopt with Changes*				
<u>Design Criteria</u>	15A	NCAC	02T	.0805
Readopt with Changes*				
<u>Setbacks</u>	15A	NCAC	02T	.0806
Readopt without Changes*				
<u>Operation and Maintenance</u>	15A	NCAC	02T	.0807
Adopt*				
<u>Residuals Management</u>	15A	NCAC	02T	.0808
Adopt*				
<u>Scope</u>	15A	NCAC	02T	.1101
Readopt with Changes*				
<u>Definitions</u>	15A	NCAC	02T	.1102
Readopt with Changes*				
<u>Permitting by Regulation</u>	15A	NCAC	02T	.1103
Readopt with Changes*				
<u>Application Submittal</u>	15A	NCAC	02T	.1104
Readopt with Changes*				
<u>Pollutant Limits</u>	15A	NCAC	02T	.1105
Readopt with Changes*				
<u>Pathogen Reduction Requirements</u>	15A	NCAC	02T	.1106
Readopt with Changes*				
<u>Vector Attraction Reduction Requirements</u>	15A	NCAC	02T	.1107
Readopt with Changes*				
<u>Setbacks</u>	15A	NCAC	02T	.1108
Readopt with Changes*				
<u>Residuals Management Practices</u>	15A	NCAC	02T	.1109
Readopt with Changes*				
<u>Operation and Maintenance</u>	15A	NCAC	02T	.1110
Readopt with Changes*				

<u>Monitoring and Reporting</u> Readopt with Changes*	15A	NCAC	02T	.1111
<u>Scope</u> Readopt with Changes*	15A	NCAC	02T	.1201
<u>Definitions</u> Readopt with Changes*	15A	NCAC	02T	.1202
<u>Permitting by Regulation</u> Readopt with Changes*	15A	NCAC	02T	.1203
<u>Application Requirements</u> Readopt with Changes*	15A	NCAC	02T	.1204
<u>Pollutant Limits</u> Readopt with Changes*	15A	NCAC	02T	.1205
<u>Setbacks</u> Readopt with Changes*	15A	NCAC	02T	.1206
<u>Management Practices</u> Readopt with Changes*	15A	NCAC	02T	.1207
<u>Operation and Maintenance Plan</u> Readopt with Changes*	15A	NCAC	02T	.1208
<u>Monitoring and Reporting</u> Readopt with Changes*	15A	NCAC	02T	.1209
<u>Scope</u> Readopt without Changes*	15A	NCAC	02T	.1301
<u>Definitions</u> Readopt with Changes*	15A	NCAC	02T	.1302
<u>Permitting by Regulation</u> Readopt with Changes*	15A	NCAC	02T	.1303
<u>State Permitting Requirements</u> Readopt with Changes*	15A	NCAC	02T	.1304
<u>NPDES Permitting Requirements</u> Readopt with Changes*	15A	NCAC	02T	.1305
<u>Closure Requirements</u> Readopt with Changes*	15A	NCAC	02T	.1306
<u>Swine Waste Management System Performance Standards</u> Readopt with Changes*	15A	NCAC	02T	.1307
<u>Evaluation and Approval of Swine Waste Management Systems</u> Readopt without Changes*	15A	NCAC	02T	.1308
<u>Lagoon Conversion Requirements</u> Readopt without Changes*	15A	NCAC	02T	.1309
<u>Animal Waste Residuals Management</u> Adopt*	15A	NCAC	02T	.1310
<u>Scope</u> Readopt without Changes*	15A	NCAC	02T	.1401
<u>Definitions</u> Readopt without Changes*	15A	NCAC	02T	.1402
<u>Permitting by Regulations</u> Readopt with Changes*	15A	NCAC	02T	.1403
<u>Annual Reports</u> Readopt with Changes*	15A	NCAC	02T	.1404
<u>Scope</u> Readopt with Changes*	15A	NCAC	02T	.1601
<u>Definitions</u> Readopt without Changes*	15A	NCAC	02T	.1602

<u>Application Submittal</u>	15A	NCAC	02T	.1604
Readopt without Changes*				
<u>Design Criteria</u>	15A	NCAC	02T	.1605
Readopt without Changes*				
<u>Setbacks</u>	15A	NCAC	02T	.1606
Readopt without Changes*				
<u>Monitoring and Reporting Requirements</u>	15A	NCAC	02T	.1607
Readopt without Changes*				
<u>Requirements for Closure</u>	15A	NCAC	02T	.1608
Readopt without Changes*				

The rules in Subchapter 2U concern reclaimed water including general requirements (.0100); application requirements (.0200); effluent standards (.0300); design standards (.0400); general utilization requirements (.0500); bulk distribution of reclaimed water (.0600); setbacks (.0700); operational plans (.0800); local program approval (.0900); wetlands augmentation (.1100); and irrigation to food chain crops (.1400).

<u>Purpose</u>	15A	NCAC	02U	.0101
Readopt with Changes*				
<u>Scope</u>	15A	NCAC	02U	.0102
Readopt with Changes*				
<u>Definitions</u>	15A	NCAC	02U	.0103
Readopt with Changes*				
<u>Activities which Require a Permit</u>	15A	NCAC	02U	.0104
Readopt with Changes*				
<u>General Requirements</u>	15A	NCAC	02U	.0105
Readopt without Changes*				
<u>Submission of Permit Applications</u>	15A	NCAC	02U	.0106
Readopt without Changes*				
<u>Staff Review and Permit Preparation</u>	15A	NCAC	02U	.0107
Readopt without Changes*				
<u>Final Action on Permit Applications to the Division</u>	15A	NCAC	02U	.0108
Readopt without Changes*				
<u>Permit Renewals</u>	15A	NCAC	02U	.0109
Readopt without Changes*				
<u>Modification and Revocation of Permits</u>	15A	NCAC	02U	.0110
Readopt without Changes*				
<u>Conditions for Issuing General Permits</u>	15A	NCAC	02U	.0111
Readopt without Changes*				
<u>Delegation of Authority</u>	15A	NCAC	02U	.0112
Readopt without Changes*				
<u>Permitting by Regulation</u>	15A	NCAC	02U	.0113
Readopt with Changes*				
<u>Wastewater Design Flow Rates</u>	15A	NCAC	02U	.0114
Readopt without Changes*				
<u>Operational Agreements</u>	15A	NCAC	02U	.0115
Readopt without Changes*				
<u>Certification of Completion</u>	15A	NCAC	02U	.0116
Readopt without Changes*				
<u>Treatment Facility Operation and Maintenance</u>	15A	NCAC	02U	.0117
Readopt without Changes*				
<u>Demonstration of Future Wastewater Treatment Capacities</u>	15A	NCAC	02U	.0118
Adopt*				
<u>Historical Consideration in Permit Approval</u>	15A	NCAC	02U	.0120

Readopt without Changes*				
<u>Application Submittal</u>	15A	NCAC	02U	.0201
Readopt with Changes*				
<u>Application Submittal for Dedicated Reclaimed Water Systems</u>	15A	NCAC	02U	.0202
Readopt with Changes*				
<u>Reclaimed Water Effluent Standards</u>	15A	NCAC	02U	.0301
Readopt with Changes*				
<u>Design Criteria for Reclaimed Water Treatment Facilities</u>	15A	NCAC	02U	.0401
Readopt with Changes*				
<u>Design Criteria for Dedicated Reclaimed Water Treatment F...</u>	15A	NCAC	02U	.0402
Readopt with Changes*				
<u>Design Criteria for Distribution Lines</u>	15A	NCAC	02U	.0403
Readopt with Changes*				
<u>Design Criteria for Closed-Loop Recycle Systems</u>	15A	NCAC	02U	.0404
Adopt*				
<u>Reclaimed Water Utilization</u>	15A	NCAC	02U	.0501
Readopt with Changes*				
<u>Bulk Distribution of Reclaimed Water</u>	15A	NCAC	02U	.0601
Readopt without Changes*				
<u>Setbacks</u>	15A	NCAC	02U	.0701
Readopt with Changes*				
<u>Operation and Maintenance</u>	15A	NCAC	02U	.0801
Readopt with Changes*				
<u>Residuals Management</u>	15A	NCAC	02U	.0802
Readopt with Changes*				
<u>Local Program Approval</u>	15A	NCAC	02U	.0901
Readopt with Changes*				
<u>Wetlands Augmentation</u>	15A	NCAC	02U	.1101
Readopt with Changes*				
<u>Irrigation to Food Chain Crops</u>	15A	NCAC	02U	.1401
Readopt with Changes*				

WATER POLLUTION CONTROL SYSTEM OPERATOR CERTIFICATION COMMISSION

The rules in Subchapter 08F concern the certification of operators of animal waste management systems including general purpose and definitions (.0800); duties and requirements (.0200); classification (.0300); certification of operators (.0400); and civil penalties (.0500).

<u>Definitions</u>	15A	NCAC	08F	.0102
Amend*				
<u>Duties and Requirements of Owners</u>	15A	NCAC	08F	.0201
Amend*				
<u>Duties and Requirements of Certified Operators</u>	15A	NCAC	08F	.0202
Amend*				
<u>Duties and Requirements of an Operator in Charge</u>	15A	NCAC	08F	.0203
Readopt with Changes*				
<u>Classification of Animal Waste Management</u>	15A	NCAC	08F	.0301
Amend*				
<u>Qualifications for Examination</u>	15A	NCAC	08F	.0401
Readopt with Changes*				
<u>Application Form</u>	15A	NCAC	08F	.0402
Amend*				
<u>Application Procedures</u>	15A	NCAC	08F	.0403

Amend*				
<u>Examination Procedures</u>	15A	NCAC	08F	.0404
Amend*				
<u>Renewal of Certification</u>	15A	NCAC	08F	.0405
Readopt with Changes*				
<u>Revocation, Relinquishment or Invalidation of Certification</u>	15A	NCAC	08F	.0406
Readopt with Changes*				
<u>Recertification Following Revocation or Relinquishment</u>	15A	NCAC	08F	.0407
Readopt without Changes*				
<u>Who May Assess</u>	15A	NCAC	08F	.0501
Repeal*				
<u>When Assessable</u>	15A	NCAC	08F	.0502
Readopt with Changes*				
<u>Standards</u>	15A	NCAC	08F	.0503
Readopt with Changes*				
<u>Assessment</u>	15A	NCAC	08F	.0504
Readopt with Changes*				
<u>Payment and Hearing</u>	15A	NCAC	08F	.0505
Readopt with Changes*				
<u>Referrals</u>	15A	NCAC	08F	.0506
Readopt with Changes*				

The rules in Subchapter 8G concern authority organization structure definitions and include general purpose and definitions (.0100); duties and responsibilities (.0200); classification of water pollution control systems (.0300); eligibility requirements for examinations (.0400); certification by examination (.0500); certification without examination (.0600); renewal of certification (.0700); disciplinary actions (.0800); contract operation of water pollution control systems (.0900); and rule making procedures and petitions for regulatory activity (.1000).

<u>Definitions</u>	15A	NCAC	08G	.0102
Readopt with Changes*				
<u>Responsibility of System Owners to Designate Certified Op...</u>	15A	NCAC	08G	.0201
Readopt with Changes*				
<u>Responsibilities of An Operator In Responsible Charge (ORC)</u>	15A	NCAC	08G	.0204
Readopt with Changes*				
<u>Responsibilities of a Back-Up Operator In Responsible Cha...</u>	15A	NCAC	08G	.0205
Amend*				
<u>Applicability</u>	15A	NCAC	08G	.0301
Readopt with Changes*				
<u>Classification of Biological Water Pollution Control Trea...</u>	15A	NCAC	08G	.0302
Readopt with Changes*				
<u>Classification of Surface Irrigation Water Pollution Cont...</u>	15A	NCAC	08G	.0304
Readopt without Changes*				
<u>Classification of Land Application of Residuals Systems</u>	15A	NCAC	08G	.0305
Amend*				
<u>Classification of Physical/Chemical Water Pollution Contr...</u>	15A	NCAC	08G	.0306
Readopt without Changes*				
<u>Classification of Subsurface Water Pollution Control Systems</u>	15A	NCAC	08G	.0307
Readopt with Changes*				
<u>Eligibility Requirements for Land Application of Residuals...</u>	15A	NCAC	08G	.0404
Amend*				
<u>Eligibility Requirements for Physical/Chemical Water Pollu...</u>	15A	NCAC	08G	.0405
Amend*				
<u>Eligibility Requirements for Surface Irrigation Water Pollu...</u>	15A	NCAC	08G	.0406

Amend*				
<u>Eligibility Requirements for Subsurface Water Pollution C...</u>	15A	NCAC	08G	.0407
Amend*				
<u>Reciprocity Certification</u>	15A	NCAC	08G	.0410
Amend*				
<u>Applying for Examination</u>	15A	NCAC	08G	.0501
Amend*				
<u>Examination Reviews</u>	15A	NCAC	08G	.0505
Readopt with Changes*				
<u>Requirements</u>	15A	NCAC	08G	.0701
Readopt with Changes*				
<u>Grounds for Disciplinary Actions</u>	15A	NCAC	08G	.0801
Readopt with Changes*				
<u>Disciplinary Actions</u>	15A	NCAC	08G	.0802
Amend*				
<u>Certification Following Disciplinary Actions</u>	15A	NCAC	08G	.0803
Readopt with Changes*				

WILDLIFE RESOURCES COMMISSION

The rules in Subchapter 10F cover motorboats and water safety including boat registration (.0100); safety equipment and accident reports (.0200); and local water safety regulations covering speed limits, no-wake restrictions, restrictions on swimming and other activities, and placement of markers for designated counties or municipalities (.0300).

<u>Atlantic Beach</u>	15A	NCAC	10F	.0302
Readopt with Changes*				
<u>Catawba: Iredell: Lincoln and Mecklenburg Counties</u>	15A	NCAC	10F	.0307
Amend*				
<u>Clay County</u>	15A	NCAC	10F	.0308
Amend*				
<u>Polk County</u>	15A	NCAC	10F	.0315
Amend*				
<u>Onslow County</u>	15A	NCAC	10F	.0320
Readopt with Changes*				
<u>Pender County</u>	15A	NCAC	10F	.0321
Readopt with Changes*				
<u>Swain County</u>	15A	NCAC	10F	.0335
Amend*				
<u>Currituck County</u>	15A	NCAC	10F	.0340
Amend*				
<u>Catawba County</u>	15A	NCAC	10F	.0342
Amend*				
<u>John H. Moss Lake</u>	15A	NCAC	10F	.0349
Amend*				
<u>Mountain Island Lake: Mecklenburg, Gaston and Lincoln Cou...</u>	15A	NCAC	10F	.0353
Readopt with Changes*				
<u>Cherokee County</u>	15A	NCAC	10F	.0359
Amend*				
<u>Graham County</u>	15A	NCAC	10F	.0360
Amend*				
<u>Macon County</u>	15A	NCAC	10F	.0366
Readopt with Changes*				
<u>Hoke County</u>	15A	NCAC	10F	.0367

Amend*				
<u>Hertford County</u>	15A	NCAC	10F	.0372
Amend*				
<u>Transylvania County</u>	15A	NCAC	10F	.0373
Amend*				
<u>Duke Energy Corporation Hydroelectric Station Safety Zones</u>	15A	NCAC	10F	.0375
Amend*				

WATER TREATMENT FACILITY OPERATORS CERTIFICATION BOARD

The rules in Chapter 18 deal with environmental health.

The rules in Subchapter 18D concern water treatment facility operators including general policies (.0100); qualification of applicants and classification of facilities (.0200); applications and fees (.0300); issuance of certificate (.0400); rule-making procedures (.0500); contested cases (.0600) and operation and management (.0700).

<u>Definitions</u>	15A	NCAC	18D	.0105
Readopt with Changes*				
<u>Grades of Certification</u>	15A	NCAC	18D	.0201
Readopt with Changes*				
<u>Rating Values to Determine Various Classes of Certification</u>	15A	NCAC	18D	.0203
Readopt with Changes*				
<u>Public Water System Treatment, Distribution, and Cross-Co...</u>	15A	NCAC	18D	.0205
Readopt with Changes*				
<u>Expiration and Revocation of Certificate</u>	15A	NCAC	18D	.0307
Readopt with Changes*				
<u>Professional Growth Hours</u>	15A	NCAC	18D	.0308
Readopt with Changes*				
<u>Certification Reinstatement</u>	15A	NCAC	18D	.0309
Readopt with Changes*				
<u>Operator in Responsible Charge</u>	15A	NCAC	18D	.0701
Readopt with Changes*				

REVENUE, DEPARTMENT OF

The rules in Chapter 7 are sales and use tax.

The rules in Chapter 7B concern state sales and use tax including general provisions (.0100); general application of law to manufacturing and industrial processing (.0200); specific tangible personalty classified for use by industrial users (.0300); specific industries (.0400); exempt sales to manufacturers (.0500); sales of mill machinery and accessories (.0600); specific industry purchases (.0700); adjustments, replacements and alterations and installation sales (.0800); advertising, advertising agencies and public relations firms (.0900); barbers, beauty shop operators, shoe and watch repairmen (.1000); sales of bulk tobacco barns and farm machines and equipment (.1100); hotels, motels, tourist camps and tourist cabins (.1200); sales in interstate commerce (.1300); sales of medicines, drugs and medical supplies (.1400); finance companies, finance charges and carrying charges (.1500); sales to or by hospitals, educational, charitable or religious institutions, and refunds thereto (.1600); sales to or by the state, counties, cities and other political subdivisions (.1700); hospitals and sanitariums (.1800); tire recappers and retreaders: and tire and tube repairs (.1900); sales and gifts by employers to employees or other users (.2000); electricity, piped natural gas, bottled gas, coal, coke, fuel oil, oxygen, acetylene, hydrogen, liquefied petroleum gas and other combustibles (.2100); food and food products for human consumption (.2200); sales to out-of-state merchants for resale (.2300); sales of medical supplies and equipment to veterinarians (.2400); furniture and storage warehousemen (.2500); liability of contractors, use tax on equipment brought into state and building materials (.2600); dentists, dental laboratories and dental supply houses (.2700); florists, nurserymen, greenhouse operators and farmers (.2800); vending machines (.2900); articles taken in trade, trade-ins, repossessions, returned merchandise and used or secondhand merchandise (.3000); radio and television stations and

motion picture theatres (.3100); telecommunications and telegraph companies (.3200); orthopedic appliances (.3300); memorial stone and monument dealers and monument manufactures (.3400); machinists, foundrymen and pattern makers (.3500); funeral expenses (.3600); lubricants and oils and greases (.3700); premiums and gifts and trading stamps (.3800); containers, wrapping and packing and shipping materials (.3900); fertilizer, seeds and feed and insecticides (.0400); artists, art dealers and photographers (.4100); sales to the United States government or agencies thereof (.4200); refunds to interstate carriers (.4300); lease or rental (.4400); laundries, dry cleaning plants, launderettes, linen rentals and solicitors for such businesses (.4500); motor vehicles and boats (.4600); printers and newspaper or magazine publishers (.4700); basis of reporting (.4800); transportation charges (.4900); eyeglasses and other ophthalmic aids and supplies, oculists and optometrists and opticians (.5000); leased departments and transient sellers (.5100); baby chicks and poulters (.5200); certificate of authority and bond requirements (.5300); and forms used for sales and use tax purposes (.5400).

<u>Car Wash Businesses</u>	17	NCAC	07B	.3703
Repeal*				
<u>Gift Wrapping</u>	17	NCAC	07B	.3911
Repeal*				
<u>Photo Tinting</u>	17	NCAC	07B	.4103
Repeal*				

GENERAL CONTRACTORS, LICENSING BOARD FOR

The rules of the Licensing Board for General Contractors include the board's organization (.0100); licensing requirements (.0200); application procedures (.0300); examinations (.0400); licenses (.0500); disciplinary procedures (.0700); contested cases (.0800); and home-owners recovery fund (.0900).

<u>Qualifier</u>	21	NCAC	12	.0205
Amend*				
<u>Application</u>	21	NCAC	12	.0209
Amend*				

COSMETIC ART EXAMINERS, BOARD OF

The rules in Subchapter 14A are the Cosmetic Art Board of Examiners departmental rules including organizational rules (.0100); and license renewal waiver for armed forces (.0400).

<u>Definitions</u>	21	NCAC	14A	.0101
Amend*				

The rules in Subchapter 14H are sanitation rules for both operators and facilities including sanitation (.0100); shop licensing and physical dimensions (.0200); cosmetic art shop and equipment (.0300); sanitation procedures and practices (.0400); and enforcement, maintenance of licensure (.0500).

<u>Water</u>	21	NCAC	14H	.0301
Amend*				
<u>Bathroom Facilities</u>	21	NCAC	14H	.0303
Amend*				
<u>Systems of Grading Beauty Establishments</u>	21	NCAC	14H	.0504
Amend*				

DENTAL EXAMINERS, BOARD OF

The rules in Subchapter 16R concern continuing education requirements of dentists (.0100 and .0200).

<u>Continuing Education Required</u>	21	NCAC	16R	.0201
Amend*				

BUILDING CODE COUNCIL

<u>2017 Electrical Code/Cables Run Across the Top of Floor J...</u> Amend*	320.23(A)
<u>2018 NC Mechanical Code/Equipment and appliances on roofs...</u> Amend*	306.5
<u>2018 NC Administrative Code/Information Required</u> Amend*	106.3.1

CONTESTED CASE DECISIONS

This Section contains a listing of recently issued Administrative Law Judge decisions for contested cases that are non-confidential. Published decisions are available for viewing on the OAH website at <http://www.ncoah.com/hearings/decisions/>. If you are having problems accessing the text of the decisions online or for other questions regarding contested cases or case decisions, please contact the Clerk's office by email: oah.clerks@oah.nc.gov or phone 919-431-3000.

OFFICE OF ADMINISTRATIVE HEARINGS**Chief Administrative Law Judge****JULIAN MANN, III****Senior Administrative Law Judge****FRED G. MORRISON JR.****ADMINISTRATIVE LAW JUDGES**

Melissa Owens Lassiter
Don Overby
J. Randall May
David Sutton
Tenisha Jacobs

A. B. Elkins II
Selina Malherbe
J. Randolph Ward
Stacey Bawtinheimer

Year	Code	Number	Date Decision Filed	Petitioner		Respondent	ALJ
				<u>PUBLISHED</u>			
17	DHR	07556	5/15/2018	Kathleen Yvette Hoffler	v.	Division of Child Development and Early Education- Department of Health and Human Services	Elkins
17	DOJ	04367	5/24/2018	Michael Peter Brigandi	v.	NC Criminal Justice Education and Training Standards Commission	Lassiter
18	DOJ	00857	5/25/2018	Edmund Brian Naumann	v.	NC Private Protective Services Board	Ward
17	EHR	01382	5/11/2018	8 1/2 Marina Village John F Matthews VP	v.	NC Department of Environmental Quality	Lassiter
16	OSP	09787	5/17/2018	Thomas C Wetherington	v.	NC Department of Public Safety, NC Highway Patrol	Overby
				<u>UNPUBLISHED</u>			
18	ABC	01673	5/23/2018	Camille Carroll	v.	ABC Commission	Mann
17	CSE	06879	5/21/2018	Giovanni Arnaboldi 1317 Overland Drive- High Point, (NC)-27262	v.	NC Department of Health and Human Services Division of Social Services Child Support Services	Malherbe
17	CSE	06967	5/23/2018	Jacquese L Allen	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Overby
17	CSE	06968	5/23/2018	Jacquese L Allen	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Overby

CONTESTED CASE DECISIONS

17	CSE	06970	5/23/2018	Jacquese L Allen	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Overby
17	CSE	07196	5/29/2018	Paul P Vossen	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement Section	Ward
17	CSE	07347	5/11/2018	Steven H Viebrock	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Bawtinhimer
17	CSE	07412	5/21/2018	Aslam Mohammed	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Lassiter
17	CSE	07460	5/8/2018	Wesley J Booth	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement Section	Ward
17	CSE	07511	5/15/2018	Jay C Underkofler	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Lassiter
17	CSE	07576	5/8/2018	Chad D Lacroix	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement Section	Ward
17	CSE	07604	5/30/2018	Nicholas P Chonko III	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement Section	Bawtinhimer
17	CSE	07606	5/29/2018	William B McPhail	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement Section	May
17	CSE	07678	5/31/2018	Thomas E Tillery	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement Section	Overby
17	CSE	07685	5/31/2018	Dwayn Moore	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement Section	Bawtinhimer
17	CSE	07766	5/8/2018	Gina R Bond	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement Section	Ward
17	CSE	07785	5/14/2018	Naim Wakim	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement Section	Bawtinhimer
17	CSE	07808	5/7/2018	Johnathon R Beadle	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	May
17	CSE	07853	5/8/2018	Joseph E Rands	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Ward
17	CSE	08083	5/8/2018	Phillip C Henson	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement Section	Ward
17	CSE	08126	5/22/2018	Luighino Quintanilla	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement Section	Ward
17	CSE	08350	5/30/2018	Angel L Rivas Jr	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement Section	Bawtinhimer
18	CSE	00034	5/8/2018	Marc E Simpers	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement Section	Ward

CONTESTED CASE DECISIONS

18	CSE	00296	5/8/2018	Timothy A Giresi	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Ward
18	CSE	01240	5/16/2018	Brian Burnett	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement Section	May
18	CSE	01354	5/18/2018	Quadius N Gaines	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Malherbe
18	CSE	01472	5/11/2018	Javier D Jackson	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Lassiter
18	CSE	01508	5/8/2018	Jack Perry	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement Section	Ward
17	DCS	08253	5/8/2018	Amanda Renee Palmer Clark	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Ward
18	DHR	00494	5/11/2018	Bonita Carlisle	v.	North Carolina Health Care Personnel Registry	Elkins
18	DHR	00534	5/9/2018	George P Wagner III For Cardinal Care Inc (HAL-045-001)	v.	NC Department of Health and Human Services, Division of Health Service Regulation, Adult Care Licensure	Sutton
18	DHR	00537	5/9/2018	George P Wagner III for Blue Ridge Retirement (HAL-045-008)	v.	NC Department of Health and Human Services, Division of Health Service Regulation, Adult Care Licensure	Sutton
18	DHR	00731	5/9/2018	ARJ, LLC Alvin and Kendell Jasper	v.	Division of Health Services Regulation (DHSR)	Malherbe
18	DHR	00921	5/11/2018	Shannon L Smith	v.	Department of Health and Human Services, Division of Health Service Regulation	Lassiter
18	DHR	01394	5/24/2018	Karen Love	v.	Office of Administrative Hearings	Malherbe
18	DHR	01703	5/23/2018	Restoration Home Care Services Diane M Sherrill	v.	Public Consulting Group North Carolina Department of Health and Human Services	Mann
18	DHR	02148	5/23/2018	Tonia Mitchell	v.	Department of Health and Human Services, Division of Child Development and Early Education	Malherbe
18	DOJ	00630	5/25/2018	James Edward Whiteside	v.	NC Criminal Justice Education and Training Standards Commission	Sutton
18	DOJ	00740	5/2/2018	Bernard Walker	v.	NC Sheriffs Education and Training Standards Commission	May
18	EHR	01071	5/22/2018	Pembroke Hardware Co Inc Milton Locklear	v.	Department of Environmental Quality Division of Air Quality	Ward
18	EHR	01528	5/7/2018	Francis X Deluca	v.	NC Department of Environmental Quality	Ward
18	INS	01510	5/23/2018	Kimberly Yvette Best	v.	North Carolina State Health Plan	Mann
18	INS	01654	5/9/2018	Frankie Webster	v.	NC State Health Plan	Sutton

CONTESTED CASE DECISIONS

18	INS	01697	5/30/2018	Tomica L Sobers	v.	North Carolina State Health Plan	Overby
18	INS	02193	5/17/2018	Jonas E Okeagu	v.	North Carolina State Health Plan	Elkins
18	INS	02297	5/18/2018	JaMese Bazemore	v.	North Carolina State Health Plan	Ward
18	MIS	02481	5/15/2018	Danielle A Carter	v.	Wake County Public Safety Center The Sherrif's Office (Sheriff)	Lassiter
18	OSP	01782	5/30/2018	Virgil Christopher Scott	v.	North Carolina Central University Human Resources	Bawtinhimer
18	OSP	02149	5/30/2018	Vladimir Zaytsev	v.	North Carolina Department of Environmental Quality(DEQ)	Bawtinhimer
18	SOS	01762	5/3/2018	Connie A Morse Executive Director Friendship Adult Day Services Inc	v.	State of North Carolina Department of the Secretary of State	Lassiter